



April 11, 2022

**WORK SESSION MEETING
AGENDA
11360 Lakefield Drive
Johns Creek, GA 30097**

5:00 PM

www.JohnsCreekGA.gov

As set forth in the Americans with Disabilities Act of 1990, the City of Johns Creek will assist citizens with special needs given proper notice (7 working days) to participate in any open meetings of the City of Johns Creek. Please contact the City Clerk's Office via telephone (678-512-3212) or email at allison.tarpley@johnscreekga.gov should you need assistance.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. MAYOR'S REMARKS

4. STRATEGIC PRIORITIES

4.a. TSPLOST II - Implementation - 45 minutes

[Agenda Report](#)

[Contract](#)

[Amendment](#)

[Map - Overview of Proposed Projects](#)

5. ON-GOING PROJECTS

5.a. Potential Adjustment to TSPLOST I Implementation - 30 minutes

[Agenda Report](#)

5.b. Recreation and Parks Strategic Plan Update - Contract Award - 5 minutes

[Agenda Report](#)

[Purchasing Recommendation](#)

[Contract](#)

5.c. Construction Contract Award - Old Alabama Road Stormwater Culvert Extension - 5 minutes

[Agenda Report](#)

[Purchasing Recommendation](#)

[Contract](#)

[CEI Task Order](#)

5.d. Rogers Bridge Art - Intergovernmental Agreement with Fulton County - 10 minutes

[Agenda Report](#)

[Rogers Bridge Art IGA](#)

5.e. Expansion of Special Events and Use of Volunteers - 30 minutes

[Agenda Report](#)

[2022 Approved Special Event and Program Schedule](#)

6. COUNCIL INITIATIVES

6.a. Potential Resolution Delineating Areas Appropriate for Permanent Lighting in Newtown Park - 15 minutes

Agenda Report
Resolution

7. ROUTINE BUSINESS (non-discussion)

- 7.a. Board Appointment to Fill Vacancy on the Planning Commission
Resolution
- 7.b. FY2022 Mid-Year Budget Amendment
Agenda Report
Ordinance
- 7.c. Resurfacing of Main Roads and Neighborhood Streets - Annual Contract Award
Agenda Report
 - 1. Map for Main Roads
 - 2. Purchasing Recommendation for Main Roads
 - 3. Contract for Main Roads
 - 4. Map for Neighborhood Roads
 - 5. Purchasing Recommendation for Neighborhood Roads
 - 6. Contract for Neighborhood Roads
- 7.d. Renewal of Lease for the Police Department South Substation off Old Alabama Road
Agenda Report
Original Lease
First Amendment
Second Amendment

8. EXECUTIVE SESSION

9. ADJOURNMENT

AGENDA REPORT

To: Honorable Mayor and City Council

From: Kimberly Greer, Assistant City Manager
Chris Haggard, Public Works Director

Agenda: April 11, 2022 - Work Session

Item: TSPLOST II – Implementation

Item Summary

The City Manager's Office negotiated with Jacobs and the proposed amendment to the TSPLOST Professional Management contract is attached for Council consideration. The amendment extends the term of the agreement by five years and resets the base billing amount (while maintaining the existing multiplier and final payments based on audited hours worked by the professional staff). Staff recommends approval of the negotiated amendment. As a sign of good faith and eagerness to move to implementation, the team turned its attention to the projects for implementation. Summarized in the table below, staff recommends initial projects in each category. Staff is seeking Council feedback to the project list and authorization to begin engineering or other identified next steps for any projects approved by Council. The recommended projects would program (or use) \$46.9M of the total anticipated \$65.5M revenues, meaning additional projects are anticipated to be added over the implementation of the five-year program.

Bridges: \$6.5M set aside; \$6.5M programmed		Staff Request	TSPLOST II
1	Old Alabama over Chattahoochee Tributary	Begin engineering	\$3.25M
2	Old Alabama over Johns Creek	Begin engineering	\$3.25M
Congestion Relief: \$14.2M set aside; \$11.5M programmed		Staff Request	TSPLOST II
1	Nesbit Ferry Road Improvements	IGA with Roswell	\$7.5M
2	Abbotts Bridge (Parsons to Medlock Bridge)	Update studies, etc.	\$4M
Landscape/Streetscape: \$3.5M set aside; \$3.5M programmed		Staff Request	TSPLOST II
1	Town Center - Creekside Park Trail Landscaping	Consensus for funding use	\$1.5M
2	Town Center - Main Street (Lakefield Drive)	Begin engineering	\$2M
Operations and Safety: \$16.2M set aside; \$9.35M programmed		Staff Request	TSPLOST II
1	Barnwell at Niblick Intersection Improvement	Begin engineering	\$2.35M
2	Sargent Road at Ashwick Place Intersection Improvement	Begin preliminary study	\$2.5M
3	Town Center - Lakefield Drive at Johns Creek Parkway	Begin engineering	\$3.5M
4	Intelligent Transportation Systems (ITS) Fiber Connectivity	Begin engineering	\$1M
Pedestrian/Bike Imp.: \$16.5M set aside; \$16.05M programmed		Staff Request	TSPLOST II
1	Old Alabama Road (Autrey Mill to Spruill Road)	Consensus for funding use	\$800K
2	Town Center - Creekside North Pond Trail	Consensus for funding use	\$2M
3	Rogers Bridge Road (Bell Rd to Amberleigh Way)	Begin engineering	\$2.2M

4	Barnwell Rd (Rivermont Parkway to North Peak Drive)	Begin engineering	\$3.4M
5	Buice Road (Twingate Dr to Kingston Crossing) Crossing)	Begin engineering	\$650K
6	Buice Road (Spruill Road to Johns Creek)	Begin engineering	\$500K
7	Barnwell Road (Niblick Drive to Rivermont Parkway)	Begin engineering	\$500K
8	Town Center - Pedestrian Crossing	Consensus for funding use	\$6M

Background

The initial Transportation Special Purpose Local Option Sales Tax (TSPLOST) was approved as a five-year implementation concluding on March 31, 2022. The past Council set the approach to TSPLOST I to focus on advancing 20 specific projects. Voters approved a continuation of TSPLOST I or TSPLOST II as part of the November 2021 election. Learning from the TSPLOST I experience, rather than specify projects for TSPLOST II, the past Council established five program areas: (1) \$6.5M for bridges, (2) \$14.2M for traffic congestion relief, (3) \$3.5M for landscape / streetscape improvements, (4) \$16.2M for operations and safety projects, and (5) \$16.5M for pedestrian / bike improvements. The balance of Tier 1 funds were set aside for inflation and program management.

With TSPLOST II collections set to begin April 1, 2022, at the January 2022 Strategic Planning Retreat, Council discussed options for the management and administration of TSPLOST II. Council recognized the current partnership with CH2M/Jacobs Engineering (Jacobs) for professional management and oversight of the TSPLOST I program. Council understood the TSPLOST II projects are not included in the scope of the existing contract with Jacobs and would require additional capacity to be added. In broad terms, staff reviewed the three ways to expand capacity include (A) adding insourced City staff, (B) adding to the existing Jacobs contract, (C) bidding out the services.

At the March 14, 2022 Work Session, Council reviewed the benefits and challenges of the three options. Council directed staff to pursue negotiating an amendment to the Jacobs contract to include management and administration of TSPLOST II as part of the existing contract for professional management of TSPLOST. Council expressed appreciation for the firm's efforts administering TSPLOST I and agreed they would be best able to match the pace at which Council intend to advance TSPLOST II projects.

Update

The City Manager's Office negotiated with Jacobs and the proposed amendment to the TSPLOST Professional Management contract is attached for Council consideration. The proposed amendment makes two changes to the existing agreement. First, it extends the term of the agreement by adding five years matching the five years in which TSPLOST II revenues will be collected. Secondly, it resets the base amount at which the contract will be billed. The agreement remains a time-based contract with the City paying only for the actual time worked by the professional staff managing the projects. However, both the original and proposed amendment afford (for the City's convenience and predictability in billing) utilizing monthly billing based on a flat estimated amount of the annual spend. The actual hours worked are recorded, audited, and the agreement affords for quarterly true-ups. The change proposed with the proposed amendment resets the base annual billing amount from \$500K to \$750K, an increase that reflects the anticipated increase in personnel necessary to execute the anticipated project list. Staff recommends approval of the negotiated amendment. As a sign of good faith and eagerness to move to implementation, the team turned its attention to the projects for implementation.

Implementation Projects for Each Program Area

As mentioned in the Background Section above, TSPLOST II sets aside funding in five program areas but does not specify any projects. To begin implementation, Council needs to provide direction as to which initial projects staff should begin engineering on in each category. To serve as a starting point, staff has put together recommendations for initial projects in each category. Staff's goal is not to dictate projects to Council, but to accelerate the decision-making process by which we can get to the engineering phase for projects in each program area.

Staff's recommendations are based in planning documents adopted by Council (such as the Sidewalk Policy, Town Center Master Plan, and the Intersection Improvement Policy) and available data such as the bridge inventory. Overall, staff is suggesting to authorize engineering (or other appropriate next steps) to begin projects in each of the five identified program areas. Except where noted, no engineering has been completed for these projects, so the project cost estimates are rough planning estimates based on staff's past experience with similar projects and current materials costs. Actual project costs will be refined through engineering. Projects are described below within each program area and summarized in the Recommendations Section at the conclusion of the memorandum.

Bridges: \$6.5M set aside – 2 projects – \$6.5M of TSPLOST II funds

Johns Creek has 14 vehicular bridges each of which must be maintained and eventually replaced. The Georgia Department of Transportation conducts bi-annual bridge inspections which yield sufficiency ratings (scores out of 100 points) indicating the condition of the bridge. TSPLOST II sets aside \$6.5M for bridge replacements which can be reasonably assumed to cover most of the costs for replacing two bridges. Staff recommends replacing the two bridges with the lowest sufficiency ratings (indicating the highest need for replacement). With Council authorization, staff will begin engineering for both bridges.

1. Old Alabama Road over Chattahoochee Tributary

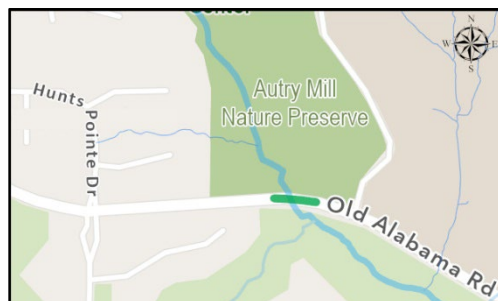
Why: The bridge on Old Alabama Road over the Chattahoochee Tributary (near Autrey Mill Nature Preserve) is the City's lowest scoring bridge (with a sufficiency rating of 50.2) and next on the list for replacement.

What: The project would replace the existing bridge and add pedestrian facilities (sidewalk / trail) over the Chattahoochee Tributary.

TSPLOST II Funds Requested \$3.25M

Total Project Cost Estimate: \$3.7M (balance funded in adopted FY22 Budget)

Council Action Requested: Authorization to begin engineering.

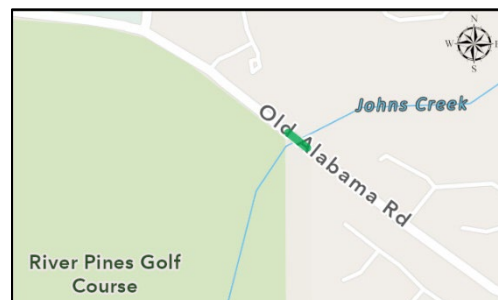


2. Old Alabama Road over Johns Creek

Why: The bridge on Old Alabama Road over the Johns Creek (near Spruill Road) is the City's second-lowest scoring bridge (with a sufficiency rating of 60.9) and second on the list for replacement.

What: The project would replace the existing bridge and add pedestrian facilities (sidewalk / trail) over Johns Creek.

TSPLOST II Funds Requested \$3.25M



Total Project Cost Estimate: \$3.7M (balance funded in adopted FY22 Budget)
Council Action Requested: Authorization to begin engineering.

Congestion Relief: \$14.2M set aside – 2 projects – \$11.5M of TSPLOST II funds

The majority of TSPLOST I funds were focused on traffic congestion relief projects. TSPLOST II sets aside \$14.2M to continue previously identified (but not previously funded for construction) traffic congestion relief projects. The two projects recommended by staff necessitate partnership with others: Nesbit Ferry Road (from Holcomb Bridge Road to Old Alabama Road) in partnership with the City of Roswell and State Route 120 / Abbotts Bridge Road (from Parsons Road to Medlock Bridge Road) in partnership with the Georgia Department of Transportation (GDOT). Through the construction phase, these two projects are anticipated to utilize \$11.5M of the \$14.2M (leaving \$2.7M for additional congestion relief projects). With Council authorization, staff will begin working on an Intergovernmental Agreement with Roswell (for Nesbit Ferry Road) and working to update engineering as required by GDOT (for Abbotts Bridge Road).

1. Nesbit Ferry Road (from Holcomb Bridge Road to Old Alabama Road)

Why: Nesbit Ferry Road (from Holcomb Bridge Road to Old Alabama) lacks pedestrian connectivity and the lack of a center turn lane creates traffic congestion for each vehicle needing to turn across the flow of traffic.

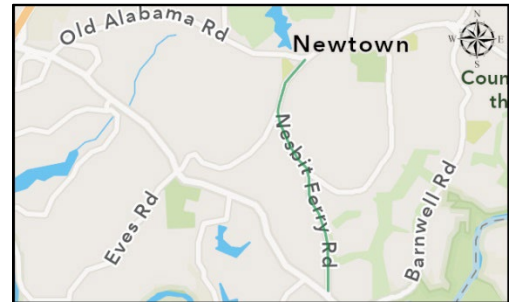
What: The anticipated project would add a center turn lane and pedestrian connectivity (sidewalk and/or trail) along Nesbit Ferry Road.

Partner: As Roswell owns the road and right-of-way, but the surrounding residential areas to the east are Johns Creek neighborhoods, if the project is to be advanced it must be done in partnership with the City of Roswell. Roswell specified a Nesbit Ferry Road improvement project on their TSPLOST II project list and set aside \$1M to contribute towards the project.

TSPLOST II Funds Requested \$7.5M (may decrease if awarded an ARC grant for project)

Total Project Cost Estimate: \$8.5M (balance funded in Roswell's TSPLOST II project list)

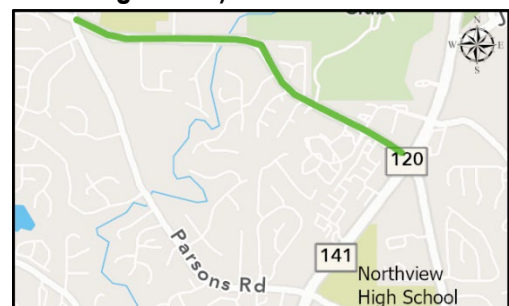
Council Action Requested: Authorization to begin working on an IGA with Roswell.



2. SR 120/Abbotts Bridge Road (Parsons Road to Medlock Bridge Road)

Why: The section of State Route 120 / Abbotts Bridge Road from Parsons Road to Medlock Bridge Road is the last remaining section in Johns Creek without funding to add pedestrian connectivity and turn lanes. This section directly serves 13 neighborhoods, Abbotts Hill Elementary School, and the Standard Club golf course. The added turn lanes benefit both those needing safe entry / exit to and from their neighborhoods as well as the traffic flow for commuters by improving sight distances.

What: Continuing the already completed section of SR 120 / Abbotts Bridge Road (from Jones Bridge Road to Parsons Road), the project will widen the existing road to provide turn lanes, a median, bike lanes, and trails (wide sidewalks) along SR 120 / Abbotts Bridge Road. In addition, this project will eliminate a substandard curve (across from Reynold's Farm) and replace the bridge over Johns



Creek to reduce flooding. Once constructed, the trails (wide sidewalks) will create a continuous pedestrian connection from State Bridge Road to Medlock Bridge Road.

Partner: As GDOT owns the road but the surrounding residential areas are Johns Creek neighborhoods, if the project is to be advanced it must be done in partnership with GDOT. GDOT has previously contributed towards the engineering and right-of-way phases for the project and is strongly considering a funding award for construction.

TSPLOST II Funds Requested \$4M

Total Project Cost Estimate: \$20M (balance requested from GDOT as grant request under consideration)

Council Action Requested: Authorization to begin working on updating studies and engineering (required by GDOT to advance to construction).

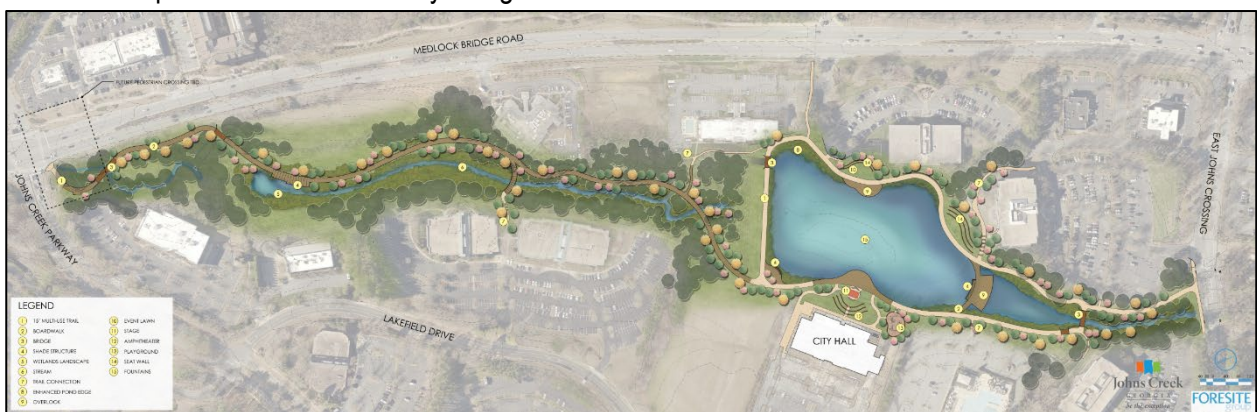
Landscape/Streetscape: \$3.5M set aside – 2 projects – \$3.5M of TSPLOST II funds

TSPLOST II sets aside \$3.5M for landscape / streetscape projects. The two projects recommended by staff both relate to the redevelopment of the Town Center area and forwarding projects specifically listed in the adopted implementation action plan / prioritization: the Creekside Trail (through and around the North and South Pond) and streetscape for Lakefield Drive to become more of a Main Street. These two projects are anticipated to exhaust the funds set aside for landscape / streetscape projects in TSPLOST II (but would not prevent Council from transferring funds at a later date from the “inflation” category or other categories once projects are completed in those categories). Council has separately authorized staff to begin the procurement process to secure engineering for Creekside Park and at the appropriate time will consider awarding that engineering contract. Staff is requesting Council authorization to begin engineering for the Lakefield Drive streetscape project.

1. Town Center – Creekside Trail

Why: To provide a community gathering area and strengthen the City’s identity, Council is working to create a Town Center for Johns Creek. After unanimously approved the Town Center Vision and Plan, Council has been working on the conceptual design for Creekside Park (21 acres owned by the City anchored by two in-line stormwater retention ponds including the “North Pond” behind City Hall and two parcels along Medlock Bridge Road).

What: The approved conceptual master plan for Creekside Park includes significant streetscape and landscape that will be necessary along the Creekside Trail network.



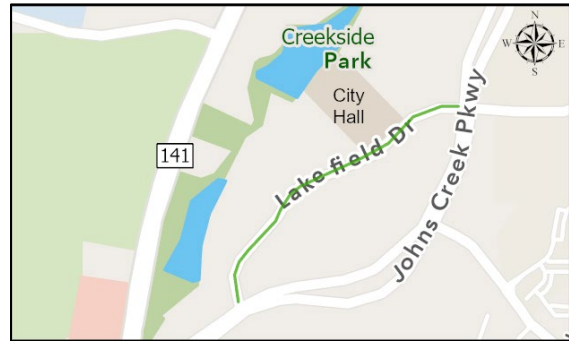
TSPLOST II Funds Requested \$1.5M

Total Project Cost Estimate: TBD (conceptual master plan approved March 28, 2022, overall project cost estimating in progress)

Council Action Requested: Consensus for including TSPLOST II funds in project budget.

2. Town Center Main Street – Lakefield Drive (from Johns Creek Pkwy to Johns Creek Pkwy)

Why: Although over time other modes of transportation will be encouraged and more utilized, the majority of people that travel to Town Center will do so by automobile. The adopted Town Center Vision and Master Plan re-images Lakefield Drive as a “Main Street” experience to welcome and draw-in visitors and delight residents by showcasing arrival to the Town Center area.



What: The project would reconstruct Lakefield Drive with a streetscape project from Johns Creek Parkway to Johns Creek Parkway as Main Street. This could include on street parking, trails, lighting and landscaping.

TSPLOST II Funds Requested \$2M

Total Project Cost Estimate: \$2M

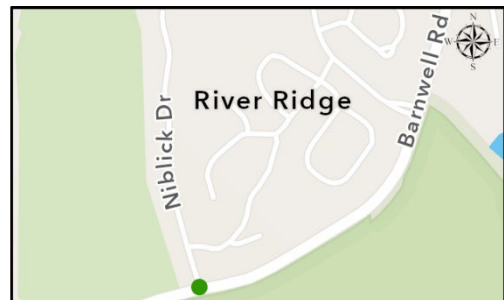
Council Action Requested: Authorization to begin engineering.

Operations and Safety: \$16.28M set aside – 4 projects – \$9.3M of TSPLOST II funds

TSPLOST II sets aside \$16.28M for operations and safety improvements to the transportation network. To begin, staff recommends four projects including two prioritized by the Intersection Improvement Policy, one identified in the Town Center Vision and Master Plan, and one to improve the fiber network for City’s traffic signal system. Through the construction phase, these four projects are anticipated to utilize \$9.3M of the \$16.28M (leaving \$6.98M for additional operations and safety projects). With Council authorization, staff will begin engineering for the four identified projects.

1. Barnwell Road at Niblick Drive – Intersection Improvement

Why: The intersection of Barnwell Road at Niblick Drive is the City’s highest-scoring intersection using the Intersection Improvement Policy, which awards points based on safety-related criteria. Specifically this intersection has high vehicle speeds on Barnwell Road, poor sight distances for drivers turning in and out of Niblick Drive, and a history of motor vehicular crashes with injuries.



What: The project would address poor sight distance from Niblick Drive and reduce high vehicle speeds on Barnwell Road. A preliminary study is underway (funded in FY22 Budget) to identify potential solutions.

TSPLOST II Funds Requested \$2.35M

Total Project Cost Estimate: \$2.5M (balance funded in adopted FY22 Budget)

Council Action Requested: Authorization to begin engineering.

2. Sargent Road at Ashwick Place – Intersection Improvement

Why: The intersection of Sargent Road at Ashwick Place is the City's second-highest-scoring intersection using the Intersection Improvement Policy, which awards points based on safety-related criteria. Specifically this intersection has high vehicle speeds on Sargent Road and a history of motor vehicular crashes with injuries.

What: The project would address reduce high vehicle speeds on Sargent Road.

TSPLOST II Funds Requested \$2.5M

Total Project Cost Estimate: \$2.5M

Council Action Requested: Authorization to begin a study to identify potential solutions.



3. Town Center – Lakefield Drive at Johns Creek Parkway Roundabout

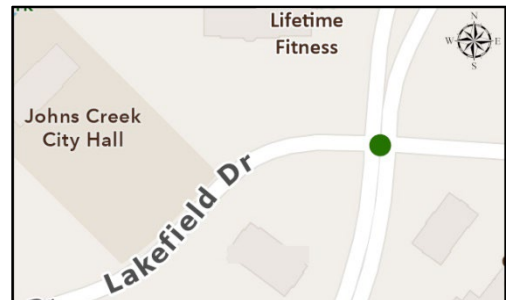
Why: The Town Center Vision and Master Plan identifies a roundabout at the intersection of Lakefield Drive at Johns Creek Parkway (near Lifetime Fitness) to improve walkability and provide opportunity for landscaping and connectivity in Town Center. The project would anchor the northern end of Lakefield Drive (envisioned to become the Town Center Main Street) and connect the quadrants of the Town Center.

What: The project would reconstruct the intersection of Lakefield Drive at Johns Creek Parkway (near Lifetime Fitness) as a roundabout.

TSPLOST II Funds Requested \$3.5M

Total Project Cost Estimate: \$3.5M

Council Action Requested: Authorization to begin engineering.



4. Intelligent Transportation Systems (ITS) – Fiber Connectivity

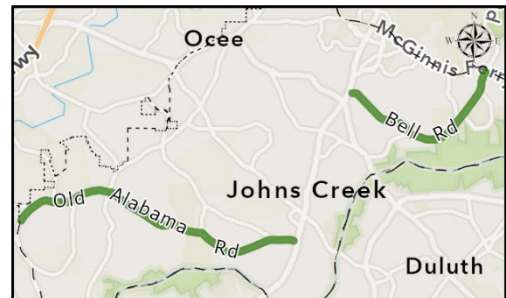
Why: The City utilizes an advanced Intelligent Traffic System (ITS) to synchronize traffic signal timing system for the City's 80 traffic signals. The entire system relies on a fiber backbone connecting back to the Traffic Control Center (TCC) at City Hall.

What: The project would add fiber along Bell Road and Old Alabama Road thereby creating redundancy and increasing reliability for instances and occasions when construction or unanticipated work disrupts the main fiber loops connecting the City's traffic signal system.

TSPLOST II Funds Requested \$1M

Total Project Cost Estimate: \$1M

Council Action Requested: Authorization to begin engineering.



Pedestrian and Bike Improvements: \$16.5M set aside – 8 projects – \$16M of TSPLOST II funds

New sidewalks and trails (wide sidewalks) are needed throughout the City to fill in gaps in the existing sidewalk system and improve mobility for pedestrians. Council demonstrated its interest and willingness to make improvements to the sidewalk and trail network in the City by setting aside the highest amount of

TSPLOST II funding into the pedestrian and bike improvements program category. To begin, staff recommends eight projects including six prioritized by the Sidewalk Policy and two identified in the Town Center Vision and Master Plan. As pedestrian connectivity projects can be strong candidates for grant awards and are eligible for funding through the GDOT Local Maintenance Improvement Grant (LMIG) program, staff anticipates these projects would require \$16M of TSPLOST II funds although full project costs through construction will be higher. That would leave \$500K for engineering of an additional pedestrian and bike improvement project. With Council authorization, staff will begin engineering for the eight identified projects.

1. Old Alabama Road (from Autrey Mill Nature Preserve to Spruill Road) – Trail

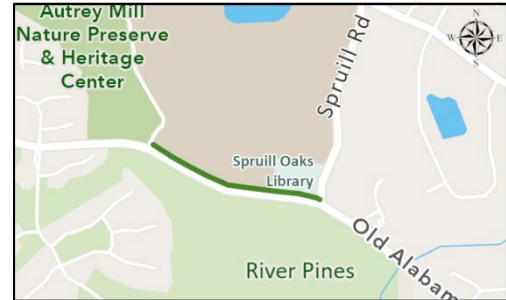
Why: The pedestrian connectivity gap along Old Alabama Road (from Autrey Mill Nature Preserve to Spruill Road) is the next prioritized section based on the City's Sidewalk Policy, which considers proximity to schools, parks, activity centers, accident history, cost, and if sidewalk exists on at least one side of the street.

What: The project would add a trail along the north side of Old Alabama Road between Autrey Mill Nature Preserve and Spruill Road. Preliminary engineering is underway (funded in FY22 Budget).

TSPLOST II Funds Requested \$800K

Total Project Cost Estimate: \$1.25M (balance funded in adopted FY22 Budget)

Council Action Requested: Consensus for including TSPLOST II funds in project budget.



2. Town Center – Creekside Park North Pond Trail

Why: To provide a community gathering area and strengthen the City's identity, Council is creating a Town Center for Johns Creek. Anchoring Town Center is 21 acres of land owned by the City, envisioned to become Creekside

Park. The approved conceptual master plan for Creekside Park includes the Creekside Trail that connects from the intersection of Medlock Bridge Road at Johns Creek Parkway up to East Johns Crossing as well as forming a loop around the North Pond behind City Hall.

What: With the TSPLOST I project (Medlock Bridge Trail) connecting along the South Pond and the City Hall side of North Pond, this project would fund the construction for the Creekside Trail across the existing dam and on the far side of the North Pond (completing the trail network for Creekside Park).

TSPLOST II Funds Requested \$2M

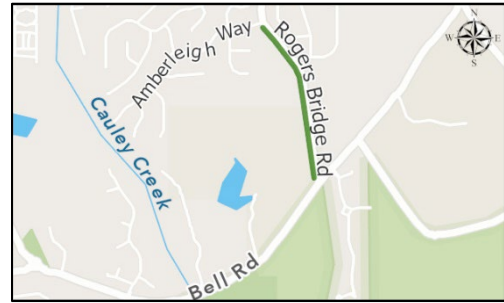
Total Project Cost Estimate: TBD (conceptual master plan approved March 28, 2022, overall project cost estimating in progress)

Council Action Requested: Consensus for including TSPLOST II funds in project budget.



3. Rogers Bridge Road (from Bell Road to Amberleigh Way) – Trail

Why: The pedestrian connectivity gap along Rogers Bridge Road (from Bell Road to Amberleigh Way) is the second prioritized section based on the City's Sidewalk Policy, which considers proximity to schools, parks, activity centers, accident history, cost, and if sidewalk exists on at least one side of the street. Additionally this segment would add pedestrian connectivity for six additional neighborhoods to reach the future Cauley Creek Park without having to travel by automobile.



What: The project would add a trail (wide sidewalk) on Rogers Bridge Road between Bell Road and Amberleigh Way. Preliminary engineering is underway (funded in FY22 Budget).

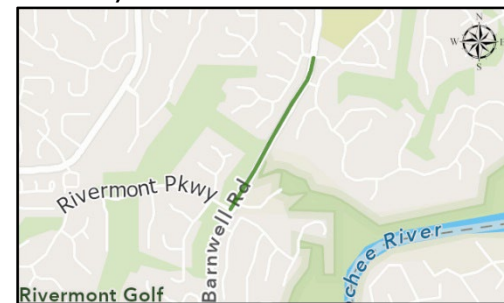
TSPLOST II Funds Requested \$2.15M

Total Project Cost Estimate: \$2.2M (balance funded for conceptual engineering in adopted FY22 Budget)

Council Action Requested: Authorization to begin engineering.

4. Barnwell Road (from Rivermont Parkway to North Peak Drive) – Trail

Why: The pedestrian connectivity gap along Barnwell Road (from Rivermont Parkway to North Peak Drive) is the third prioritized section based on the City's Sidewalk Policy, which considers proximity to schools, parks, activity centers, accident history, cost, and if sidewalk exists on at least one side of the street.



What: The project would add a trail (wide sidewalk) on Barnwell Road (between Rivermont Parkway and North Peak Drive).

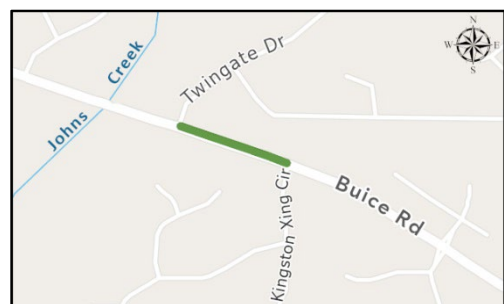
TSPLOST II Funds Requested \$3.4M

Total Project Cost Estimate: \$3.4M

Council Action Requested: Authorization to begin engineering.

5. Buice Road (Twingate Drive to Kingston Crossing) – Sidewalk

Why: The pedestrian connectivity gap along Buice Road (from Twingate Drive to Kingston Crossing) is the fourth prioritized section based on the City's Sidewalk Policy, which considers proximity to schools, parks, activity centers, accident history, cost, and if sidewalk exists on at least one side of the street. Additionally, once the Buice Road Bridge is replaced (which is in the engineering stage and includes adding pedestrian connectivity over Johns Creek), this project will be the last gap to form a complete pedestrian connection from Old Alabama Road to Johns Creek.



What: The project would add a sidewalk on Buice Road (between Twingate Drive and Kingston Crossing).

TSPLOST II Funds Requested \$650K

Total Project Cost Estimate: \$650K

Council Action Requested: Authorization to begin engineering.

6. Buice Road (from Spruill Road to Johns Creek) – Trail

Why: The pedestrian connectivity gap along Buice Road (from Spruill Road to Johns Creek) is the fifth prioritized section based on the City's Sidewalk Policy, which considers proximity to schools, parks, activity centers, accident history, cost, and if sidewalk exists on at least one side of the street. Additionally, once the Buice Road Bridge is replaced (which will add pedestrian connectivity over Johns Creek), and once sidewalk is added along Buice Road from Twingate Drive to Kingston Crossing, this project will create a complete pedestrian connection from Old Alabama Road to Spruill Road.



What: The project would add a trail (wide sidewalk) on Buice Road (between Spruill Road and Johns Creek).

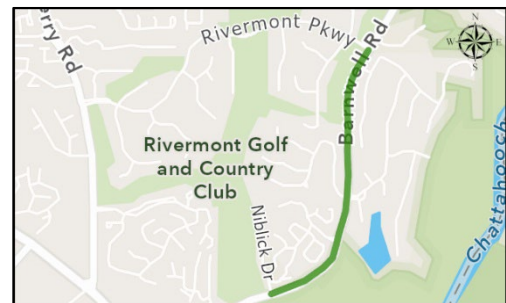
TSPLOST II Funds Requested \$500K

Total Project Cost Estimate: \$2M (\$1.5M funding to be determined)

Council Action Requested: Authorization to begin engineering.

7. Barnwell Road (Niblick Drive to Rivermont Parkway) – Trail

Why: The pedestrian connectivity gap along Barnwell Road (from Niblick Drive to Rivermont Parkway) is the sixth prioritized section based on the City's Sidewalk Policy, which awards points based on which awards points based on pedestrian safety, last mile connectivity, and constructability. Additionally, once completed this would create a continuous pedestrian connection from Holcomb Bridge Road to Old Alabama Road connecting five neighborhoods to the Jones Bridge unit of the Chattahoochee River National Recreation Area.



What: The project would add a trail (wide sidewalk) on Barnwell Road (between Niblick Drive and Rivermont Parkway).

TSPLOST II Funds Requested \$500K

Total Project Cost Estimate: \$3M (\$2.5M funding to be determined)

Council Action Requested: Authorization to begin engineering.

8. Town Center – Pedestrian Crossing of SR 141 / Medlock Bridge Road

Why: To provide a community gathering area and strengthen the City's identity, Council is creating a Town Center for Johns Creek. Anchoring Town Center is 21 acres of land owned by the City, envisioned to become Creekside Park. The approved conceptual master plan for Creekside Park includes the Creekside Trail that connects from the intersection of Medlock Bridge Road at Johns Creek Parkway up to East Johns Crossing as well as forming a loop around the North Pond behind City Hall. To welcome more visitors and residents to



Town Center, Council concurred with the Town Center Vision and Master Plan identified need for a pedestrian crossing of SR 141 / Medlock Bridge Road near the intersection of Johns Creek Parkway.
What: A pedestrian crossing (bridge or tunnel) of SR 141 / Medlock Bridge Road near the intersection of Johns Creek Parkway.

TSPLOST II Funds Requested \$6M

Total Project Cost Estimate: \$6M

Council Action Requested: Consensus for including TSPLOST II funds in project budget. Council has already asked staff to do additional preliminary study into both the bridge and tunnel options for the pedestrian crossing.

Financial Impacts

Collection of TSPLOST II began on April 1, 2022. The mid-year Budget Amendment (which will be separately brought to Council as part of an April 2022 Work Session) will recognize the anticipated collections for Tier I of TSPLOST II as well as the portion of revenues anticipated to be received in FY2022 (April 1 through September 30). Staff's allocation requests presented in this memorandum are for the five-year span of the TSPLOST II Program; in other words, the total cost of the recommended projects (through construction) exceed the collections that are anticipated to be received in FY2022. Should Council concur with the staff-recommended projects, the engineering (or other work requested for authorization) costs will not exceed the revenues that are anticipated to be collected in FY2022.

Recommendations

Staff recommends the negotiated amendment to the TSPLOST Professional Management contract with Jacobs.

In terms of TSPLOST II projects for implementation, staff recommends authorizing TSPLOST II revenues to be used for engineering (and other next steps identified above) for the proposed projects within each program category. A chart summarizing the recommended projects by program area is included below. Following Purchasing Policy, staff will return to Council with contracts that exceed \$100K for approval.

Bridges: \$6.5M set aside; \$6.5M programmed		Staff Request	TSPLOST II
1	Old Alabama over Chattahoochee Tributary	Begin engineering	\$3.25M
2	Old Alabama over Johns Creek	Begin engineering	\$3.25M
Congestion Relief: \$14.2M set aside; \$11.5M programmed		Staff Request	TSPLOST II
1	Nesbit Ferry Road Improvements	IGA with Roswell	\$7.5M
2	Abbotts Bridge (Parsons to Medlock Bridge)	Update studies, etc.	\$4M
Landscape/Streetscape: \$3.5M set aside; \$3.5M programmed		Staff Request	TSPLOST II
1	Town Center - Creekside Park Trail Landscaping	Consensus for funding use	\$1.5M
2	Town Center - Main Street (Lakefield Drive)	Begin engineering	\$2M
Operations and Safety: \$16.2M set aside; \$9.35M programmed		Staff Request	TSPLOST II
1	Barnwell at Niblick Intersection Improvement	Begin engineering	\$2.35M
2	Sargent Road at Ashwick Place Intersection Improvement	Begin preliminary study	\$2.5M
3	Town Center - Lakefield Drive at Johns Creek Parkway	Begin engineering	\$3.5M
4	Intelligent Transportation Systems (ITS) Fiber Connectivity	Begin engineering	\$1M
Pedestrian/Bike Imp.: \$16.5M set aside; \$16.05M programmed		Staff Request	TSPLOST II
1	Old Alabama Road (Autrey Mill to Spruill Road)	Consensus for funding use	\$800K
2	Town Center - Creekside North Pond Trail	Consensus for funding use	\$2M

3	Rogers Bridge Road (Bell Rd to Amberleigh Way)	Begin engineering	\$2.2M
4	Barnwell Rd (Rivermont Pkwy to N Peak Drive)	Begin engineering	\$3.4M
5	Buice Road (Twingate Dr to Kingston Crossing) Crossing)	Begin engineering	\$650K
6	Buice Road (Spruill Road to Johns Creek)	Begin engineering	\$500K
7	Barnwell Road (Niblick Drive to Rivermont Pkwy)	Begin engineering	\$500K
8	Town Center - Pedestrian Crossing	Consensus for funding use	\$6M

Next Steps

Pending approval of the contract amendment (providing for professional management and administration) and any adjustments to the project list from Council, once authorized, staff will begin engineering (or appropriate next steps) for each of the projects identified that are supported by Council.

Attachments

1. Proposed Amendment to the Jacobs Contract for TSPLOST Professional Management
2. Existing Contract with Jacobs for TSPLOST Professional Management
3. Map Overview of Proposed TSPLOST II Projects

**TRANSPORTATION SPECIAL PURPOSE LOCAL OPTION SALES TAX (TSPLOST)
MANAGEMENT AND PROFESSIONAL SERVICES AGREEMENT BY AND
BETWEEN THE CITY OF JOHNS CREEK, GEORGIA
AND CH2M HILL ENGINEERS, INC.**

This TSPLOST Professional Services Agreement ("Agreement") is entered into by and between the City of Johns Creek, Georgia, a Georgia municipal corporation ("Municipality") and CH2M Hill Engineers, Inc., a Delaware corporation, ("Consultant") as of 19th day of September, 2017 ("Effective Date"). The Municipality and the Consultant shall be jointly referred to as the "Parties".

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2. RECITALS

WHEREAS, the Municipality approved a TSPLOST Project List as shown in Exhibit A – TSPLOST Project List; and

WHEREAS, the Municipality is seeking a consultant to perform the services listed in Exhibit B – Scope of Services, (“Services”); and

WHEREAS, Consultant has agreed to render to the Municipality the performance of the Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Municipality and the Consultant agree as follows:

3. DEFINITIONS

- 3.1. “City Manager” shall mean the City Manager or designee who shall act as the Municipality's primary representative and point of contact for all regular reports, work orders and adjustments to Services allowable under this Agreement in the agreed-upon format between the Municipality and the Consultant.
- 3.2. “City Council” shall mean the municipal body having legislative and administrative powers for the City of Johns Creek inclusive of the Mayor and six Councilmembers. The City Council has the authority to enter into this Agreement and authorize any Amendments to the Services as further described in Section 5.2 of this Agreement.
- 3.3. “City Equipment” shall have the meaning set forth in Section 9.4 of this Agreement.
- 3.4. “Consultant Personnel” shall mean all person(s) under the direct supervision and control of the Consultant who perform the Services provided for herein on behalf of the Consultant, whether employees or temporary employees.
- 3.5. “Consultant Subcontractor(s)” shall mean any subcontractor(s) hired, contracted with, or directly engaged by Contractor to perform Services.
- 3.6. “Due Date” shall have the meaning set forth in Section 8.2 of this Agreement.
- 3.7. “Fees” shall mean the amounts charged by Consultant to Municipality, including lump sum and time and materials amounts, for the performance of Services, as more fully described in Exhibit D - Fees for Services.
- 3.8. “Key Personnel” shall mean the Consultant Personnel with the title TSPLOST Project Manager.
- 3.9. “Municipality Subcontractor(s)” shall mean any subcontractors hired, contracted with or directly engaged by the Municipality to perform services as delegated by the Municipality other than those set forth in this Agreement.
- 3.10. “Performance Measures” shall have the meaning set forth in Section 4.2.1 of this Agreement and more fully described in Exhibit C – Performance Measures and Workload Measures.
- 3.11. “Services” shall mean the scope of services and as more fully described in Exhibit B - Scope of Services.
- 3.12. “Term” shall have the meaning set forth in Section 6.1 of this Agreement.
- 3.13. “Workload Measures” shall have the meaning set forth in Section 4.2.2 of this Agreement and as more fully described in Exhibit C – Performance Measures and Workload Measures.

4. PERFORMANCE

- 4.1. Professionalism. In its performance of the Services, the Consultant shall use that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession

- practicing or performing the substantially same or similar services and in accordance with the State of Georgia's adopted codes, the Municipality's adopted Code of Ordinances, and industry standards.
- 4.2. Performance Measures and Workload Measures. As provided in Exhibit C – Performance Measures and Workload Measures, the Parties have identified Performance Measures and Workload Measures for Services.
- 4.2.1. Performance Measures are performance-based measures that are designed to provide management an in-depth perspective on the Consultant's efficiency, effectiveness, and performance of the Services. The Consultant has direct influence over its performance on Performance Measures, each measure is tied to a component of the Services, and each measure is correlated with a specific performance target.
- 4.2.2. Workload Measures track and monitor the workload of the Consultant. The Consultant has little influence over the workload, so no specific targets are assigned to workload, but the Parties see benefit in tracking workload measures as important in identifying community trends and resource allocation.
- 4.2.3. Changing Performance and Workload Measures. The Parties recognize that over the term of the Agreement, flexibility will be necessary in order to meet the Municipality's evolving needs and priorities. The Performance and Workload Measures may be adjusted by mutual consent of the City Manager and the Consultant.
- 4.2.4. Relief to Performance Targets. The City Manager, in his or her sole discretion, may grant relief from the performance targets associated with Performance Measures due to changes in the Municipality's needs, priorities, or reallocations as deemed merited in the City Manager's sole discretion.
- 4.3. Reporting. Consultant will track, record, and report Performance Measures and Workload Measures in a timely and professional manner.
- 4.3.1. Beginning on October 1, 2017, the Consultant shall track the Performance Measures and Workload Measures on a monthly basis. The Parties agree that automation of data collection is ideal to reduce error in collection and reduce administrative burdens of tracking, however, the Parties acknowledge as of the Effective Date, few if any of the indicators and measures are automated. For the first year of the Agreement, the Consultant agrees to track all measures in Microsoft Excel, or alternate program(s) agreeable to both Parties. The Parties agree to work together through the term of the Agreement to identify reasonable opportunities to automate data collection.
- 4.3.2. Beginning in January 2018, the Consultant shall submit quarterly reports of the Performance Measures and Workload Measures by the fifth of the month following the end of the quarter in a format agreed upon between the Parties.
- 4.3.3. Annual reports to the Municipality detailing, at a minimum, the Consultant's performance for the previous fiscal year, including Performance Measures and Workload Measures shall be provided to the Municipality no later than October 31 of each year.
- 4.4. Customer Service. Both Parties have an interest in providing a high level of customer service and developing ways to evaluate the effectiveness of the Consultant's interactions with the public. The Consultant will work with the Municipality during the Term of the Agreement to identify both hard and soft metrics and methods to gauge customer service such as surveys, secret shoppers, and other more innovative efforts. The Municipality will be responsible for costs associated with additional efforts to gauge customer service not included in the Performance Measures. If the implementation of new efforts to gauge customer service results in an increased dedication of Consultant's time and personnel to manage

the effort, the Parties shall mutually agree, through good faith negotiations, to an equitable adjustment to the Fees for the Services.

- 4.5. Continuous Improvement. Both Parties have an interest in performing the Services in a manner that is highly efficient, effective, and utilizes innovation and continuous improvement. To that end, the Consultant in its normal course of delivery of the Services, shall form a committee ("Continuous Improvement Committee") which shall meet quarterly during the Term of the Agreement to review operations in key areas and identify processes and procedures that can be improved. On an annual basis, the Continuous Improvement Committee will report its finding to the City Manager for further review and consideration of implementation of new technologies or processes for the improved performance of the Services. If the implementation of new technologies or processes result in a change in the cost of providing the Services, the Parties shall mutually agree, through good faith negotiations, to an equitable adjustment to the Fees for the Services.
- 4.6. Third Party Failures. To the extent that the Consultant must cooperate and/or perform services in conjunction with third parties, including any Municipality Subcontractors, the Consultant is not responsible or liable for failures of third parties or Municipality Subcontractors to fulfill their obligations or duties nor any damages arising out of the failures of third parties or Municipality Subcontractors so long as the Consultant completes obligations and duties in accordance with Section 4.1. The Consultant is not responsible or liable for failures of third parties or Municipality Subcontractors to fulfill their obligations or duties nor any damages arising out of the failures of third parties or Municipality Subcontractors so long as the Consultant completes obligations and duties in accordance with Section 4.1. If the Municipality Subcontractors or third party fails to maintain project schedule (i.e. weather delays, etc.) or incurs project budget impacts (i.e. materials availability, unforeseen conditions, etc.) and said acts negatively impact the Consultant's ability to deliver the Services on time and within budget, the Consultant will notify the Municipality who shall grant relief from the performance targets associated with Performance Measures (including but not limited to budget and schedule) directly impacted by the third party's failure provided that notice of third party's failure is provided to the City Manager along with a plan to address the issues that have arisen within a reasonable time. For purposes of this section, "reasonable time" shall be fifteen (15) business days except when the failure affects the public health, safety or welfare, in which case reasonable time may be less than fifteen (15) business days. If the Municipality requests the Consultant take over obligations or duties of a third party the process outlined in the following Section 5 - Changes to Scope of Services section should be followed.

5. CHANGES TO SCOPE OF SERVICES

- 5.1. Adjustments. The Parties recognize that over the Term of the Agreement, flexibility will be necessary in order to meet the Municipality's evolving needs and priorities. With concurrence from the City Manager, the Consultant may temporarily (defined as a period not to exceed ninety (90) days) reallocate resources to meet shifts in the Municipality's needs and priorities so long as the reallocations do not adversely affect the cost of services (as measured in the fee for Services) or the quality of Services (as measured by the Performance Measures).
- 5.2. Amendments. Permanent (defined as a period exceeding ninety (90) days) reallocations or changes to Services must be mutually agreed upon between the Parties and shall be made in writing as an amendment to this Agreement. If the permanent change impacts the fee for the Services, an amendment to this Agreement shall specifically designate the change to fees for the Services.

[continued on next page]

6. TERM

- 6.1. Term. Notwithstanding fiscal non-appropriation as defined under O.C.G.A. § 36-60-13, the Effective Date of this Agreement shall be October 1, 2017, with a term of 5 years, and the expiration date ("Expiration Date") shall be September 30, 2022 ("Term").
- 6.2. Renewal. This Agreement shall renew for up to five, one-year options at the sole option of the Municipality upon written notice to the Consultant by July 1 of each year following the Term.

7. FEES

- 7.1. Fee. In consideration of the Consultant providing the Services, the Municipality shall pay the Consultant for the Services performed in accordance with Exhibit D – Fee for Services.
- 7.2. Increases. All inflationary costs and merit increases for Consultant Personnel are included within the cost listed within Exhibit D – Fee for Services. The Municipality shall not be obligated to renegotiate or increase any fee for the Services during the Term of the Agreement or renewal options to further address inflationary or merit increases for Consultant Personnel.
- 7.3. Fringe. All of the Consultant's overhead costs, including, but not limited to, costs of travel, training, and insurance coverage, are included within the costs listed within Exhibit D – Fee for Services.
- 7.4. Miscalculations. The Municipality shall not be obligated to renegotiate or increase any fee for the Services during the Term of the Agreement based on a Consultant's mistake or miscalculation of prices, underestimation of costs, or for any other reason.
- 7.5. Financial Considerations. Consultant does not warrant that the Municipality's project cost will not vary from the project costs set forth in Exhibit A and Exhibit B.

8. INVOICE & PAYMENT STRUCTURE

- 8.1. Invoicing. Each month the Consultant will invoice the Municipality the fees as set forth in Exhibit D – Fee for Services.
 - 8.1.1. With services commencing on October 1, 2017, the first invoice is anticipated between November 1, 2017 and November 5, 2017.
 - 8.1.2. The monthly invoice shall be accompanied with documentation of hours worked by the individuals providing the Services following the delivery of Services for such month.
- 8.2. Payments Due. Municipality shall pay all undisputed Fees according to the terms of this Agreement. Municipality shall compensate the Consultant within thirty (30) days of the Municipality's receipt of an invoice ("Due Date").
- 8.3. Disputed Charges. If the Municipality disputes any invoices (or portion thereof) issued by the Consultant, the Municipality shall notify the Consultant within five (5) business days of receipt of invoice detailing out the invoice charge(s) disputed and reasons why. The Consultant shall respond within five (5) business days to such notification. If such issue(s) is/are not resolved within fifteen (15) business days after notification such issues(s) shall be handled as in accordance with Section 20 Disputes. Valid disputes on invoices shall not accrue interest until the date of resolution, and applicable interest, if any, shall be calculated from the date of resolution of the dispute. In any case, Municipality shall pay any undisputed portion of any invoice by the Due Date.

- 8.4. Penalty for Delayed Payments. The Municipality shall pay interest at an annual rate equal to Wells Fargo Bank, N.A.'s prime rate plus one and one-half percent (1 ½%) (said amount of interest not to exceed any limitation provided by law) on Fees not paid and received within sixty (60) days from date of receipt by the Consultant's monthly invoice, such interest being calculated from the due date of the payment, so long as said delay is not caused by the Consultant.

9. EQUIPMENT

- 9.1. Data. The Municipality shall provide all data, information, plans, specifications and other documentation within its possession reasonably requested by Consultant to perform Services.
- 9.2. Office Space. The Municipality shall provide dedicated office space within the City Hall, or such other location as agreed upon by the Parties, for all full-time office-based Consultant Personnel providing Services under this Agreement. The Municipality shall provide office space for temporary (such as interns), part-time, and field-based Consultant Personnel necessary to provide Services under this Agreement, however, that office space may be shared, flexible, or common work areas. The Consultant shall be solely responsible to provide for office space for other Consultant Personnel (those occasionally providing part-time assistance or supervision for Services under this Agreement and those not providing Services under this Agreement).
- 9.2.1. The Consultant shall keep the provided office space free from accumulation of waste materials and other debris resulting from provision of the Services. At the completion of each work day, the Consultant shall place all waste materials and debris in waste bins.
- 9.2.2. Should the Municipality decide to move the office space to a different location, the Municipality shall be responsible for its associated relocation expenses, including but not limited to transport, re-assembly of Municipality's furnishings and equipment, associated infrastructure, network cabling, internet, telephones, and computer equipment supplied by the Municipality.
- 9.3. Utilities. The Municipality shall provide a power supply, utility services, and a common-use (shared) printer for all Consultant Personnel necessary to provide Services under this Agreement. The Consultant shall be solely responsible to provide for a power supply, utilities, and printers for other Consultant Personnel (those occasionally providing part-time assistance or supervision for Services under this Agreement and those not providing Services under this Agreement).
- 9.4. City Equipment. The Municipality shall supply furniture, fixtures, and equipment for all City Hall offices and full-time office-based Consultant Personnel. Equipment includes those items customarily supplied to office staff such as chairs, computers, phones and office supplies ("City Equipment"). If the Municipality's failure to provide or maintain equipment impacts the Consultant's ability to deliver the Services, the Municipality shall grant relief from the performance targets associated with Performance Measures directly impacted by the Municipality's failure provided that notice of Municipality's failure is provided to the City Manager and a reasonable time to cure the failure is provided. For purposes of this section, "reasonable time" shall be fifteen (15) business days except when the failure affects the public health, safety or welfare, in which case reasonable time may be less than fifteen (15) business days.
- 9.4.1. All City Equipment shall be used only for Municipality purposes in performance of this Agreement and pursuant to Municipality policies, and shall not be used for any purely corporate, other municipality Consultant business, non-governmental Consultant business, or personal purpose. All City Equipment utilized by Consultant Personnel shall be kept clean, free of damages, and in safe operating condition.

9.4.2. For Consultant Personnel performing Services in the field or those who regularly work on-call after hours, Municipality shall provide a phone, smart device, tablet, tools, and equipment, etc. necessary in order to accomplish the Services of this Agreement. If additional Consultant Personnel need phones, smart devices, tablets, etc. in order to accomplish the Services of this Agreement, the Consultant is expected to provide such equipment to the Consultant Personnel at its own expense. The Consultant is required to comply with Municipality's open records and Information Technology Department security requirements associated with data and usage of such equipment, which such requirements shall be provided to Consultant Personnel.

9.5. Personal Protective Equipment. The Consultant shall provide all personal protective equipment necessary for Consultant Personnel operating in the field or other situations necessitating such equipment.

9.6. Vehicles. The Municipality shall supply vehicles necessary to perform the Services of the Agreement. The vehicles shall be pooled but the Municipality shall make reasonable efforts to ensure the quantity of the vehicles shall be sufficient to provide each person who routinely performs field work shall have access to a vehicle when needed. Notwithstanding fiscal non-appropriation as defined under O.C.G.A. 36-60-13, the Municipality shall make reasonable efforts to maintain and repair all provided vehicles. Notwithstanding fiscal non-appropriation as defined under O.C.G.A. 36-60-13, the Municipality shall make reasonable efforts to replace vehicles at Municipality's expense when the age of the vehicle reaches ten years or 150,000 miles. If the Municipality's failure to maintain or replace vehicles impacts the Consultant's ability to deliver the Services, the Municipality shall grant relief from the performance targets associated with Performance Measures directly impacted by the Municipality's failure.

9.6.1. Any Consultant Personnel operating vehicles supplied by the Municipality must meet all driver qualifications and training requirements imposed on Municipality Employees and abide by all Municipality policies related to use of Municipality vehicles.

9.6.2. In the event of an accident or damage to a vehicle supplied by the Municipality, in addition to following the Consultant's policies for health and safety of Consultant Personnel, the Consultant will notify the City Manager of the accident or damage to the vehicle.

9.6.3. Vehicles supplied by the Municipality are to be used exclusively for the Services provided to the Municipality and shall not be utilized as take-home vehicles except as authorized by the City Manager.

10. INDEPENDENT CONTRACTOR

10.1. Independence. The Consultant is an independent contractor, and neither the Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of the Municipality. As the Consultant is an independent contractor, the Municipality shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for the Municipality under this Agreement. The Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Consultant, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. Accordingly, Municipality shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers compensation benefits under O.C.G.A. § 34-9-1 et seq.

or any other amenities of employment to any of the Consultant Personnel or any other liabilities whatsoever unless otherwise specifically provided herein.

- 10.2. Not Joint Employers. Nothing contained in this Agreement shall be construed to create a joint employer relationship between the Municipality and the Consultant with respect to any Consultant Personnel. Nothing in this Agreement shall be construed to create a joint employer relationship between the Municipality and the Consultant with respect to any Municipality employees.

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11. CONSULTANT PERSONNEL

- 11.1. Qualified Personnel. The Consultant represents and warrants to the Municipality that it will retain qualified professionals that possess the skills, knowledge, and abilities to competently, timely, and professionally perform the Services in accordance with this Agreement.
- 11.2. Certifications. The professionals employed by the Consultant will maintain certifications, certificates, and licenses as required for the Services that they individually and collectively provide to the Municipality.
- 11.3. Background Checks. Prior to assigning any individual to the Municipality, the Consultant shall subject said individual to a background check which shall include, at a minimum: motor vehicle records, criminal records, military records, and state licensing records (when applicable). Pursuant to the duties of the position, other applicable background checks may be requested by the Municipality and performed by the Consultant upon agreement by the Parties.
- 11.3.1. The Consultant shall exclude any person from the performance of Services for the Municipality if that person's background check reveals behavior that demonstrates the person is not fit or would not meet industry standards in performing duties assigned under this Agreement.
- 11.3.2. The Consultant shall subject current Consultant Personnel to a driver history check every two years unless relief from this requirement is waived by the City Manager.
- 11.3.3. The City Manager shall have the right, with respect to any Consultant Personnel, to approve, deny, restrict, or remove access to a Municipality vehicle, City Equipment, or Municipality property.
- 11.4. Non-discrimination. The Consultant nor Municipality will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity laws.
- 11.5. ADA. The Consultant shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by the Municipality at any time during the term of this Agreement.
- 11.6. Drug Free Workplace. The Consultant shall maintain a Drug Free Workplace pursuant to the federal Drug Free Workplace Act, as amended from time to time, and shall further ensure that its agents and subcontractors maintain a Drug Free Workplace pursuant to other applicable state laws and regulations.

By execution of this Agreement, Consultant certifies that a drug-free workplace will be provided for the Consultant's employees during the performance of this Agreement.

- 11.7. E-Verify. The Consultant is registered with and is authorized to use and uses the federal work authorization program commonly known as E-Verify. The Consultant's federal work authorization user identification number is 123606; authorization date of May 30, 2008.
- 11.8. Authorized Workers. Pursuant to O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, Consultant warrants, represents, acknowledges, and agrees that:
 - 11.8.1. The Consultant does not knowingly employ or contract with an illegal alien;
 - 11.8.2. The Consultant shall not enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien;
 - 11.8.3. The Consultant shall execute an affidavit verifying that the Consultant has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. § 13-10-90, et.seq., and Georgia Department of Labor Regulations Rule 300-10-1-.02. The appropriate affidavit is attached hereto as "Exhibit E – Immigration & Security Form" and incorporated herein by reference and made a part of this Agreement.
- 11.9. Federal Immigration and Nationality Act. The Consultant shall execute an affidavit verifying status for city public benefit required pursuant to O.C.G.A. § 50-36-1, verifying United States citizenship or status as a permanent resident or qualified alien or non-immigrant under the Federal Immigration and Nationality Act. The appropriate affidavit is attached hereto as "Exhibit F – O.C.G.A § 50-36-1(e)(2) Affidavit" and incorporated herein by reference and made a part of this Agreement.
- 11.10. Unsatisfactory Personnel. In no event shall the Municipality be responsible for monitoring or assessing the suitability of any Consultant Personnel. However, the Consultant shall transfer promptly from the Municipality any Consultant Personnel that the City Manager advises are not satisfactory and replace such Consultant Personnel with individuals satisfactory to the Municipality.
- 11.11. Changes in Personnel. The Consultant shall promptly notify the Municipality prior to changes in Consultant Personnel. When practicable, the Consultant will provide the Municipality with at least a two week notice period prior to changes in Consultant Personnel.
 - 11.11.1. The Consultant will encourage Consultant Personnel choosing to voluntarily leave employment with the Consultant to provide a two week notice period prior to their departure.
 - 11.11.2. Consultant shall have the right to reassign Consultant Personnel from the Agreement provided that prior to approaching Consultant Personnel regarding potential reassignments (internal or external), the Consultant has discussed with the City Manager.
 - 11.11.2.1. Not including any transfers of unsatisfactory Consultant Personnel, the Consultant shall take reasonable actions, and collaborate with Municipality as needed, to encourage Consultant Personnel retention during the Term and utilize best efforts to limit reassignment of Consultant Personnel for reasons other than promotion or career advancement.
 - 11.11.3. For the purpose of this Agreement, the TSPLOST Project Manager is considered a Key Personnel position.
 - 11.11.3.1. In the event of a vacancy of a Key Personnel position, the Consultant shall endeavor to fill such position within sixty (60) days from the date such position is vacated with a permanent replacement. For the avoidance of doubt, during any such vacancy of a Key Personnel position, Municipality shall be not billed for any time associated with such Key Personnel position.
 - 11.11.3.2. In the event of a vacancy for a Key Personnel position, the City Manager shall be provided an opportunity to review and interview Consultant's proposed candidates. No person

shall be appointed to a Key Personnel position without the concurrence of both Parties. As part of the review process, the anticipated salary range for each proposed finalist shall be disclosed to the City Manager.

- 11.11.4. In all Consultant Personnel additions, the Consultant shall provide the Municipality with notice of any addition in staff and information related to level of education, qualifications, or experience for the additional Consultant Personnel to the City Manager prior to offering employment or assignment to the Agreement to existing or proposed Consultant Personnel. If required due to a change in price or scope, such addition in Consultant Personnel will be made in accordance with Section 5 of this Agreement.
- 11.11.5. In all Consultant Personnel replacements, the Consultant shall provide replacement Consultant Personnel with similar education, qualifications, or experiences to reasonably continue with the same degree of care, skill, and professionalism in performing the Services.
- 11.11.6. If removing Consultant Personnel without intent to replace, the Consultant shall take necessary steps to maintain performance for meeting all Services and Performance Measures.
- 11.12. Attire. Consultant Personnel shall wear neat-appearing appropriate attire for the Services rendered in applicable setting (either office, field, or some combination) including footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.
 - 11.12.1. Consultant Personnel are not required to wear attire with the Municipality's logo. However, if Consultant Personnel chooses to wear Municipality-approved attire with the logo of the Municipality, Consultant Personnel shall be performing Services for the Municipality.
 - 11.12.2. Consultant Personnel shall not wear attire with the logo of the Consultant when performing Services for the Municipality.
 - 11.12.3. Consultant Personnel shall wear or carry an identification card and access badge which will be issued by the Municipality. Each Consultant Personnel who is issued an identification card and access badge shall be required to sign personally for the card and badge. The Consultant shall be held accountable for the card and badge and must assure that they are returned to the Municipality upon termination of Consultant Personnel's employment with the Consultant or termination of the Agreement.
- 11.13. Subsequent Employment. In the event of partial termination, full termination, or expiration of this Agreement, the Municipality or a third party performing similar services under a subsequent agreement with the Municipality shall have the right to offer employment to any Consultant Personnel performing Services under this Agreement.
 - 11.13.1. The Consultant shall not enter into an arrangement, contractual or otherwise, with Consultant Personnel which would prohibit an individual's ability to accept an employment offer from the Municipality or a third party.
 - 11.13.2. For the avoidance of doubt, in the event of a partial termination, Municipality shall have the right to offer employment only to those Consultant Personnel performing Services effected by partial termination. Unless mutually agreed between the Parties, the Municipality shall not either directly or indirectly solicit, induce, recruit or encourage any of the Consultant Personnel to leave their employment, or take away such employees, or attempt to solicit, induce, recruit, encourage or hire Consultant Personnel. Nothing contained in this provision shall prohibit the hiring of such Consultant Personnel if such hire was not induced and the employee independently and without notice of opportunity by the Municipality applied for the position and the position was both open to the public for application and the employee was subject to a competitive process.

12. INDEMNIFICATION

- 12.1. Consultant Indemnification. To the fullest extent permitted by law, Consultant shall be liable for and shall defend, save, indemnify, and hold harmless the Municipality, its elected and appointed officials, employees and volunteers and others working on behalf of the Municipality, from and against any and all claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities by reason of personal injury, including bodily injury or death and/or property damage to the extent that any such injury, loss or damage is caused by the negligence or breach of duty of Consultant or any officer, employee, representative, or agent of Consultant.
- 12.2. Municipality Indemnification. To the extent allowable by Georgia law, the Municipality shall be responsible for and shall defend, save, indemnify, and hold harmless Consultant, its officers, employees, representatives, Municipality Subcontractors and agents, from and against any and all claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities by reason of personal injury, including bodily injury or death and/or property damage to the extent that any such injury, loss or damage is caused by the negligence or breach of duty of the Municipality or any officer, employee, representative, Municipality Subcontractor or agent of the Municipality.
- 12.3. Incidents. If either of the Parties becomes aware of any incident likely to give rise to a claim under the above indemnities, it shall notify the other in writing within twenty-four (24) hours of the incident and both Parties shall cooperate fully in investigating the incident.
- 12.4. Consequential Damages. In disputes between Municipality and Consultant, in no event shall either party, its subcontractors or their officers or employees be liable to the other party for any special, indirect or consequential damages, whether such liability arises in breach of contract or warranty, tort including negligence, strict or statutory liability, or any other cause of action, provided, however, such limitation does not include any liability for which Consultant is obligated to indemnify Municipality based upon special, indirect or consequential damages suffered by any third parties.
- 12.5. Civil Penalties. The Parties agrees that Consultant shall be liable for fines or civil penalties to a maximum aggregate of One Hundred Fifty Thousand Dollars (\$150,000) per year, which may be imposed by any federal or state department or regulatory agency that are a result of Consultant's negligent operation. The Municipality will assist the Consultant to contest any such fines in administrative proceedings and/or in court prior to any payment by the Consultant. The Consultant shall pay the costs of contesting any such fines. The Consultant shall not be liable for such fines or civil penalties that result from violations that occurred prior to the effective date of this Agreement or for the effects of prior violations by the Municipality that have contributed to the assessment of any such fine or civil penalty caused by the Consultant's negligent operations.

13. INSURANCE

- 13.1. Insurance. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Consultant pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law. The minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the Municipality. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- 13.1.1. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease – policy limit, and one million dollars (\$1,000,000) bodily injury by disease – each employee.
 - 13.1.2. Commercial general liability insurance with minimum combined single limits of one million five hundred thousand dollars (\$1,500,000) each occurrence and five million dollars (\$5,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a severability of interest provision, and shall be endorsed to include the Municipality and the Municipality's officers, employees, and consultants as additional insureds.
 - 13.1.3. Professional liability insurance with minimum limits of five million dollars (\$5,000,000) each claim and five million dollars (\$5,000,000) general aggregate. Consultant shall be responsible for maintaining professional liability insurance for a minimum of two (2) years from the date of expiration of this Agreement.
 - 13.1.4. Excess liability insurance with minimum limits of twenty five million dollars (\$25,000,000) each occurrence and twenty five million dollars (\$25,000,000) in general aggregate.
 - 13.1.5. Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than two million dollars (\$2,000,000) combined single limit each accident.
 - 13.1.6. Pollution condition insurance with minimum limits of two million dollars (\$2,000,000) each pollution condition and two million dollars (\$2,000,000) aggregate.
 - 13.2. Additional Insured. The Municipality shall be named as an additional insured on Consultant's insurance coverage for insurance policies noted in Sections 13.1.2, 13.1.5, and 13.1.6.
 - 13.3. Certificates of Insurance. Prior to commencement of the Services, Consultant shall submit certificates of insurance acceptable to the Municipality.
 - 13.4. Notice. Every policy of insurance shall provide that the Municipality will receive notice no less than thirty (30) calendar days prior to any cancellation, termination, or a material change in such policy.
 - 13.5. Failure to Maintain. The Consultant's failure to obtain and continuously maintain policies of insurance in accordance with this Section and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Consultant arising from performance or non-performance of this Agreement. Failure on the part of the Consultant to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the Municipality may immediately terminate this Agreement.
14. ASSIGNMENT
- 14.1. Assignment. Neither party shall assign all or part of its rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without the prior written approval of both Parties; consent shall not be unreasonably withheld.
 - 14.2. Subcontracting. In the event Consultant wishes to directly engage a Consultant Subcontractor to perform certain Services under the Agreement, Consultant shall not subcontract portions of those Services without written approval of the Municipality, which approval shall not be unreasonably withheld. If the Consultant

intends to subcontract portions of the Services, the Municipality must be provided with information detailing the skills, qualifications, and professionalism of the persons or entities with which Consultant intends to subcontract and the portion of the Services the subcontractor is proposed to perform.

- 14.2.1. If the Parties agree to the use of Consultant Subcontractor, the Consultant remains responsible for the Consultant Subcontractor's performance or failure to perform. Consultant Subcontractors will be subject to the same performance criteria, applicable to the work performed, that would otherwise be expected of the Consultant. Performance clauses shall be included in agreements with all Consultant Subcontractors to assure quality levels and agreed upon schedules are met.

15. CONFLICTS OF INTEREST

- 15.1. Ineligible for Other Contracts. In the performance of this Agreement, the Consultant may have access to and use of the Municipality's sensitive financial and management data as well as to proprietary data from various Municipality contracts and contractors. As such, the Consultant shall be ineligible to perform any other contract for the Municipality without prior written authorization of the City Manager. This restriction shall remain in effect for the duration of the Agreement.
- 15.2. Other Clients. The Consultant will not review or perform any services regarding any application made to the Municipality by any other client of Consultant, unless the services Consultant performs for such client are unrelated to the Municipality. In such instance, Consultant shall disclose the relationship immediately to the City Manager, who may retain a third party or alternate service provider to Consultant for those services the performance of which by the Consultant would create a perceived or real conflict of interest. The fees for the alternate to Consultant shall be deducted from the fee paid to the Consultant.
- 15.3. Incompatible Relationships. Neither the Consultant nor any of its officers or employees shall have or hold any employment or contractual relationship that is antagonistic or incompatible with Consultant's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 15.4. No Kickbacks. Neither Consultants nor any of its directors, officers or Consultant Personnel shall obtain any kickbacks or benefits for itself, themselves or other clients as a result of any Municipality purchases or transactions.
- 15.5. No Collusion. Consultant shall not collude with other Municipality service providers regarding Municipality business or matters. Consultant shall not enter into any business relationships with other Municipality service providers regarding Municipal business or matters, without the approval of the City Manager, which approval may be withheld at the City Manager's sole discretion.
- 15.6. No Fees for Agreement. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, individual or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. Provided however, this provision does not encompass Consultant's ability to have hired or engaged consultants to assist in preparation of the proposal and delivery of the services hereunder. For the breach or violation of this provision, the Municipality shall have the right to terminate the Agreement without liability at its discretion, to deduct from the Agreement price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

16. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of the Parties hereto and no third party rights are intended or implied.

17. RECORDS

- 17.1. Public Access. The Consultant understands that the public shall have access, at all reasonable times, to all records, documents, notes, work product, other material, and information pertaining to the Municipality, subject to the provision of O.C.G.A. §50-14-1 *et seq.* and agrees to allow access by the Municipality and the public to all documents subject to disclosure under applicable law.
- 17.2. Compliance Required. Consultant's willful failure or refusal to comply with requests for access may result in the immediate termination of this Agreement by the Municipality.

18. OWNERSHIP OF DOCUMENTS

- 18.1. Intellectual Property Ownership. The Consultant shall own all rights to software code, processes, systems, chemical or mechanical representations not prepared exclusively for the Municipality with a non-exclusive non-transferable paid up royalty free license to the Municipality for the Term of this Agreement. No title or ownership of any intellectual property is transferred to the Municipality under this Agreement. All rights to intellectual property that is developed solely by Municipality personnel prior to or during this Agreement are owned solely by the Municipality. In instances where the Municipality brings forth intellectual property marked as confidential and requests Consultant development and assistance, the parties shall separately negotiate such ownership rights for each instance.
- 18.2. Work Product Ownership. The Municipality shall retain ownership of all records, documents, notes, data, work product, deliverables, and other materials created by Consultant in the performance of the Services hereunder this Agreement. All records, documents, notes, data and other materials required for or resulting from the performance of the Services hereunder shall not be used by the Consultant for any purpose other than the performance of the Services hereunder without the express prior written consent of the Municipality.
- 18.3. Transfer of Documents. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored by Consultant pertaining to the Services will be provided to and become property of the Municipality.
- 18.4. Documents for Audit. At reasonable times, and for a period of up to three (3) years following the termination or conclusion of this Agreement, the Municipality and its duly authorized representatives shall have access to any books, documents, papers and records of the Consultant that are related to this Agreement for the purposes of audit or examination, other than the Consultant's financial records, and may make excerpts and transcriptions of the same.
 - 18.4.1. Consultant agrees to maintain all such books and records at its place of business for a period of three (3) years after final payment is made under this Agreement. Consultant shall make all necessary books and records available for audit in Fulton County, Georgia.
- 18.5. Confidentiality by Municipality. Municipality will treat any information received under or through this Agreement in strictest confidence and will not disclose such information to third parties except where such information: (a) was part of the public domain when received, or becomes a part of the domain through no action or lack of action by Municipality, or (b) prior to disclosure was already in Municipality's possession and not subject to an obligation of confidence imposed in another relationship, or (c) subsequent to disclosure is obtained from a third party whom is lawfully in possession of such information and not subject to a contractual relationship to Consultant with respect to such information, or (d) must be

disclosed as required by law or court order. Municipality will work with the Consultant to implement and maintain a policy and procedure designed to protect proprietary and confidential information, and will keep any employee receiving such information from unauthorized publication and disclosure of such information. Municipality agrees that access to and dissemination of such information shall be limited to its employees having a need to know. Municipality shall continue to maintain appropriate internal policies and procedures which in its judgment are reasonably sufficient to protect the confidential nature of such information.

19. NOTICES

19.1. Written Notice. Whenever either party desires to give notice to the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, hand delivered, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. Notice shall be deemed given upon receipt by any method of delivery authorized above. For the present, the Parties designate the following as the respective places for giving of notice:

	If to the Municipality:	If to the Consultant:
19.2. Electronic Copy of	Warren Hutmacher, City Manager City of Johns Creek 12000 Findley Road, Suite 400 Johns Creek, GA 30097	Jonathan A. Mantay, Vice President CH2M 6600 Peachtree Dunwoody Road, Bldg 400, Suite 600 Atlanta, GA 30328

any notice sent in writing shall also be sent by e-mail. For the present, the Parties designate the following as the respective individuals for giving e-mail copy of notices:

If to the Municipality:	If to the Consultant:
warren.hutmacher@johnscreekgov	wp.wright@ch2m.com

19.3. Changes in Designee. Either party shall give written notice to the other party of any change in its designee and/or place for giving notice.

20. DISPUTES

- 20.1. Discussion. In the event that either party believe there is a dispute regarding this Agreement, or any of its terms, conditions, or obligations, a designated representative of the Consultant identified in Section 19 Notices and the City Manager shall meet and discuss in an attempt to reach resolution on such dispute within the timeframe for such meeting requested by the aggrieved party or as otherwise provided within this Agreement. If said dispute cannot be settled through discussion, the Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure.
- 20.2. Mediation. If a resolution is not reached within thirty (30) calendar days, the Parties shall refer the matter to non-binding mediation. The mediator shall be selected by joint agreement of the Parties within thirty (30) calendar days of the date of the last meeting discussing the dispute and such mediation shall be scheduled to occur as soon as is reasonably possible, depending on the nature of the dispute. Each party shall pay fifty percent (50%) of the third party costs of mediation.

- 20.3. Litigation. In the event that the mediator is not able to resolve the dispute, either Party may file for litigation.
- 20.4. Venue. When federal jurisdiction is permitted, the Parties submit to the jurisdiction of federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any federal action to enforce this Agreement shall be in United States District Court, Northern District of Georgia, Atlanta Division. Otherwise, venue for any action brought hereunder shall be brought in the Superior Court of Fulton County, Georgia.
- 20.5. Attorney's Fees. If either party is required to enforce the terms of this Agreement by court proceedings or otherwise due to breach of this Agreement, whether or not formal legal action is required, the prevailing party shall recover its attorney's fees and costs incurred due to such.
- 20.6. Continued Performance. Unless otherwise agreed in writing, Consultant shall continue to provide services during any dispute resolution proceedings. If Consultant continues to perform, Municipality shall continue to make payments in accordance with this Agreement.

21. DEFAULT

- 21.1. Default. An event of default shall mean a material breach of this Agreement. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:
 - 21.1.1. The Consultant fails to perform the Services specified in the Agreement.
 - 21.1.2. The Consultant has refused or failed, except in the case for which an extension of time is provided, to supply properly skilled personnel.
 - 21.1.3. The Consultant has failed to obtain the approval of the Municipality where required by this Agreement.
 - 21.1.4. The Consultant fails to perform any of the other provisions of this Agreement, subject to any right to cure.
 - 21.1.5. The Consultant has been adjudged as bankrupt or the Consultant makes a general assignment for the benefit of creditors, appoints a receiver on account of insolvency, or files a petition to take advantage of any debtor's act.
 - 21.1.6. Any representation or warranty of either party hereunder is found to be false or inaccurate in any material respect which materially and adversely affects the legality of this Agreement or the ability of either party to carry out its obligations hereunder.
 - 21.1.7. The failure, refusal or other default by the Municipality in its duty to pay the amount required to be paid to the Consultant under this Agreement within thirty (30) days following the Due Date for such payment.
 - 21.1.8. Either party hereunder fails to perform any material obligation under this Agreement (unless such default is excused by a Force Majeure and to the extent provided herein).
- 21.2. Reasonable Cure. In the event of a default, the Agreement may be terminated after written notice of the default, which shall specify the default, provide both a demand to cure the default and a reasonable time to cure the default and state a date upon which the Agreement shall be terminated if there is a failure to timely cure the default. For purposes of this section, "reasonable time" shall be fifteen (15) business days except when the failure affects the public health, safety or welfare, in which case reasonable time may be less than fifteen (15) business days. A failure to cure a default within the specified time shall result in termination of the Agreement on the date set forth in the notice of default if such notice of default has not been removed in writing.

- 21.3. Damages. The Consultant shall be liable for all damages resulting from default by the Consultant. The compensation to the Consultant through termination shall be prorated for any completed Services minus any damages assessed pursuant to default liability.
- 21.4. Other Remedies. Subject to the dispute provisions contained in Section 20. Disputes, either party may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by the party. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The Parties' rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to either party in law or in equity.

22. TERMINATION

- 22.1. Fiscal Non-Appropriation. Financial obligations of the Municipality for the Agreement are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the Municipality. Pursuant to O.C.G.A § 36-60-13(a)(1), this Agreement shall terminate absolutely and without further obligation on the part of the Municipality upon the failure to appropriate funds for the Agreement. In the event of the Municipality's termination for fiscal non-appropriation, the Consultant shall be paid for those Services performed up unto the point of fiscal non-appropriation.
- 22.2. Termination - Municipality. The Municipality may partially or fully terminate this Agreement upon up to ninety (90) calendar days written notice, with or without cause and with no penalty or additional cost beyond the Fees stated in this Agreement. In case of such partial termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) calendar days of the termination. Due to the lump sum price discount provided by the Consultant to the Municipality, in the event of partial or full termination of Services under this Agreement or termination of any other active service agreement between the Municipality and the Consultant, the Consultant will negotiate in good faith any modifications to said Scope and a commensurate increase or reduction in the fees in Exhibit D - Fee for Services to facilitate the partial termination in no more than ninety (90) calendar days of written notice.
- 22.3. Termination - Consultant. The Consultant may partially or fully terminate this Agreement upon one hundred and eighty (180) days written notice, with or without cause and with no penalty or additional cost beyond the Fees stated in this Agreement. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) calendar days of the termination. The Consultant will negotiate in good faith any modifications to said Services and a commensurate reduction in the fees in Exhibit D - Fee for Services to facilitate any partial termination of Services.
- 22.4. Equipment and Property. If this Agreement is terminated in whole or in part, the Consultant shall protect and preserve City Equipment and property in its possession in which the Municipality has an interest, until the Consultant has transitioned its Services to the Municipality or Municipality's designee.
- 22.5. Continuation. In the event of the full termination, or expiration of this Agreement, and in the further event that the Municipality is unable to provide the same level of services at the time of such termination or expiration, the then pending term of this Agreement may be extended by the Municipality for a period of ninety (90) days or until Municipality is capable, in its sole discretion, of rendering such services, whichever occurs sooner. The remuneration to be paid to Consultant will be negotiated by the Parties.

23. FORCE MAJEURE

Except as otherwise provided in Exhibit B – Scope of Services, neither party shall be liable for damages, delays, or failure to perform its obligations under this Agreement if performance is made impractical, abnormally difficult, or abnormally costly, as a result of any unforeseen occurrence, including but not limited to fire, flood, strike, acts of God, failure of a third party to cooperate in providing services, or other occurrences, beyond its reasonable control. The party invoking this Force Majeure clause shall notify the other party immediately by verbal communication and in writing of the nature and extent of the contingency within ten (10) working days after its occurrence, and shall take reasonable measures to mitigate any impact of Force Majeure, including but not limited to adjustment of project schedules, project budgets, performance measures, and fee for Services.

24. AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Consultant represents and warrants that he/she/they has/have the authority to so executed this Agreement and to bind the Consultant to the performance of its obligations hereunder.

25. GOVERNING LAW

This Agreement shall be construed under and governed by the laws of the State of Georgia and all services to be provided will be provided in accordance with applicable federal, state and local law. This Agreement constitutes the complete, entire and final agreement of the parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof.

26. COUNTERPARTS

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

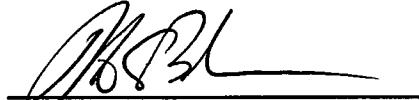
27. ENTIRE AGREEMENT

This Agreement, along with attached exhibits, constitutes the complete, entire and final Agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

[Signatures on next page]

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

City of Johns Creek, Georgia

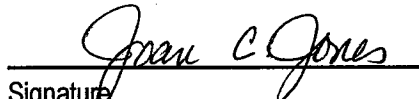

Signature

Name: Michael E. Bodker

Title: Mayor

Date: 9-20-2017

Attest

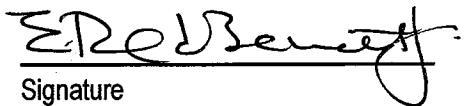

Signature

Name: Joan C. Jones

Title: City Clerk

Date: 9-20-2017

Approved as to Form


Signature

Name: E. Ronald Bennett, Jr.

Title: City Attorney

Date: 9-20-17

CH2M Hill Engineers, Inc.


Signature

Name: Jonathan A. Murray

Title: Vice-President

Date: 9/22/2017

Attest

Signature

Name: _____

Title: _____

Date: _____

Approved as to Form

Signature

Name: _____

Title: _____

Date: _____

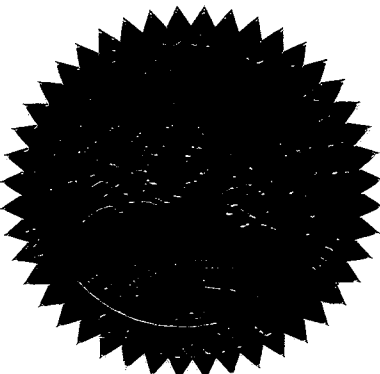


EXHIBIT A – TSPLOST PROJECT LIST

as approved at the June 6, 2016 Council Meeting

		Johns Creek	Funding from Other Sources
JCR-001	Medlock Bridge Capacity Project from Chattahoochee River to McGinnis Ferry	\$10,000,000	
JCR-014	State Bridge Rd Widening from Medlock Bridge to Chattahoochee River	\$4,000,000	
JCR-020	Medlock at State Bridge Improvements	\$8,000,000	
JCR-002	Jones Bridge Widening from Douglas Rd to McGinnis Ferry	\$7,000,000	
JCR-003	Jones Bridge Widening Phase 1: from Waters Rd to Buice Rd Phase 2: from Buice Rd to State Bridge Rd	\$11,000,000	
JCR-004	McGinnis Ferry Road Widening from Union Hill Rd to Sargent Rd (joint project with Alpharetta, Forsyth and GDOT) \$5.5M assumes HB-170 added to project	\$5,500,000	\$34,000,000
JCR-005	Haynes Bridge Rd Widening from Old Alabama Rd to Mansell Rd (joint project with Alpharetta)	\$5,000,000	\$5,000,000
JCR-008	Bell and Boles Rd Operational and Safety Improvements from Medlock Bridge to McGinnis Ferry and from Abbotts Bridge to Bell (Requesting TFA Funding for Bridge)	\$7,000,000	
JCR-009	Barnwell Road at Holcomb Bridge Road Improvements	\$2,500,000	
JCR-012	New Location Road in Tech Park	\$2,500,000	
	Project Subtotal Tier 1:	\$62,500,000	
	Fulton County (0.5%) Administrative/Audit/Citizens Group Fees	\$312,500	
	Inflation (2.5%/YR) - 6% total chosen for contingency	\$3,750,000	
	Program Management (5%)	\$3,125,000	
	Subtotal Tier 1:	\$69,687,500	

TIER 2 -100% OF POSSIBLE COLLECTIONS (\$82 M)			
		Johns Creek	Funding from Other Sources
JCR-013	State Bridge Rd Widening from Kimball Bridge to Medlock Bridge	\$6,000,000	\$2,000,000
JCR-025	Bridge Improvements	\$2,000,000	
JCR-006*	Old Alabama Rd Widening from Nesbit Ferry Rd to Old Alabama Connector (joint project with Roswell)	\$3,000,000	
	Project Subtotal Tier 2:	\$11,000,000	
	Fulton County (0.5%) Administrative/Audit/Citizens Group Fees	\$55,000	
	Inflation (2.5%/YR) - 6% total chosen for contingency	\$660,000	
	Program Management (5%)	\$550,000	
	Subtotal Tier 1 & Tier 2:	\$81,952,500	

TIER 3 - 115% OF POSSIBLE COLLECTIONS (\$94.4M) OR ANY SAVINGS ON TIER 1 & 2 PLUS ANY ADDITIONAL OUTSIDE FUNDING			
		Johns Creek	Funding from Other Sources
JCR-019	Barnwell Road Corridor Improvements	\$1,500,000	\$6,000,000
JCR-010*	Nesbit Ferry Corridor Improvements (joint project with Roswell)	\$500,000	\$6,500,000
JCR-018	Bridge Replacements (2 Bridge Replacements on Old Alabama)	\$300,000	\$2,700,000
JCR-017	Sidewalk and Trail Enhancements	\$3,000,000	\$4,000,000
JCR-024	Multi-modal Transportation Alternatives	\$1,000,000	\$4,000,000
JCR-011	Findley Road extension to Lakefield Dr	\$500,000	\$7,000,000
JCR-021	Old Alabama Widening from Jones Bridge Rd to Buice Rd	\$2,000,000	\$5,000,000
JCR-015	Resurfacing Program	\$1,000,000	\$12,500,000
JCR-022	Medlock Bridge Transit Related Enhancements	\$500,000	\$1,500,000
JCR-016	Connected Vehicle Infrastructure	\$500,000	\$1,500,000
	Project Subtotal Tier 3:	\$10,800,000	

	Fulton County (0.5%) Administrative/Audit/Citizens Group Fees	\$54,000	
	Inflation (2.5%/YR) - 6% total chosen for contingency	\$648,000	
	Program Management (5%)	\$540,000	
Subtotal Tier 3:		\$12,042,000	

*City of Roswell added these projects to Tier 3 in their final list on May 25, 2016

GRAND TOTAL \$93,994,500

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EXHIBIT B – SCOPE OF SERVICES

The Scope of Services articulates the services to be provided to the Municipality by the Consultant during the Term of the Agreement. Where applicable, scope components are followed by italicized statements indicating anticipated workload and performance requirements. Successful performance of the services will meet or exceed the listed performance requirements unless superseded by more specific Performance Measures (found in Exhibit C – Performance Measures and Workload Measures), or specific relief is granted by the City Manager, in his or her sole discretion.

TSPLOST

Separate and distinct from the day-to-day workload and services of the Public Works Department, the Transportation Special Purpose Local Option Sales tax (TSPLOST) was approved by the citizens of Johns Creek to fund a set list of capital projects (attached as Exhibit A – TSPLOST Project List).

In June 2017, the City Council reaffirmed its commitment to involving the community throughout the TSPLOST implementation and seeing each approved project through design and engineering so as to have full information before advancing the construction.

The TSPLOST project team will be responsible for the administration, planning, community involvement, design, engineering, right-of-way, and construction of the Municipality's TSPLOST projects and all related support activities.

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Administration

(1) Reporting Structure

The Public Works Director manages the TSPLOST Project Manager. The Public Works Director reports to the City Manager (or designee).

Workload: Regular communication with Public Works Director (or designee)

Workload: Bi-weekly meetings with Public Works Director (or designee)

Workload: Review of monthly activity/performance reports to ensure work is forwarding established priorities of Municipality.

(2) Team Management

The TSPLOST Project Manager manages all personnel working on TSPLOST projects so that all TSPLOST work requirements are performed effectively and efficiently.

Workload: In addition to the TSPLOST Project Manager, initial staffing is projected to include two full-time personnel (a junior engineer and an accountant) and two part-time personnel (a seasoned engineer and a right-of-way specialist). Over the life of the project, the staff is anticipated to increase to include additional engineers and other professionals and taper off as projects conclude.

(3) City Departments

Coordinate with Municipality departments such as Public Works related to transportation, traffic, and built environment and Community Development related to long-term planning, anticipated land development patterns, and community trends.

Workload: Weekly, if not daily, coordination/communication/collaboration with Municipality departments is necessary for the effective operation of the TSPLOST implementation.

(4) Budget Recommendations

Johns Creek's fiscal year matches the federal fiscal year (October 1 – September 30). All TSPLOST revenues and expenditures are included in a separate Fund and expenditures cannot be made without proper Council authorizations. For FY2018, to work with the Finance Director, City Clerk, and City Manager to bring a project plan and related Budget Amendment to the City Council for consideration

and finalization. For FY2019 and throughout the Term of the Agreement, following the Budget schedule promulgated by the Finance Director, identify and submit requests to forward the TSPLOST implementation for consideration by the City Council.

Workload: Over the course of the TSPLOST implementation, the following projects are anticipated to be incorporated into the TSPLOST budget (amounts anticipated for each phase are preliminary estimates):

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)*
 - *\$500K right-of-way*
 - *\$2M construction*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
 - *\$400K design/concept/engineering*
 - *\$500K right-of-way*
 - *\$2.6M construction*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
 - *\$200K design/concept/engineering*
 - *\$250K right-of-way*
 - *\$1.3M construction*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*
 - *\$200K design/concept/engineering*
 - *\$250K right-of-way*
 - *\$1.3M construction*
- *Bridge Improvements (JCR-025)*
 - *\$150K design/concept/engineering*
 - *\$250K right-of-way*
 - *\$1.1M construction*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*
 - *\$500K design/concept/engineering*
 - *\$500K right-of-way*
 - *\$4M construction*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)*
 - *\$250K design/concept/engineering*
 - *\$500K right-of-way*
 - *\$6.25M construction*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)*
 - *\$250K design/concept/engineering*
 - *\$4.75M construction*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)*
 - *\$250K design/concept/engineering*
 - *\$1M right-of-way*
 - *\$2.75M construction*

- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)*
 - *\$250K design/concept/engineering*
 - *\$5.25M right-of-way*
- *Medlock Bridge at State Bridge (JCR-020)*
 - *\$1.5M design/concept/engineering*
 - *\$500K right-of-way*
 - *\$6M construction*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)*
 - *\$500K design/concept/engineering*
 - *\$250K right-of-way*
 - *\$9.25M construction*
- *Nesbit Ferry Corridor Improvements (JCR-010)*
 - *\$250K design/concept/engineering*
 - *\$750K right-of-way*
 - *\$2.5M construction*
- *New Road in Technology Park (JCR-012)*
 - *\$50K design/concept/engineering*
 - *\$150K right-of-way*
 - *\$2.3M construction*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)*
 - *\$100K design/concept/engineering*
 - *\$100K right-of-way*
 - *\$1.3M construction*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)*
 - *\$500K design/concept/engineering*
 - *\$500K right-of-way*
 - *\$7M construction*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)*
 - *\$150K design/concept/engineering*
 - *\$100K right-of-way*
 - *\$1.75M construction*

Performance: Submit budget recommendations to Finance Director by deadlines for information

Performance: Submit any proposed budget amendments to Finance Director for review prior to distribution to Council for discussion.

(5) Budget Administration

Manage TSPLOST expenditures including entering, reviewing, and approving invoices for purchase orders and purchases as well as preparing information related to year end close out and audit.

Payments include processing those required to fulfill adopted Intergovernmental Agreements budgeted

for within the TSPLOST project. For multi-year projects, manage expenses across fiscal years in accordance with Municipality policies.

Workload: Anticipated roughly \$82M over the five years of collections

Performance: Review and process invoices by due dates

(6) TSPLOST Procurements

Manage TSPLOST procurements including drafting the scope of work for task orders and contracts, working with the Municipality Purchasing Manager to establish procurement schedules, prepare advertisements, review, and make recommendations on consultants/contractors as well as entering, reviewing, and approving purchase orders based on the Municipality's Purchasing Policy.

Workload: Anticipated average of 25 procurements on an annual basis

(7) Meetings

Attend Municipality meetings to discuss TSPLOST projects (such as City Council meetings) and attend regional meetings (such as Atlanta Regional Commission meetings, Georgia Department of Transportation, and Georgia Regional Transportation Authority meetings) to represent the Municipality. Attend meetings with neighboring jurisdictions (such as Alpharetta, Roswell, Gwinnett, Forsyth, Duluth, and Peachtree Corners) to coordinate projects that cross jurisdictional boundaries.

Workload: Anticipate updates quarterly at Council Meetings

Workload: Coordination anticipated for projects including:

Alpharetta

- *Haynes Bridge Road (from Old Alabama Road to Mansell Road) (JCR-005)*
- *Jones Bridge Road Widening (Phase I, from Waters Road to Buice Road) (JCR-003)*

Forsyth County

- *Bell/Boles Road Improvements (JCR-008)*
- *McGinnis Ferry Road Capacity Project (from Union Hill Road to Sargent Road) (JCR-004 and JCR-007)*
- *Medlock Bridge Capacity Project (from Chattahoochee River to McGinnis Ferry Road) (JCR-001)*
- *Jones Bridge Road Widening (from McGinnis Ferry Road to Douglas Road) (JCR-002) – with Forsyth County*

Roswell

- *Old Alabama Road Improvements (from Old Alabama Connector to Nesbit Ferry Road) (JCR-006)*
- *Nesbit Ferry Corridor Improvements (from Holcomb Bridge Road to Old Alabama Road) (JCR-010)*
- *Barnwell Road at Holcomb Bridge Road (Intersection Improvement) (JCR-009)*

Peachtree Corners

- *Medlock Bridge Capacity Project (from Chattahoochee River to McGinnis Ferry Road) (JCR-001)*

Duluth

- *State Bridge Road Capacity Project (from Medlock Bridge Road to Chattahoochee River) (JCR-014)*

Gwinnett County

- *Medlock Bridge Capacity Project (from Chattahoochee River to McGinnis Ferry Road) (JCR-001)*
- *State Bridge Road Capacity Project (from Medlock Bridge Road to Chattahoochee River) (JCR-014)*

(8) Community Education

Provide information to the Communications Department for the dissemination of educational material about the TSPLOST projects (such as presentations, guides, and graphs for the website and town halls or community meetings).

Performance: Provide weekly updates for active TSPLOST projects to the Communication Department and provide community involvement opportunities for active projects.

See Scope Component 16. Community Involvement regarding meetings and community involvement.

(9) Inquiries

Respond to inquiries from citizens, boards and commissions, the development community, and elected officials regarding TSPLOST projects. Inquiries are received by various means including but not limited to phone, e-mail, fax, and office visit.

Workload: The Municipality's Public Works Department receives an annualized estimate of 4,000 phone calls, e-mails, social media, and in-person inquiries. As visible, high-impact projects, inquiries are anticipated related to TSPLOST projects.

Performance: Respond to inquiries within 1 business day of receipt

(10) Commendations and Complaints

Investigate and address commendations and complaints related to the administration of TSPLOST projects received by the Municipality.

(11) Data Base Maintenance

Maintain an accurate and organized data base including records of decision-making process and original files of all TSPLOST projects.

Performance: Digitize/scan, and file all records at the completion of each document

(12) Records Retention

Maintain of all Municipality records related to TSPLOST in accordance to the Municipality's records retention policy including both archival and destruction.

(13) Open Records Requests

Coordinate with the City Clerk's Office to assess and fulfill any and all Open Records Requests related to the records of the TSPLOST projects.

Workload: As visible, high-impact projects, open records requests are anticipated related to TSPLOST projects.

Performance: Review request and determine timeframe for producing documents within three days of receipt by the City Clerk's Office

(14) Litigation

Provide support to the City Manager and City Attorney on all TSPLOST-related litigation. Reproduce all the applicable files and records. Consult with the City Attorney and any designated outside counsel regarding the history and facts of the case. Provide depositions on behalf of the Municipality/project team. As necessary, serve as Municipality representative in the case of trial.

(15) Performance and Workload Tracking

Track, maintain, and report performance measures and workload measures for TSPLOST projects established in coordination with the City Manager (or designee).

Performance: Remit data monthly by the 5th of the month following performance.

Project Implementation

(16) Community Involvement

Meet with organizations, homeowners associations, impacted property owners and community groups as related to TSPLOST projects both proactively and as requested.

Anticipated Workload over the course of the TSPLOST project:

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*
- *Bridge Improvements (JCR-025)*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)*
- *Medlock Bridge at State Bridge (JCR-020)*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)*
- *Nesbit Ferry Corridor Improvements (JCR-010)*
- *New Road in Technology Park (JCR-012)*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)*

- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)*

Workload: Anticipate monthly overall TSPLOST update meetings after-hours

Workload: Anticipate four after-hours meetings per month with neighborhoods impacted by TSPLOST projects

Performance: Provide information and meet with organizations as requested

Performance: Conduct proactive community involvement as part of each concept and preliminary design project.

Performance: Work with the Communications Department and provide technical support for community meetings related to TSPLOST projects.

(17) Concept and Preliminary Design Projects

Manage concept and preliminary design projects approved by the City Council. Completing concept and preliminary design projects shall include the preparation of preliminary geometric alignments, typical sections, pavement designs, a planning level of service analysis, and identification of right-of-way and utility relocations. If contracted out, managing concept and preliminary design projects shall include the preparation of scopes for procurement documents, evaluation of proposals, and recommendation for awards as well as the management of awarded concept contracts.

Anticipated Workload over the course of the TSPLOST project:

- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*
- *Bridge Improvements (JCR-025)*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)*
- *Medlock Bridge at State Bridge (JCR-020)*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)*
- *Nesbit Ferry Corridor Improvements (JCR-010)*
- *New Road in Technology Park (JCR-012)*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)*

Performance: As budgeted or otherwise authorized by Council, complete concept and preliminary design works that readies each project for the engineering phase.

Performance: For each authorized project, investigate multiple solutions/concepts in the concept and preliminary design phase.

Performance: Complete projects on-time and in-budget.

(18) Engineering Projects

Within the resources approved in the Budget, manage engineering projects approved by the City Council. Managing engineering projects shall include the preparation of scopes for procurement documents, evaluation of proposals, and recommendation for awards. Manage awarded engineering contracts for physical investigation on site to develop details plans of the existing environment including detailed planimetric surveys of the project area/corridor. Develop horizontal (curves) and vertical (grades) alignments. Determine specific types of soils on site and develop preliminary designs for containing runoff including storm drains, determining hydraulic and structural characteristics of the project's design, and developing a sediment control plan for use during the construction. Determine the amount of right-of-way necessary for the project. If applicable, determine intersection geometrics with other roads along the length of the project (including determining number of approach and receiving lanes, cross walks, exclusive left or right turn lanes, etc.). Develop final concepts for the design of the project at a more detailed scale than concept and preliminary design. Determine if special structures are necessary to mitigate noise impacts along the length of the project (walls, berms, etc.). Determine environmental impacts and any necessary mitigation measures necessary to comply with wetlands, forest conversation, and other regulations. Develop a construction sequence for phasing the different elements of construction activities including interim traffic control, phasing removal of existing paving/demolition, phasing of construction activities, etc. Itemize construction elements to develop cost estimates such as tons of asphalt at \$x/ton.

Workload: Over the course of the TSPLOST implementation, the following projects are anticipated to enter the engineering phase (amounts anticipated for each project are preliminary estimates):

- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a) - \$400K*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b) - \$200K*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c) - \$200K*
- *Bridge Improvements (JCR-025) - \$150K*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005) - \$500K*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002) - \$250K*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003) - \$250K*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004) - \$250K*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007) - \$250K*
- *Medlock Bridge at State Bridge (JCR-020) - \$1.5M*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001) - \$500K*
- *Nesbit Ferry Corridor Improvements (JCR-010) - \$250K*
- *New Road in Technology Park (JCR-012) - \$50K*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006) - \$100K*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013) - \$500K*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014) - \$150K*

Performance: As budgeted or otherwise authorized by Council, complete engineering work that readies each project for the right-of-way acquisition phase.

Performance: Complete engineering work on-time and in-budget.

(19) Right-of-Way Acquisition

Within guidelines established by the Municipality, Federal Highway Administration, the Georgia Department of Transportation, communicate and negotiate with property owners for acquisition of temporary easements, permanent easements, right-of-way and property needed. For right-of-way acquisition that is completed by sub-consultants, managing right-of-way projects shall include the preparation of scopes for procurement documents, evaluation of proposals, and recommendation for awards as well as the managing of right-of-way acquisition partners (negotiators, appraisers, attorneys) as they communicate and negotiate with property owners for acquisition of temporary easements, permanent easements, right-of-way and property needed. In both direct efforts and management of sub-consultants, managing right-of-way acquisitions includes ensuring all Federal Highway Administration and Georgia Department of Transportation procedures are followed, documented, and approved for audit.

Workload: Over the course of the TSPLOST implementation, the following projects are anticipated to necessitate right-of-way acquisitions (amounts anticipated for each project are preliminary estimates):

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009) - \$500K*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a) - \$500K*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b) - \$250K*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c) - \$250K*
- *Bridge Improvements (JCR-025) - \$250K*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005) - \$500K*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002) - \$500K*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004) - \$1M*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007) - \$5.25M*
- *Medlock Bridge at State Bridge (JCR-020) - \$500K*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001) - \$250K*
- *Nesbit Ferry Corridor Improvements (JCR-010) - \$750K*
- *New Road in Technology Park (JCR-012) - \$150K*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006) - \$100K*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013) - \$500K*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014) - \$100K*

Performance: As budgeted or otherwise authorized by Council, complete right-of-way acquisition work that readies each project for the construction phase.

Performance: Complete right-of-way work on-time and in-budget.

(20) Utility Coordination

Coordinate with utility providers (including but not limited to communications, power, light, electricity, gas, water, pipeline, and sewer) for abandoning, altering, deactivating, installing, modifying, moving, removing, and verifying locations of utilities as needed for construction projects. Coordination includes utility certification on Federal Highway Administration and Georgia Department of Transportation projects. Coordination includes managing subsurface utility engineering (SUE) and test holes on construction projects to field-verify locations of utilities.

Anticipated Workload over the course of the TSPLOST project:

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*
- *Bridge Improvements (JCR-025)*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)*
- *Medlock Bridge at State Bridge (JCR-020)*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)*
- *Nesbit Ferry Corridor Improvements (JCR-010)*
- *New Road in Technology Park (JCR-012)*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)*

Performance: As budgeted or otherwise authorized by Council, complete utility coordination work that readies each project for the construction phase.

Performance: Complete projects on-time and in-budget

(21) Preconstruction

Coordinate all aspects of preconstruction including but not limited to the preparation of anticipated project budget and schedules, preparation of scopes for procurement documents, evaluation of proposals, recommendation for awards, communication with the public and City Council, design review, review of contractor's project schedule, and permitting. Provide capability to execute constructability reviews of construction documents.

Anticipated Workload over the course of the TSPLOST project:

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*

- *Bridge Improvements (JCR-025)*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)*
- *McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)*
- *Medlock Bridge at State Bridge (JCR-020)*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)*
- *Nesbit Ferry Corridor Improvements (JCR-010)*
- *New Road in Technology Park (JCR-012)*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)*

Performance: As budgeted or otherwise authorized by Council, complete preconstruction work that readies each project for the construction phase.

Performance: Complete project on-time and in-budget

(22) Construction – Management

Within the resources approved in the Budget, serve as the Municipality's representative on construction sites including the management all aspects of construction including serving as the point of contact for all communication between the Municipality, the contractor, Municipality Subcontractors, design engineer, material testing company, adjacent property owners, and other affected parties; perform all construction-related administrative activities including correspondence and document control; ensure compliance with contract documents and Municipality standards and specifications (including informing the city of any observed errors, omissions, developments, or inconsistencies in information provided by contractor that impact the scope, schedule, or budget or defects in contractor performance); conduct project meetings throughout construction; review and process contractor progress payments as commensurate to monitored construction progress; evaluate and negotiate change orders and prepare for the Municipality's signature; conduct technical reviews of construction documents; document changes to the design and coordinate as-built drawings; provide coordination and review of contractor's staging and detour plans; coordinate communication to the public and Council with the Communications Department; review contractors safety plans and notify the city of observed discrepancies between plans and practices; review contractors quality control plans and notify the Municipality of observed discrepancies between plans and practices; prepare and periodically update the project schedule; supervise project closeout activities; complete final inspections; supervise post-construction services as needed for project closeout and warranty issues; maintain production reports reflecting time and costs dedicated to individual construction projects; and collaborate with the Finance Department to financially close out each construction project as required for fiscal year end closeout. For projects with state and/or federal funding, acquire and maintain all documentation for audit and compliance. Municipality shall be responsible for timely acquisition and payment of any necessary

approvals, easements, assessments, building permits and other charges of public agencies that may be required for the construction, use or occupancy of the permanent structures or for permanent changes in existing facilities with Consultant acting as the Municipality's representative in preparing the applications and coordinating the application process.

Workload: Over the course of the TSPLOST implementation, the following projects are anticipated to enter the construction phase (amounts anticipated for each project are preliminary estimates):

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009) - \$2M*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a) - \$2.6M*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b) - \$1.3M*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)- \$1.3M*
- *Bridge Improvements (JCR-025) - \$1.1M*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005) - \$4M*
- *Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002) - \$6.25M*
- *Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)- \$4.75M*
- *Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004) - \$2.75M*
- *Medlock Bridge at State Bridge (JCR-020) - \$6M*
- *Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001) - \$9.25M*
- *Nesbit Ferry Corridor Improvements (JCR-010) - \$2.5M*
- *New Road in Technology Park (JCR-012) - \$2.3M*
- *Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006) - \$1.3M*
- *State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013) - \$7M*
- *State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014) - \$1.75M*

Performance: Complete projects on-time and in-budget

(23) Construction – Testing

Utilize materials and soil testing to manage project feasibility and avoid future change orders. Managing contracted material testing companies including any necessary project-related meetings, construction site monitoring of testing, technical reviews of testing results, and monitoring the materials testing company's work to enforce all requirements of applicable codes, contract documents, and Municipality standards and specifications.

Workload: Required testing includes concrete tests, asphalt density tests, and compaction tests

Anticipated Workload over the course of the TSPLOST project:

- *Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)*
- *Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)*
- *Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)*
- *Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)*
- *Bridge Improvements (JCR-025)*
- *Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)*

- Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)
- Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)
- Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)
- McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)
- Medlock Bridge at State Bridge (JCR-020)
- Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)
- Nesbit Ferry Corridor Improvements (JCR-010)
- New Road in Technology Park (JCR-012)
- Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)
- State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)
- State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)

Performance: Complete projects on-time and in-budget

(24) Construction – Monitor Active Sites

Maintain a daily presence on active construction sites to monitor (including representative photography) the contractor's progress and enforce all requirements of applicable codes, contract documents, and Municipality standards and specifications; review and monitor the construction schedule.

Anticipated Workload over the course of the TSPLOST project:

- Barnwell at Holcomb Bridge Intersection Improvement (JCR-009)
- Bell/Boles Corridor (Phase I, Boles to McGinnis Ferry) (JCR-008a)
- Bell/Boles Corridor (Phase II, Boles to Medlock Bridge) (JCR-008b)
- Bell/Boles Corridor (Phase III, Abbotts Bridge to Bell) (JCR-008c)
- Bridge Improvements (JCR-025)
- Haynes Bridge Road Widening (Old Alabama Road to Mansell Road) (JCR-005)
- Jones Bridge Widening (Douglas Road to McGinnis Ferry) (JCR-002)
- Jones Bridge Widening (Phase I, Waters to Buice) (JCR-003)
- Jones Bridge Widening (Phase II, Buice to State Bridge) (JCR-004)
- McGinnis Ferry Road Widening (Union Hill to Sargent) (JCR-007)
- Medlock Bridge at State Bridge (JCR-020)
- Medlock Bridge Capacity Project (Chattahoochee River to McGinnis Ferry) (JCR-001)
- Nesbit Ferry Corridor Improvements (JCR-010)
- New Road in Technology Park (JCR-012)
- Old Alabama Rd. Capacity (Nesbit Ferry Road to Old Alabama Connector) (JCR-006)
- State Bridge Widening (Kimball Bridge to Medlock Bridge) (JCR-013)
- State Bridge Widening (Medlock Bridge to Chattahoochee River) (JCR-014)

Performance: Maintain a daily presence on active construction sites to ensure projects are completed on-time and in-budget and maintain records of daily inspections.

(25) Construction Engineering and Inspection (CEI)

Manage Construction Engineering and Inspection (CEI) services provided by sub-consultants. Managing CEI services shall include the preparation of scopes for procurement documents, evaluation of proposals, and recommendation for awards. Managing the CEI services shall include all aspects of construction and all construction-related administrative activities including measure quantities; provide utility coordination; conduct preconstruction meeting; maintain certified log of all materials and suppliers; assure testing is performed per standards; ensure materials are from GDOT approved supplier; submit contractor progress payments as commensurate to monitored construction progress; perform periodic NPDES inspections; provide digital photos; review traffic control procedures of contractor; communicate with business and homeowners along the project; inspect all work to meet or exceed GDOT standards; complete final inspections; supervise post-construction services as needed for project closeout and warranty issues; maintain production reports reflecting time and costs dedicated to individual construction projects. For projects with state and/or federal funding, acquire and maintain all documentation for audit and compliance.

Performance: Complete projects on-time and in-budget

(26) Inventory / Asset Management Program

As TSPLOST projects are designed and built, coordinate with the Geographic Information Systems division to oversee the updating of an inventory of all built-environment assets including but not limited to roads, bike lanes, sidewalks, trails, traffic signals, street signs, streetlights, pedestrian lights, guard rails, traffic calming devices, bridges, curbs, gutters, stormwater catch basins, and inlet structures.

Workload: Annualized average of 5 map updates

Performance: Coordinate with GIS within 5 business days following action necessitating inventory/map updates

(27) Other TSPLOST Implementation Duties

Identify and perform other duties and functions reasonable and customarily associated with the delivery of TSPLOST projects in accordance with local, state, and federal laws including, but not limited to, the City Charter, City Ordinances, and the laws of the United States and the State of Georgia where the need could be reasonably anticipated, but not specifically set forth above.

Performance: Offer assistance and guidance throughout each TSPLOST project's lifecycle to minimize cost to the Municipality and accelerate project delivery.

[Remainder of page intentionally left blank]

EXHIBIT C – PERFORMANCE MEASURES AND WORKLOAD MEASURES

Performance Measures are designed to provide management an in-depth perspective on the Consultant's efficiency, effectiveness, and performance of the Services. The Consultant has direct influence over its performance on Performance Measures, each measure is tied to a component of the Services, and each measure is correlated with a specific performance target.

Workload Measures track and monitor the workload of the Consultant. The Consultant has little influence over the workload, so no specific targets are assigned to workload, but the Parties see benefit in tracking workload measures as important in identifying community trends and resource allocation.

The Parties recognize that over the term of the Agreement, flexibility will be necessary in order to meet the Municipality's evolving needs and priorities. The Performance and Workload Measures may be adjusted by mutual consent of the City Manager and the Consultant. The City Manager, in his or her sole discretion, may grant relief from the performance targets associated with Performance Measures due to changes in the Municipality's needs, priorities, or reallocations as deemed merited in the City Manager's sole discretion.

Performance Measures

1. **Inquiries:** Contact 97% of parties (providing contact information) within 1 business day of an inquiry or report of an issue related to TSPLOST.
2. **Community Education:** 95% of weeks, provide information to the Communications Department regarding the status of TSPLOST projects.
3. **Community Involvement:** 95% of weeks, provide information to the Communications Department that can be utilized to plan for community involvement or solicit community involvement in TSPLOST projects in the concept/design stage.
4. **Utility Coordination:** Coordinate with utility providers to protect the Municipality's utilities and ensure 95% of project-related utility issues are completed on-time and in-budget (based on approved schedule and approved budget).
5. **Engineering:** Complete 95% of engineering projects on-time and in-budget (based on approved schedule and approved budget).
6. **Right-of-Way Acquisitions:** Complete 95% of acquisitions on-time and in-budget (based on approved schedule and approved budget).
7. **Pre-construction:** Complete 95% of all aspects of preconstruction projects on-time and in-budget (based on approved schedule and approved budget).
8. **Construction Monitoring:** Maintain a daily presence on 95% of active construction sites.
9. **Construction Testing:** Complete 95% of construction testing on-time and in-budget (based on approved schedule and approved budget) in an effort to manage project feasibility and avoid change orders.
10. **Grants/Outside Funding:** Maintain a 50% success rate in applying for grants and outside funding.

Workload Measures

1. **Projects** – by type, phase, and budget (type: widening, capacity, safety/operational, etc. and phases: concept, engineering, right-of-way, construction)
2. **Construction Sites** – number of active construction sites, size of active construction sites (acres or linear feet) and construction cost/budget
3. **Meetings** – number of community and neighborhood meetings and town halls attended to represent the TSPLOST project.
4. **Meetings** – number of City Council Meetings (including Work Sessions and Retreats) to present TSPLOST project material items.
5. **Meetings** – number of meetings with regional groups, outside agencies and entities (such as GDOT, TCC Fulton County, Gwinnett County, ARC, task forces, regional planning) attended to represent the Municipality.
6. **Open Records Requests** – number of requests filled.
7. **Data Base Maintenance** – number of records digitized/scanned and filed.

[Remainder of page intentionally left blank]

EXHIBIT D – FEE FOR SERVICES

In consideration of the Consultant providing the Services, the Municipality shall pay the Consultant for the Services. The fees shall be billed based on the time worked to provide the Services.

Multiplier

Each member of the TSPLOST project team shall track his or her time and the Municipality shall pay for the hours worked providing the Services billed at a 2.0 multiplier times the salary or hourly wage, whichever applies.

Salary or hourly wage shall be defined as the amount the TSPLOST project team members receive each pay period and shall not include the following, without limitation: any compensation or wage paid as a commission or bonus; employment benefits, such as premiums paid by health, dental or disability insurance, retirement plan or pension contributions, or the payment of FICA or payroll taxes; any lump sum payment for accumulated unused sick leave, vacation leave or other paid leave; any severance payment or accelerated payment of an employment contract for a future period or advance against future wages; any retirement incentive, retirement bonus or retirement gratuitous payment; any payment made on account of death; or any other additional potential compensation paid by the Consultant.

Annual Minimum

The Municipality agrees to pay the Consultant an annual minimum of \$500,000.

Invoicing

Monthly invoicing will be submitted based on the annual minimum of \$500,000 and be submitted as one-twelfth of the amount or \$41,666.67.

Quarterly Audit

The Parties will work together to complete a quarterly audit of time worked by TSPLOST project team members and provide for any adjustments that are necessary. If actual time worked over the course of the quarter is more than the quarterly portion of the annual minimum (\$125,000 of the \$500,000), the Municipality will compensate the Consultant for the additional work using the same 2.0 multiplier. After each fourth quarter audit, should the total value of the amounts paid by the Municipality to the Consultant during the preceding contract year exceed the total documented cost of time worked by TSPLOST project team members, the Consultant shall transfer back to the Municipality the overpaid portion within thirty (30) days following completion of the audit.

[Remainder of page intentionally left blank]

EXHIBIT E – IMMIGRATION & SECURITY FORM
CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The [Consultant] further certifies that at the time of the execution of this contract, the [Consultant] employs _____ employees.

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

EEV / Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Consultant Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

Subscribed and sworn to before me on this the _____ day of _____ 2017

Notary Public

My commission expires: _____

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

EXHIBIT F – O.C.G.A. § 50-36-1(e)(2) Affidavit

Verifying Lawful Presence in the United States

By executing this affidavit under oath, as an applicant for the execution of a contract or other public benefit, as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☐ I am a United States citizen.
- ☐ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

_____.

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in _____ (city), _____ (state).

Signature of Applicant

Printed Name of Applicant and Title

Subscribed and sworn to before me on this the _____ day of _____, 2017.

(Notary Public)

My commission expires: _____

March 25, 2022

Mr. Ed Densmore
City Manager
City of Johns Creek
11360 Lakefield Drive
Johns Creek, GA 30097

Subject: TSPLOST II Program Management Amendment

Dear Mr. Densmore:

The Jacobs team has prepared the attached amendment to the TSPLOST contract dated September 19, 2017 which includes the revised scope of services and corresponding price increase to provide the City of Johns Creek with continued Program Management in conjunction with the recently approved TSPLOST II referendum.

The revisions include a 5 year extension of the current contract and an increase from the \$500,000 per year estimate to a \$750,000 estimate. As this contract is based on hours worked with a "true up" annually, the increase is only to cover the additional staffing anticipated to deliver the increased scope of work.

We appreciate the opportunity to provide this proposal and look forward to a continued partnership with the City of Johns Creek.

Sincerely,



Chris Haggard, P.E.
Project Manager

Attachments:

- Proposed Amendment #1

FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN CITY OF JOHNS CREEK
AND CH2M HILL ENGINEERS, INC.
FOR PROVISION OF TSPLOST MANAGEMENT
ENTERED ON SEPTEMBER 19, 2017

THIS FIRST AMENDMENT is made and entered into this ____ day of _____, 2022 by and between the City of Johns Creek, a Georgia municipal corporation (the "Municipality"), and CH2M HILL Engineers, Inc., a Delaware corporation ("Consultant"), heretofore referred to jointly as the "Parties".

WHEREAS on September 19, 2017, the Parties entered into an Agreement for Provision of Transportation Special Purpose Local Option Sales Tax (TSPLOST) Management and Professional Services (hereinafter referred to as the "Original Agreement"); and

WHEREAS Section 5.2 of the Original Agreement requires that any amendment to the scope of services and/or fees by mutually agreed upon between the Parties and shall be made in writing as an amendment to the Original Agreement; and

NOW THEREFORE, in consideration of the foregoing recitals, the sums hereinafter set forth and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Section 6.1 is hereby deleted and replaced with the following:
 - 6.1 Term. Notwithstanding fiscal non-appropriation as defined under O.C.G.A § 36-60-13, the Effective Date of this Agreement shall be October 1, 2022, with a term of 5 years, and the expiration date ("Expiration Date") shall be September 30, 2027 ("Term"). Thereafter, this Agreement shall renew for a five year term by mutual agreement of the Parties.
2. Exhibit A, TSPLOST Project List is hereby updated to add the following project types:
 - a. Bridges
 - b. Congestion Relief
 - c. Landscape/Streetscape
 - d. Operations and Safety
 - e. Pedestrian and Bike Improvements
3. Exhibit A, TSPLOST Project List is hereby amended to include the attached supplemental list;
4. Exhibit D, Fee for Services is hereby updated for the sections noted below, the remainder of the terms remain unchanged:

Annual Minimum
The Municipality agrees to pay the Consultant an annual minimum of \$750,000.

Invoicing
Monthly invoicing will be submitted based on the annual minimum of \$750,000 and submitted as one-twelfth of the amount or \$62,500.

Quarterly Audit

The Parties will work together to complete a quarterly audit of time worked by TSPLOST project team members and provide for any adjustments that are necessary. If actual time worked over the course of the quarter is more than the quarterly portion of the annual minimum (\$187,500 of the \$750,000), the Municipality will compensate the Consultant for the additional work using the same 2.0 multiplier. After each fourth quarter audit, should the total value of the amounts paid by the Municipality to the Consultant during the preceding contract year exceed the total documented cost of time worked by TSPLOST project team members, the Consultant shall transfer back to the Municipality the overpaid portion within thirty (30) days following completion of the audit.

This Amendment No. 1 together with the Agreement constitutes the entire agreement between the Parties and supersedes all prior oral and written understandings with respect to the subject matter set forth herein. Unless specifically stated, all other terms and conditions of the Agreement shall remain in effect and unchanged by this Amendment. Neither this Amendment No. 1 nor the Agreement may be modified except in writing signed by an authorized representative of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused their respective agents to execute this instrument on their behalf.

City of Johns Creek, Georgia

CH2M Hill Engineers, Inc.

Signature

Signature

Name:

Name: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

Attest

Signature

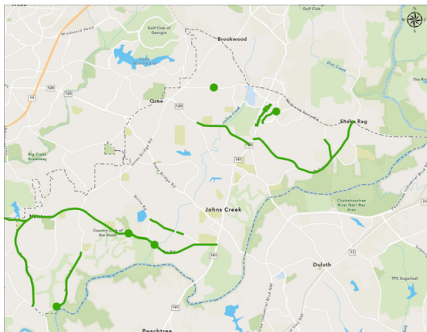
Name:

Title: City Clerk

Date: _____

City of Johns Creek

Purpose/Projects	TSPLOST Purpose Cost
JOHNS CREEK TIER 1 PURPOSES/PROJECTS	
Bridges	\$7,471,265
Congestion Relief	\$16,321,839
Landscape/Streetscape	\$4,022,989
Operations and Safety	\$18,719,864
Pedestrian and Bike Improvements	\$18,965,517
TIER 1 TOTAL PURPOSE COSTS	\$65,501,474
JOHNS CREEK TIER 2 PURPOSES/PROJECTS	
Bridges	\$2,873,563
Congestion Relief	\$393,891
Operations and Safety	\$1,395,078
Pedestrian and Bike Improvements	\$6,896,552
TIER 2 TOTAL PURPOSE COSTS	\$11,559,084
JOHNS CREEK TIER 3 PURPOSES/PROJECTS	
Pedestrian and Bike Improvements	\$11,559,084
TIER 3 TOTAL PURPOSE COSTS	\$11,559,084
TOTAL JOHNS CREEK COSTS - ALL PURPOSES FOR TIERS 1-3	\$88,619,642



AGENDA REPORT

To: Honorable City Council Members

From: John Bradberry, Mayor

Date: April 11, 2022 – Work Session

Item: TSPLOST I – Potential Adjustments to Implementation

Item Summary

Council requested a follow-up discussion and potential reconsideration of the planned implementation of the Jones Bridge Road widening (from Waters Road to State Bridge Road). Additionally, it would be appropriate to re-examine the current plans for any yet-to-be-constructed projects. Council discussion is requested on potential adjustments to the implementation of the current TSPLOST I-funded projects.

Background

In November 2016, voters approved an initial Transportation Special Purpose Local Option Sales Tax or TSPLOST I to fund transportation improvements. As part of the January 24, 2022 Work Session, Staff presented the yearly implementation update and reviewed the status of TSPLOST I projects. At the February 7, 2022 Work Session, Staff presented detailed financial information for the projects funded through TSPLOST I.

As part of the discussions, Council raised questions about the implementation of the McGinnis Ferry Road widening (from Sargent Road to Douglas Road). Council also expressed interest or concern with the Jones Bridge widening (from Waters Road to State Bridge Road), additional intersections for possible improvement along Medlock Bridge, and regarding the need for another additional intersection improvement for Medlock Bridge at State Bridge. The requested follow-up discussions on the McGinnis Ferry Road widening occurred and were settled by Council at the March 28, 2022 Council Meeting, except for the plans for sound abatement.

Update

A Work Session discussion would allow the Council to discuss as a group if there is interest in having staff re-present any yet-to-be-constructed projects for possible adjustment. Adjustments can be made if current plans no longer match the will of Council.

AGENDA REPORT

To: Honorable Mayor and City Council

From: Erica Madsen, City Engineer

Date: April 11, 2022 – Work Session

Item: Recreation and Parks Strategic Plan Update – Consultant Selection

Item Summary

To update the Recreation and Parks Strategic Plan, staff and the Recreation and Parks Advisory Committee recommend partnering with PROS Consulting, Inc. in the amount of \$157,920 with a 10% contingency (or \$15,792) to cover additional planning services that may be identified during the project. The proposed expenditure of \$173,712 is below the \$200,000 set aside in the Fiscal Year 2022 Budget for this project.

Background

In October 2014, at the Annual Strategic Planning Retreat, the Council defined recreation and parks as a core service, quality of life issue for the City. With this strategic focus, the City embarked on a process to develop the City's first Recreation and Parks Strategic Plan. Throughout the 2015 planning process, over 1,500 residents participated and assisted in prioritizing park improvements and investments anticipated to be implemented as funding allowed over the next ten years. The plan identifies six major consensus points: (1) acquire additional parkland, (2) build out the acquired land as parks, (3) utilize the Chattahoochee River, (4) create significant loop trails, (5) provide a wider array of programming, and (6) improve existing parks.

After unanimously adopting the plan in March 2016, the City focused on implementing – starting with the top of the list: acquire more land. In 2016, the City had 200-acres of parkland. Since that time, the City has acquired over 220 acres – more than doubling the parkland for our residents. Community feedback has been overwhelmingly positive about each acquisition. However, the parkland acquisitions were costly (over \$20M of General Fund dollars).

With community consensus to build-out the new parks and refresh the existing ones, the Council decided to pursue a bond referendum. The plan estimated the desired improvements would top \$100M. As the City's first experience in bond issuance, the Council prioritized desired improvements, and asked the voters to consider a \$40M issuance. The November 2016 bond referendum was approved in every voting precinct for an overall passage rate of 65%.

Using Parks Bond funding, over the last five years, the City has made improvements at each of the four existing parks, built out three new parks, and acquired additional land. The last of the Parks Bond funding is being used to advance the four remaining projects from the Parks Bond project list. The first is the replacement of the historic Rogers Bridge (to re-establish and pedestrian connection across the Chattahoochee River to Duluth). The second is engineering of the first segment of the Chattahoochee River Greenway (through the Abbotts Bridge Chattahoochee River National Recreation Area). The third is

engineering construction documents for Creekside Park in Town Center. The final and largest is the construction of the first phase of 203-acre Cauley Creek Park.

Update

With many of the projects from the 2016 Plan implemented and recognizing that some of the City's recreation and park facility needs have changed, the Council prioritized updating the Recreation and Parks Strategic Plan in 2022. Funds were set aside for the project as part of the adopted FY2022 Budget. In budgeting for the project, Council pointed to a need for upcoming park investments to be captured (such as the new vision for Town Center, the Creekside Park adjacent to City Hall, and the impact to the park system of adding 203-acre Cauley Creek Park). Additionally, Council spoke to the importance of hearing from the community to chart the next chapter of recreation in Johns Creek. The Recreation and Parks Strategic Plan update was scoped with an outreach program including focus groups, interviews with partner organizations and recreation providers, and efforts that will reach parks users across our population, not only presently engaged groups.

To engage a consulting firm for the project, staff issued a Request for Proposals (RFP). The City received and evaluated five (5) proposals. Based on the scoring for the technical proposals, staff determined an initial shortlist of best-qualified firms and held interviews with the two top-scoring teams. The Purchasing Manager contacted the finalists with additional questions submitted by staff to further elaborate on their proposals and provide additional clarifications to guide the final selection.

The selection committee recommends PROS Consulting, Inc. as further detailed in the attached Purchasing Recommendation. Many factors set the PROS Consulting, Inc. team apart as the firm best-qualified to complete the engineering for the Recreation and Parks Strategic Plan update such as their experience with municipal strategic planning and their commitment to meet project stakeholders "where they are." In their interview, PROS Consulting, Inc. used demographic information specific to Johns Creek to show how diversity will guide the public input process and how data is analyzed to provide recommendations. Their team's focus on having public input guide the plans, and deep knowledge of park trends will serve to provide the City with an achievable roadmap for future development of park programs, facilities and efforts.

The selection committee recommendation was reviewed with the Recreation and Parks Advisory Committee at their meeting on March 23, 2022. The Committee agreed with the recommended contract award and expressed excitement about beginning the plan update process.

Financial Impacts

As mentioned above, the adopted FY22 Budget includes \$200,000 to update the Recreation and Parks Strategic Plan. The recommended total expenditure of \$173,712 is within the \$200,000 project budget.

Recommendation

With the support of the Recreation and Parks Advisory Committee, staff recommends partnering with PROS Consulting, Inc. for the update of the Recreation and Parks Strategic Plan. Staff recommends a \$157,920 consulting contract with PROS Consulting, Inc. and a 10% planning contingency (in the amount of \$15,792) to cover any additional planning services necessary for the project.

Next Steps

The overall plan update process is anticipated to take approximately nine months to complete.

Once a contract is awarded, one of the first major tasks is for staff and the consultant to collaborate on methods to reach stakeholders that can provide feedback to reflect the diverse community in Johns Creek. Staff anticipates the Recreation and Parks Advisory Committee will play a significant role in helping identify recreation groups and both users presently engaged as well as reach potential parks users across our population that are not presently engaged or served by our recreation system. Reaching and hearing from the community is critical to the success of the plan update as the feedback will be used to create an updated priority / project list. Community feedback will be used as the primary means to understand the community's preference as to how the City should (1) continue to invest in recreation and parks as a priority for the City, (2) increase level of resources for staffing and programming, and (3) continue to use partners, nonprofits, etc.

Attachments

1. Purchasing Recommendation
2. Contract



MEMO

To: Honorable Mayor and City Council

From: Ronnie Campbell, Finance Director *Plumer*

Date: March 28, 2022

Subject: **Purchasing Recommendation for RFP #22-068 (Recreation and Park Strategic Plan)**

The above referenced Request for Proposals (RFP) was released on February 7, 2022 with a due date of March 9, 2022 at 2:00PM. The Solicitation was advertised in the Johns Creek Herald, on the City's website, in the State of Georgia Procurement Registry, and on BidNet. Suppliers who registered with the National Institute of Governmental Purchasing (NIGP) codes matching this project specification, received notice of this solicitation from the following two platforms:

DOAS Georgia Procurement Registry	5008 Individuals / Firms
BidNet Georgia Purchasing Group	914 Individuals / Firms

On February 23, 2022, a Pre-Bid Meeting was held via Zoom teleconference with ten (10) Firms/Individuals participating. Sixty two (62) individuals/firms downloaded bid documents and are plan holders of Bid 22-068.

The following five (5) proposals were received and reviewed for compliance by the Purchasing Manager on March 9, 2022:

- Alfred Benesch & Company (Atlanta, GA)
- Brandstetter Carroll, Inc. (Lexington, KY)
- Kimley-Horn (Peachtree Corners, GA)
- PROS Consulting, Inc. (Brownsburg, IN)
- TSW (Atlanta, GA)

On March 9, 2022, the Evaluation Committee consisting of the City's Engineer, Parks Manager, Recreation Manager, Assistant to the City Manager, and Chairman of the Recreation and Park Committee received copies of the RFP technical proposals and evaluation instructions per scoring guidelines established by the State of Georgia Department of Administrative Services.

The following technical proposal criteria would be evaluated and scored:

- | | |
|----------------------------------|---------------|
| ▪ Project Understanding/Approach | 30 points max |
| ▪ Similar Project Experience | 25 points max |
| ▪ Project Team Experience | 25 points max |
| ▪ Project Schedule | 10 points max |
| ▪ Cost Proposal | 10 points max |

Total Available Points:	100 points
-------------------------	------------

On Monday March 14, 2022, the Evaluation Committee convened to review and justify their individual scores of their evaluation of technical proposals. Upon agreement of the technical proposal scores, the Offeror's cost proposal was revealed to the Committee by the Purchasing Manager and evaluated and scored. The Evaluation Committee selected the two highest scoring firms to interview with the Evaluation Committee on Thursday March 17, 2022:

Alfred Benesch & Company (Atlanta, GA)
PROS Consulting, Inc. (Brownsburg, IN)

Upon conclusion of the interviews, the Committee reviewed the materials and response provided during the interviews and offered their final thoughts for recommendation. It is the decision of the Evaluation Committee to make recommendation of awarding the contract for the above referenced RFP to **PROS Consulting, Inc.** as the most responsive and responsible bid meeting the minimum specifications.

Their cost for the RECREATION AND PARK STRATEGIC PLAN is \$157,920.00

This project requires the Mayor and City Council approval per our Purchasing Policy.

Prepared By: *Neil Trust* 2022.03.21 15:06:37 -04'00'

Neil Trust, Purchasing Manager – CPP, GCPA, CPM, GCPM



**CONTRACT AGREEMENT
RFP #22-068
RECREATION AND PARK STRATEGIC PLAN**

This Agreement made and entered into this __ day of _____, in the year 2____; by and between The City of Johns Creek, Georgia, having its principal place of business at 11360 Lakefield Drive, Johns Creek, Georgia 30097 and PROS Consulting, Inc. (“Consultant”), located at 35 Whittington Drive, Brownsburg, IN 46122.

WHEREAS, the City hereby contracts with Consultant for the furnishing of professional services in connection with the Project, for the furnishing of such services more particularly described herein in consideration of these premises and of the mutual covenants herein set forth. By executing this Agreement, the Consultant represents to City that it is professionally qualified to do this Project and is licensed to practice services by all public entities having jurisdiction over “Consultant” and the Project; and

WHEREAS, the City of Johns Creek has caused Request for Proposal #22-068 to be issued soliciting proposals from qualified Consultant to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected Consultant is required to provide the services as called for in the specifications; and

WHEREAS, the Consultant submitted a response to the RFP #22-068; and

WHEREAS, the Consultant’s submittal was deemed by the City of Johns Creek to be the proposal determined to be most advantageous to the City; and

WHEREAS, the Consultant submitted the most responsive and responsible proposal per the Scope of Work dated March 9, 2022.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1.0 Definition

As used in this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words shall have a meaning parallel thereto.

- **City:** The City of Johns Creek.
- **Consultant:** The individual or corporation identified on page 1 to perform consulting services, specifications and contract documents. Consultant shall retain as necessary the services of those professions licensed by the Georgia State Board of Technical Professions.

- **Contract Documents:** Those documents so identified in the Agreement for the Project, including all associated documents. All terms defined in the General Conditions of the Agreement for professional services of the Project shall have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement shall prevail in the interpretation of this Agreement.
- **Contract Sum:** The total amount payable by City to Consultant for performance of the Work in accordance with the Contract Documents.
- **Contract Time:** The number of days allotted in the Contract Documents for achieving Substantial Completion of the Work.
- **Professional Services:** The services, labor, materials, supplies, work, administration, if applicable, and all other acts, duties, and services required of Consultant under this Agreement together with such other services as City may require pursuant to the terms of this Agreement.
- **Project Manager:** The person employed by City and designated to act as the City's representative for the Project.
- **Specifications:** That work as defined and identified with a time schedule in Exhibit A (Specifications, Scope of Work) attached hereto and incorporated herein:

2.0 Scope of Work

The Consultant agrees with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out in each designated area as delineated in Scope of Services (Exhibit A) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A-SPECIFICATION-SCOPE OF WORK

EXHIBIT B-COST PROPOSAL

EXHIBIT C-IMMIGRATION & SECURITY FORM / REQUIRED DOCUMENTS

EXHIBIT D-CONSULTANT'S TECHNICAL PROPOSAL

3.0 Key Personnel

The City of Johns Creek is entering into this Agreement and has relied upon Consultant's providing the services of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Consultant personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

4.0 Compensation

4.1 Pricing: The Consultant will be paid for the goods and services sold pursuant to the Contract in accordance with the RFP and final pricing documents as incorporated into the terms of the Contract. Unless clearly stated otherwise in the Standard Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to, freight, insurance, fuel surcharges, and customs duties. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as Exhibit B and incorporated herein, shall be firm throughout the term of this Contract.

4.2 Billings: If applicable, and unless the RFP provides otherwise, the Consultant shall submit, on a regular

basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Consultant shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Consultant under the Contract. The Consultant shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under the Contract. Standard payment terms: Net-30.

4.3 Delay of Payment Due to Consultant's Failure: If the City in good faith determines that the Consultant has failed to perform or deliver any service or product as required by the Contract, the Consultant shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Consultant's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Consultant's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Consultant. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

4.4 Set-Off Against Sums Owed by the Consultant. In the event that the Consultant owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Consultant in the City's sole discretion.

4.5 Additional Services: Consultant shall provide, with City's concurrence, services in addition to those listed in Exhibit A (Scope of Services) when such services are authorized in writing by City. Prior to commencing any additional services, Consultant must submit a proposal outlining the additional services to be provided and the fixed lump sum fee therefore. City shall pay Consultant for such services in accordance with the fees based in Exhibit B (Cost Proposal) attached hereto and incorporated herein. Such services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Exhibit A, preparing changes in plans ordered by City, providing services necessitated in the event the Professional Services shall be suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by the Consultant, and providing any other special services not otherwise covered by this Agreement which may be requested by City.

4.6 Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal, or administrative proceeding arising out of this Project. Consultant shall not be compensated by City if its appearance is to defend its own Professional Services. If Consultant is requested, in writing, by City, to appear as a witness for the City and is entitled to be compensated under the provisions of this paragraph, it will be paid based upon the fee schedule, Exhibit B (Cost Proposal), attached hereto and or additional fees approved by City.

4.7 Progress Reports: A progress report must be submitted with each payment request indicating the event or service Completed. This report will serve as support for payment to Consultant and the basis for payment in the event project is suspended or abandoned. City's suspension of the Project for periods of less than one (1) year shall not be grounds for an increase in Total Fee.

4.8 Change in Scope: For substantial modifications in authorized Project scope, and/or specifications previously accepted by City, when requested by City and through no fault of Consultant, the Consultant shall be compensated for time and expense based upon the fee schedule in Exhibit B (Cost Proposal) attached hereto and incorporated herein chargeable for this service; provided, however, that any increase in Total Fee must be approved through a written Supplemental Agreement. Consultant shall correct or revise any errors

or deficiencies in its designs, drawings, or specifications without additional compensation when due solely to Consultant's negligent acts, errors, or omissions. If not solely Consultant fault, then the parties will negotiate an equitable sharing of the fees associated with such changes and the fixed fee will be increased or decreased accordingly. This Agreement may be amended to provide additions, deletions, and revisions in the Professional Services or to modify the terms and conditions thereof by written Supplemental Agreement.

5.0 General Duties and Responsibilities

5.1 Responsibilities under the General Conditions of the Contract for Professional Services: In addition to the responsibilities herein set forth, Consultant agrees to be responsible for those matters identified in the General Conditions as being responsibilities of the consultant. The General Conditions shall be in a form mutually agreeable between the City and Consultant and shall be consistent with the intent and requirements of the Agreement.

5.2 Personnel: Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of this Agreement, the parties agree that Brian Trusty will perform as the Project Manager on this Project. This person shall be the primary contact with the City's Project Manager, Erica Ma and shall have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, he/she shall perform the function of principal on this Project. Personnel changes shall be approved by the City.

5.3 Subcontracting of Service: Consultant shall not subcontract or assign any of the Professional Services to be performed under this Agreement without the written consent and approval of City regarding the Professional Services to be subcontracted or assigned and the consulting firm or person proposed to accomplish the subcontracted/assigned portion of the Project. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Any person or firm proposed for subcontracting Professional Services under this Agreement shall maintain throughout the duration of the Agreement, insurance as provided in Section 12.1 herein, and shall additionally maintain Professional Liability insurance in a minimum amount of \$2,000,000 and provide the City with certification thereof unless waived by the City.

5.4 Endorsement: Consultant shall sign and affix licensing seal to all final plans, specifications, estimates and data and shall cause all sub-consultants to sign and seal their final documents where required by law. Any review or approval by City of any documents prepared by Consultant and/or its consultants including but not limited to the plans and specifications, shall be solely for the purpose of determining whether such documents are consistent with City's program and intent and shall not be construed as approval of same by City. No review of such documents shall relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.

5.5 Inspection of Documents: Consultant shall maintain all project records for inspection by City during the contract term and for three (3) years from the date of final payment and shall notify the City prior to their disposal.

6.0 City's Responsibilities

6.1 Communication: City shall provide to Consultant applicable Program Criteria; examine and timely respond to Consultant submissions; and give written notice to Consultant, who shall respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

6.2 Access: City will provide access for Consultant to enter public and private property necessary to the completion of the Project.

6.3 Duties: City shall furnish and perform the various duties and services in all phases of the Project which are outlined and designated in Exhibit A (Scope of Services) attached hereto and incorporated herein, as City's responsibility.

6.4 Program Criteria: City shall provide full information, including a program which shall set forth City's objectives, requirements, schedule, constraints, budget with reasonable contingencies, and other necessary design criteria.

6.5 Project Representative: City shall designate a Project Manager to represent City in coordinating this Project with Consultant, with authority to transmit instructions and define policies and decisions of City. The City's Project Manager is Erica Madsen (Erica.madsen@johnscreekga.gov).

7.0 Duration of Contract

7.1 Contract Term: The Contract between the City and the Consultant shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The term of this Contract shall be for 365 days from the beginning date until all services are rendered and all invoices postmarked by the City during said term shall be filled at the contract price.

7.2 Contract Extension: In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Consultant, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the RFP and/or Consultant's submittal, the City will determine the basic period of performance for the completion of any of Consultant's actions contemplated within the scope of this Agreement and notify Consultant of the same via written notice. If no specific period for the completion of Consultant's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay. This Contract may be extended by mutual consent of both the City and the Consultant for reasons of additional time, additional services and/or additional areas of work.

8.0 Independent Consultant

8.1 The Consultant shall be an Independent Consultant: The Consultant is not an employee, agent or representative of the City of Johns Creek. The successful Consultant shall obtain and maintain, at the Consultant's expense, all permits, licenses, or approvals that may be necessary for the performance of the services. The Consultant shall furnish copies of all such permits, licenses, or approvals to the City of Johns Creek Representative within ten (10) day after issuance.

8.2 Inasmuch as the City of Johns Creek and the Consultant are independent of one another, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Consultant agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Consultant to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Consultant shall assume full liability for any contracts or

agreements the Consultant enters into on behalf of the City of Johns Creek without the express knowledge and prior written consent of the City.

9.0 Conflict of Interest

9.1 Consultant represents that it has no existing financial interest and will not acquire any such interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be subcontracted in connection with this Agreement, or employed by Consultant. Consultant shall not conduct or solicit any non-City business while on City property or time.

9.2 Consultant will also take all necessary steps to avoid the appearance of a conflict of interest and shall have a duty to disclose to the City prior to entering into this Agreement any and all circumstances existing at such time which pose a potential conflict of interest.

9.3 Consultant is absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.

9.4 Consultant warrants that it has not directly or indirectly offered or given, and will not directly or indirectly offer to give, to any employee, agent, or representative of the City any cash or non-cash gratuity or payment with view toward securing any business from the City or influencing such person with respect to the conditions, or performance of any Agreements with or orders from the City, including without limitation this Agreement. Any breach of this warranty shall be a material breach of each and every Agreement between the City and Consultant.

9.5 As a condition of this Agreement, Consultant agrees to comply with the City of Johns Creek Code of Ethics as set forth with NIGP.

9.6 Should a conflict of interest issue arise, Consultant agrees to fully cooperate in any inquiry and to provide the City with all documents or other information reasonably necessary to enable the City to determine whether or not a conflict of interest existed or exists.

9.7 Failure to comply with the provisions of this section shall constitute grounds for immediate termination of this Agreement, in addition to whatever other remedies the City may have.

10.0 Indemnification

10.1 The Consultant agrees to indemnify and, hold harmless the City, its public officials, officers, employees, and agents from and against liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including reasonable attorney's fees) caused by or resulting from the negligence, recklessness, or intentionally wrongful act or omission of the Consultant, its agents, sub-contractors, or employees in the performance of this Contract.

This provision shall not affect the Consultant's obligation under workers' compensation or coverage or the Consultant's insurance specifically relating to workers' compensation, nor shall this apply to any requirement herein that the Consultant purchase a project specific insurance policy, including an owner's or consultant's protective insurance, builder's risk insurance, installation coverage, project management protective liability insurance, an owner controlled insurance policy, or a consultant controlled insurance policy.

10.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be

unreasonably withheld.

11.0 Intellectual Property

Consultant warrants that all work produced hereunder, whether in written or electronic form, shall be the original work of the Consultant unless otherwise expressly stated in writing. Consultant hereby grants to the City a royalty-free, perpetual, irrevocable, worldwide, non-exclusive license to such work for all uses in any medium.

12.0 Insurance

12.1 The Consultant shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement. Such insurance is to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person, \$2,000,000 per occurrence for bodily injury, and \$500,000 per occurrence for property damage.

12.2 Consultant shall provide certificates of insurance evidencing the coverage requested herein before the execution of this agreement, and at any time during the term of this Agreement. Upon the request of the City, Consultant shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect.

13.0 Termination

13.1 Immediate Termination: Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- a) In the event the Consultant is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- b) The City determines that the actions, or failure to act, of the Consultant, its agents, employees, or sub-consultants have caused, or reasonably could cause, life, health, or safety to be jeopardized;
- c) The Consultant fails to comply with confidentiality laws or provisions.
- d) The Consultant furnished any statement, representation, or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect, or incomplete; and/or
- e) The Consultant is found to have engaged in one or more of the "Conflict of Interest" activities outlined in Section 9.0.

13.2. Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Consultant in default of its obligations under the Contract:

- a) The Consultant fails to deliver or has delivered nonconforming goods or services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a

material provision of the Contract, including, but without limitation, the express warranties made by the Consultant;

- b) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- c) The Consultant fails to make substantial and timely progress toward performance of the Contract;
- d) The Consultant becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Consultant terminates or suspends its business; or the City reasonably believes that the Consultant has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- e) The Consultant has failed to comply with applicable federal, state and, local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- f) The Consultant has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- g) The Consultant has infringed any patent, trademark, copyright, trade dress, or any other intellectual property rights of the State, the City, or a third party.

13.3 Notice of Default. If there is a default event caused by the Consultant, the City shall provide written notice to the Consultant requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Consultant. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- a) Immediately terminate the Contract without additional written notice; and/or
- b) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Consultant; and/or,
- c) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

13.4 Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Consultant. In the event of a termination for convenience, Consultant shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Consultant's failure to perform in accordance with this Agreement, the City shall pay Consultant for work performed to date in accordance with Section herein. The City shall have no further liability to Consultant for such termination.

13.5 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Consultant for goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Consultant's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Consultant in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract.

13.6 The Consultant's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Consultant shall:

- a) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination,

- describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- b) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Consultant;
 - c) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Consultant under the Contract;
 - d) Cooperate in good faith with the City, its employees, agents, and Consultant during the transition period between the notification of termination and the substitution of any replacement Consultant; and
 - e) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Consultant.

14.0 Dispute Resolution

City and Consultant agree that disputes relative to the project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consultant shall proceed with the Professional Services as per this Agreement as if no dispute existed, and the City shall continue to make payment for Consultant's completed services.

15.0 Ownership of Documents

All Documents prepared in connection with this Project shall be the property of the Consultant, whether the Project for which they are made is constructed or not. However, the Consultant will provide City a copy of all completed or partially completed documents in reproducible form, including but not limited to prints and reproductions. Reports, plans, specifications, and related documents are Consultant's copyrighted instruments, and at the option of Consultant may so identify them by appropriate markings. Provided that Consultant is paid for its services, either by termination or completion of services, then City may subsequently use these documents without any additional compensation or agreement of Consultant, however, such use, without written verification or adaptation by Consultant for the specific purpose, intended by City shall be at City's sole risk and without liability or legal exposure to Consultant whatsoever. If City does reuse the Consultant's documents on another project, it shall retain Consultant or another licensed and insured professional consultant to review, adapt, and seal such documents. City does not take any responsibility for the use of documents by others. Submission of or distribution of documents to meet regulatory requirements is not to be considered as contrary to any of Consultant's right to the documents.

16.0 Confidential Information

16.1 Access to Confidential Data. The Consultant's employees, agents, and sub-consultants may have access to confidential data maintained by the City to the extent necessary to carry out the Consultant's responsibilities under the Contract. The Consultant shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Consultant will have access to the City's confidential information, then:

- The Consultant shall provide to the City a written description of the Consultant's policies and procedures to safeguard confidential information;
- Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
- The Consultant must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Consultant in connection with the performance of the Contract; and

- The Consultant shall provide adequate supervision and training to its agents, employees and sub-consultants to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Consultant to sign a nondisclosure agreement. Consultant understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

16.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Consultant shall be considered the property of the City. The Consultant must return any and all data collected, maintained, created, or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

16.3 Subpoena. In the event that a subpoena or other legal process is served upon the Consultant for records containing confidential information, the Consultant shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

16.4 Reporting of Unauthorized Disclosure. The Consultant shall immediately report to the City any unauthorized disclosure of confidential information.

16.5 Survives Termination. The Consultant's confidentiality obligation under the Contract shall survive termination of the Contract.

17.0 Inclusion of Documents

Consultant's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the RFP, as amended, and the Consultant's submittal, the language in the former shall govern.

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

18.0 Compliance with All Laws and Licenses

The Consultant must obtain all necessary licenses and comply with applicable local, state and federal requirements. The Consultant shall comply with all laws, rules, and regulations of any governmental entity pertaining to its performance under this Agreement.

18.1 Georgia Security and Immigration Compliance Act

- The parties certify that Consultant has executed an affidavit verifying that [Consultant] has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as Exhibit C and incorporated herein by reference and made a part of this contract.
- The [Consultant] further certifies that any sub-consultant employed by [Consultant] for the performance of this agreement has executed an appropriate sub-consultant affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and

that all such affidavits are incorporated into and made a part of every contract between the [Consultant] and each sub-consultant.

- [Consultant]’s compliance with O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and [Consultant]’s failure to comply with said provisions shall constitute a material breach of this agreement.

19.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

20.0 Drug-Free and Smoke-Free Work Place

20.1 A drug-free and smoke-free work place will be provided for the Consultant’s employees during the performance of this Agreement.

20.2 The Consultant will secure from any sub-Consultant hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

20.3 The Consultant may be suspended, terminated, or debarred if it is determined that:

- The Consultant has made false certification herein; or
- The Consultant has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

21.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Consultant packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

22.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Consultant acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Johns Creek all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Johns Creek pursuant hereto.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of Fulton County, Georgia, shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, nor inducement not contained herein.

25.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City of Johns Creek Procurement will notify the Consultant in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Consultant detailing how correction(s) will be made is required to be delivered to the City. Consultant will have thirty (30) days to remedy the situation.

If requirements are not remedied, City of Johns Creek has the right to cancel this Agreement with no additional obligation to Consultant.

26.0 Delay

26.1 Any delay in or failure of performance by City or Consultant, other than the payment of money, shall not constitute a default hereunder if and to the extent the cause for such delay or failure of performance was unforeseeable and beyond the control of the party (Force Majeure).

Consultant shall be entitled to an equitable adjustment in the Contract Time for changes in the time of performance directly attributable to an act of Force Majeure, provided it makes a request for equitable adjustment. Consultant shall not be entitled to an adjustment in the Contract Sum resulting from an act of Force Majeure.

26.2 Consultant shall be entitled to an equitable adjustment in Contract Time and may be entitled to an equitable adjustment in Contract Sum if the cost or time of Consultant's performance is changed due to the fault or negligence of City, provided the Consultant makes a request.

26.3 Consultant shall not be entitled to an adjustment in Contract Time or in the Contract Sum for any delay or failure of performance to the extent such delay or failure was caused by Consultant or anyone for whose acts Consultant is responsible.

26.4 To the extent any delay or failure of performance was concurrently caused by the City and Consultant, Consultant shall be entitled to an adjustment in the Contract Time for that portion of the delay or failure of performance that was concurrently caused, provided it makes a request for equitable adjustment according to section 3.8, but shall not be entitled to an adjustment in Contract Sum.

26.5 Consultant shall make all reasonable efforts to prevent and mitigate the effects of any delay, whether occasioned by an act of Force Majeure or otherwise.

27.0 Changes

City, within the general scope of the Agreement, may, by written notice to Consultant, issue additional instructions, require additional services, or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

28.0 Change Order Defined

Change order shall mean a written order to the Consultant executed by the City issued after the execution of this Agreement authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

29.0 Assignment

The Consultant shall not assign or subcontract the whole or any part of this Agreement without the City of Johns Creek's prior written consent.

29.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF JOHNS CREEK:

By: _____
Signature

Title: _____

Name: _____
Print

Date: _____

ATTEST: _____

SEAL:

PROS CONSULTING, INC.:

By: _____
Signature

Title: _____

Name: _____
Print

Date: _____

ATTEST: _____

SEAL:

EXHIBIT A

SPECIFICATIONS

SCOPE OF WORK

The City seeks an update to the Recreation and Parks Strategic Plan to guide decision-making regarding special events and programming, operations, staffing, maintenance, and capital improvements over the next ten years.

Overall objectives:

- Clarify the City's role in providing a complete recreation and parks system for Johns Creek residents
- Facilitate a participatory process for citizen involvement in the update of the Recreation and Parks Master Plan to ensure the City's future efforts align with citizen's needs and priorities in terms of recreational programs and park facilities
- Provide an implementation strategy for current and future programming needs including youth and recreational sports programs as well as non-athletic programming
- Promote best practices and innovative strategies for improvements to parks, operations, and organization
- Consider and detail any staffing (and/or partner organizations) augmentation needed to meet the proposed recreation and programming
- Provide a realistic guide for decision-making with regard to park, building, and facility usage; policy; operations; short- and long-term maintenance costs; and future capital improvement expenses

Major Work Elements

The City anticipates the following work elements will be necessary to develop this Strategic Plan:

- Evaluation of the existing public and private recreational facilities and programs serving Johns Creek residents
- Review of current Johns Creek park facilities
- Analysis of future development and expansion opportunities for each park
- Analysis of underserved areas and potential acquisitions.
- Evaluation of existing programs and participation levels at the parks
- Evaluation of current park facility usage trends
- Evaluation of the City's current recreation and parks budget, staffing, and park maintenance operations
- Citizen engagement effort including the residents of Johns Creek in, at a minimum, the following elements:
 - Stakeholder interviews (to include elected officials, RPAC members, City staff, park users, and partner organizations)
 - Two public community meetings
 - At least two non-traditional involvement methods (such as an interactive booth at a festival or park program during the planning period or a contest geared towards input from younger park users)

- A mailed and/or online survey to a random sampling of households in Johns Creek in an effort to produce statistically valid survey results
 - Project updates for publication on the City's website
 - Public presentations including:
- One kickoff presentation to RPAC
- One draft/interim presentation to RPAC
- Two final presentations – one to RPAC and one to City Council

Key Deliverables:

- Prioritized implementation schedule of action items for both park facility improvements and recreational programs
- Recommendations for augmentation to recreation programs and park facilities based on citizen engagement effort
- Recommendations for the implementation of proposed recreation programs, including both recreational sports and non-athletic programming
- Recommendations for improvements to existing park properties including a prioritized list of capital projects with cost and construction estimates
- Recommendations for on-going maintenance and operations for the parks utilizing the City's current level of investment
- Comparative analysis of Johns Creek's current Recreation and Parks Division budget and staffing using national and/or state standards with comparisons to at least three other communities with characteristics similar to Johns Creek.
- Recommendations on best practices and innovative strategies for improvements to parks, operations, and organization drawn from the successes and best practices of other communities
- Recommendations for an overall acquisitions strategy, guidelines for what types of property would make ideal acquisitions, measureable goals to weigh potential acquisitions, and potential areas of focus for future acquisitions
- Viable funding alternatives for an accelerated investment level over five and ten year periods
- Mapping deliverables (in GIS and pdf format)
- Plan deliverables including:
 - Electronic copy of final plan
 - Electronic copy of all renderings/concept plans
 - 10 printed copies of the final plan in three ring binders

Furnished by the City of Johns Creek

The City will furnish the following to selected consultant:

- Base maps and aerial photography of the City showing parks facilities, streets, and topography
- Selected census data
- Recreation and Parks annual programs
- Recreation and Parks budgets for the last five years
- Summary of major capital improvements planned at parks in 2022-2024
- Contact information of organizations involved in recreation and parks activities
- Inventories of existing facilities and major events
- The City's 2016 Strategic Recreation & Parks Strategic Plan
- The City's 2018 Comprehensive Plan
- The City's 2021 Town Center Plan

EXHIBIT B
COST PROPOSAL

Fee Proposal

The following fee breakdown is based on the project approach described in the Scope of Work for the *Recreation and Park Strategic Plan*. The PROS Team has based this fee on our current understanding of the City's goal for the project. We would appreciate the opportunity to meet and discuss the project approach and fees to ensure they are consistent with the expectations of the City. This fee is a not-to-exceed amount and includes all costs, both direct and indirect, including any reimbursable expenses. **PROS Consulting uses a transparent pricing model toward project budgets. We do not change-order our clients unless there is major scope addition to the project after contract execution.**

Task 1 - Project Management, Progress Reporting & Data Review	
A. Kick-off Meeting, Data Collection & Project Management	\$ 18,660
Expenses	\$ 1,600
Subtotal Dollars	\$ 20,260
Task 2 - Community Profile and Needs Assessment	
A. Demographic & Recreation Trends Analysis	\$ 3,220
B. Benchmark Analysis	\$ 4,070
C. Facilitate the Public Input Process	\$ 14,180
D. Electronic Survey	\$ 2,320
E. Statistically-Valid Needs Assessment Survey	\$ 13,670
F. Crowd-Sourcing Project Website (OPTIONAL)	\$ -
Expenses	\$ 1,600
Subtotal Dollars	\$ 39,060
Task 3 - Parks, Facilities, and Recreation Program Assessment	
A. Park and Facilities Inventory and Assessment	\$ 13,670
B. Park Classifications and Level of Service Standards	\$ 5,650
C. Geographical Analysis through Mapping	\$ 6,660
D. Recreation Program Analysis	\$ 5,280
E. Prioritized Park and Facility/Program Priority Rankings	\$ 7,340
F. Capital Improvement Plan	\$ 9,320
Expenses	\$ 1,200
Subtotal Dollars	\$ 49,120
Task 4 - Operational and Financial Implementation	
A. Review of Current Maintenance and Operations	\$ 6,780
B. Financial Analysis	\$ 5,280
C. Funding and Revenue Strategies	\$ 3,340
Expenses	\$ 800
Subtotal Dollars	\$ 16,200
Task 5 - Action Plan & Strategic Master Plan Development	
A. Develop Vision, Mission and Goals/Objectives	\$ 2,640
B. Strategic Action Plan	\$ 11,360
C. Draft Report Preparation, Briefings and Final Master Plan	\$ 17,680
Expenses	\$ 1,600
Subtotal Dollars	\$ 33,280
TOTAL EXPENSES	\$ 6,800
TOTAL FEES	\$ 151,120
TOTAL DOLLARS	\$ 157,920
Optional Tasks	
Crowd-Sourcing Project Website	\$5,500

EXHIBIT C**IMMIGRATION AND SECURITY FORM / REQUIRED DOCUMENTS**

CITY OF JOHNS CREEK

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Proposal/Proposals (RFP) for which prices have been set. The price or prices offered herein shall apply for the period of time stated in the RFP.

It is understood and agreed that this proposal constitutes an offer, which when accepted in writing by Purchasing Office, City of Johns Creek, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the City of Johns Creek.

It is understood and agreed that we have read the City's specifications shown or referenced in the RFP and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City of Johns Creek reserves the right to reject any or all submittals, waive technicalities, and informalities, and to make an award in the best interest of the City.

It is understood and agreed that this proposal shall be valid and held open for a period of one hundred twenty (120) days from proposal opening date.

PROPOSAL SIGNATURE AND CERTIFICATION (Offeror to sign and return with proposal)

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

Authorized Signature Leon Younger Date 3/2/2022

Print/Type Name Leon Younger

Print/Type Company Name Here PROS Consulting, Inc.

**APPENDIX B
IMMIGRATION AND SECURITY FORM**

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The [Contractor] further certifies that at the time of the execution of this contract, the [Contractor] employs 13 employees (must enter).

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

440953

EEV / Basic Pilot Program* User Identification Number

Leon Younger
BY: Authorized Officer or Agent
(Contractor Name)

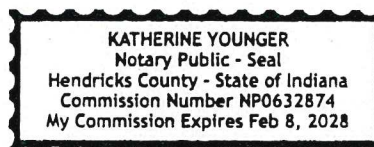
3/2/2022
Date

President
Title of Authorized Officer or Agent of Contractor

Leon Younger
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON
THIS 2 DAY OF March 2022

Katherine Younger
Notary Public
My Commission Expires: _____



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

O.C.G.A. § 50-36-1(e)(2) Affidavit
Verifying Lawful Presence in the United States
 (Individual submitting Statement of Qualification on behalf of firm or individual)

By executing this affidavit under oath, as an applicant for a(n) PROS Consulting, Inc., as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☒ I am a United States citizen.
- ☐ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

_____.

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in Brownsburg (city), Indiana (state).

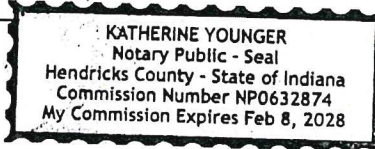
Leon Younger
 Signature of Applicant

Leon Younger President
 Printed Name of Applicant and Title

Subscribed and sworn to before me on

this the 2 day of March, 2022

Katherine Younger
 (Clerk/Notary Public)



My commission expires: _____

**CERTIFICATION ON SPONSER
DRUG-FREE WORKPLACE**

I hereby certify I am a principle and duly authorized representative of
PROS Consulting, Inc., ("Contractor"), whose address is
35 Whittington Dr., Suite 300; Brownsburg, IN 46112
 _____, and I further certify that:

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

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

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

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

OFFEROR / CONTRACTOR

Date: 3/2/2022 Signature: Leon Younger
 Print Name: Leon Younger Title: President

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

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

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
PROS Consulting, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☒ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
35 Whittington Dr., Suite 300

6 City, state, and ZIP code
Brownsburg, IN 46122

7 List account number(s) here (optional)

8 Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

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

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

				-					
--	--	--	--	---	--	--	--	--	--

or

Employer identification number

3	5	-	1	9	6	2	8	9	2
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here Signature of U.S. person ► *Leon Gfounger*

Date ► 3/2/2022

General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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

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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/24/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sycamore Insurance Associates LLC 999 Ohio Street Terre Haute IN 47807		CONTACT NAME: Hannah Taylor PHONE (A/C, No, Ext): (812) 242-1414 FAX (A/C, No): (812) 242-2042 E-MAIL ADDRESS: htaylor@sycamoreins.com	
INSURED PROS Consulting Inc. 35 Whittington Drive Suite 300 Brownsburg IN 46112		INSURER(S) AFFORDING COVERAGE INSURER A: Hartford Casualty NAIC # 29424 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL2122404055

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			36SBAAQ6552	03/01/2021	03/01/2022	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			36SBAAQ6552	03/01/2021	03/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			36SBAAQ6552	03/01/2021	03/01/2022	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	36WECIC9016	04/02/2021	04/02/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability			36PG0288700	03/01/2021	03/01/2022	Aggregate Limit 2,000,000 Per Claim Limit 2,000,000 Retention 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

For Information Only

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/21/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER Sycamore Insurance Associates LLC 999 Ohio Street Terre Haute IN 47807		CONTACT NAME: Hannah Taylor PHONE (A/C, No, Ext): (812) 242-1414 FAX (A/C, No): (812) 242-2042 E-MAIL ADDRESS: htaylor@sycamoreins.com	
INSURED PROS Consulting Inc. 35 Whittington Drive Suite 300 Brownsburg IN 46112		INSURER(S) AFFORDING COVERAGE INSURER A: Hartford NAIC # 00914 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: CL2212504800

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:	Y		36SBAAQ6552	03/01/2022	03/01/2023	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			36SBAAQ6552	03/01/2022	03/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			36SBAAQ6552	03/01/2022	03/01/2023	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	36WECIC9016	04/02/2022	04/02/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability			36PG0288700	03/01/2022	03/01/2023	Aggregate Limit 2,000,000 Per Claim Limit 2,000,000 Retention 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The general liability coverage includes a blanket automatic additional insured endorsement when required by written contract or agreement between the named insured and certificate holder.

CERTIFICATE HOLDER

CANCELLATION

City of Johns Creek 11360 Lakeside Drive Johns Creek GA 30097	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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Bids are due Wednesday March 9, 2022 at 2PM ET. Avoid waiting until the last minute to submit your proposals electronically via BidNet. The City does not have access to any submission until the close date and time and release by BidNet. Firm hard copy submissions also must be received at City Hall before 2PM ET March 9, 2022. Proposals received after 2PM will not be opened. Should you have questions when uploading your proposals into BidNet, click the black question mark in the upper right hand corner and an 800 number will appear for BidNet support. They will walk your through if required. Hard copy submissions and electronic submissions will be open no sooner than 2:01 PM March 9, 2022. A list of compliant submissions shall publish within 24 hours on BidNet.

Reminder no contact other than the Purchasing Manager can be made to City staff or City Elected Officials regarding this solicitation until final award of contract. The City Purchasing Manager may be reached at purchasing@johnscreekga.gov.

Thank you for your interest in this RFP and we look forward to receiving your proposals

I acknowledge receipt of addendum 1 and hereby enclosing with our proposal for bid 22-068. Firms will be acknowledging receipt of all addendums with their electronic submission in BidNet.

Firm: PROS Consulting, Inc.

Signature: Leon Younger

Date: 3/3/2022

Purchasing Division

EXHIBIT D
CONSULTANT'S TECHNICAL PROPOSAL



Request for Proposal #22-068:

Recreation and Park Strategic Plan

March 9, 2022



Prepared By:





Inspiring
Communities
to Action

March 9, 2022

Introduction/Letter of Transmittal

City of Johns Creek Purchasing
RFP 22-068
11360 Lakefield Drive
Johns Creek, GA 30097

RE: Request for Proposals #RFP 22-068 – Recreation and Park Strategic Plan

Dear Selection Committee:

PROS Consulting, Inc. is very excited about the opportunity to partner with the City of Johns Creek on the creation of a *Recreation and Park Strategic Master Plan* ("Master Plan"). We are a full-service management consulting and strategic master planning firm focusing on services to government agencies, with specialized experience in parks and recreation, open space planning, tourism, economic development, sports strategy, and operations and business planning.

Our national experience, combined with our work locally throughout Georgia, specifically ensures that we are able to offer the best of both worlds to help the City of Johns Creek achieve a master plan that includes a clear set of recommendations for the City's park system, open space, trails, recreation facilities, and program development for the next ten years. In summary, we propose a proven approach that can aid the City to:

- **Engage the community**, leadership and stakeholders through innovative public input means to build a shared vision for the park system in the City of Johns Creek for the next ten years;
- **Utilize a wide variety of data sources and best practices**, including a statistically-valid survey to predict trends and patterns of use and how to address unmet needs in the City of Johns Creek;
- **Determine unique Level of Service Standards** to develop appropriate actions regarding parks, recreation, trails, and open space that reflects the City's strong commitment in providing high quality recreational activities for the community;
- **Shape financial and operational preparedness** through innovative and "next" practices to achieve the strategic objectives and recommended actions with achievable strategies; and,
- **Develop a dynamic and realistic strategic action plan** that creates a road map to ensure long-term success and financial sustainability for the City's park system, as well as action steps to support the family-oriented community and businesses that call Johns Creek home.

In order to create a dynamic, forward thinking Master Plan that meets the City's high standards, we are pleased to have assembled an award-winning team for this project. The team includes our longtime partner **Barge Design**, a professional services company with a staff of over 400 and a solid, results-oriented history. Founded in 1955, they provide civil and structural engineering, planning, landscape architecture, environmental services, land surveying, and GIS services to municipalities across the Southeast. PROS Consulting and Barge have worked together on many Park Master Plan projects in Georgia and across the country. Also on the team is another longtime partner **ETC Institute**, a nationally renowned survey and market research firm to assist in the statistically-valid community survey development.

Our team is most qualified because we combine our objective, data-driven approach with local familiarity throughout the region, and national experience that will help the City of Johns Creek enhance its operational preparedness and meet the community's needs. We look forward to the opportunity to meet with you in person to present our approach and qualifications to perform this exciting project. If you have any questions or need additional information, please do not hesitate to contact me at 317.679.5615 or leon.younger@prosconsulting.com, or our project manager Brian Trusty at 214.998.8779 or brian.trusty@prosconsulting.com.

Sincerely,
PROS Consulting

Leon Younger,
President

35 Whittington Dr.
Suite 300
Brownsburg, Indiana 46112
☎ 877.242.7760
📞 877.242.7761
prosconsulting.com

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Required Forms

Fees Located in Separate Sealed Envelope

Section Two – Project Understanding & Approach

Project Understanding

The City of Johns Creek Recreation and Parks Division of the Public Works Department (“Department”) has a strong commitment to deliver quality, easily accessible, and amenity-rich park and recreation spaces that will serve today’s citizens and visitors. As such, the Department is seeking professional services to prepare a *Recreation and Park Strategic Master Plan* to provide a vision for the City of Johns Creek. The outcome of the planning process will be a 10-year vision for parks, recreation, open space, and trails. Key components of the master planning process will be research, public involvement, and the development of recommendations for all aspects of Department activities with a focus on facilities and capital improvements.

The City of Johns Creek desires a Strategic Master Plan that will align new investments with a strong community-driven mission and vision that integrates the City’s strong pursuit of recreation and parks. The outcome will be a Master Plan that will be heavily used as a resource for future development and redevelopment of the City’s parks, recreation programs, and facilities. The Master Plan will:

- **Engage the community, leadership and stakeholders** through innovative public input means to build a shared vision for parks, recreation programs and facilities in the City of Johns Creek.
- **Utilize a wide variety of data sources and best practices**, including a statistically-valid survey to predict trends and patterns of use and how to address unmet needs in Johns Creek.
- **Determine unique Level of Service Standards** to develop appropriate actions regarding parks, recreation programs and facilities that reflects the City’s strong commitment in providing high quality recreational activities for the community.
- **Shape financial and operational preparedness through innovative** and “next” practices to achieve the strategic objectives and recommended actions.
- **Develop a dynamic and realistic strategic action plan** that creates a road map to ensure long-term success and financial sustainability for the City’s parks, recreation programs and facilities, as well as action steps to support the family-oriented community and businesses that call Johns Creek home.

Key Steps in the Process

The Master Plan will create a clear set of objectives that will provide direction to the Recreation and Parks Division, Public Works Department, and the City Council for a short-term, mid-term and long-term range. There are numerous steps in the project, with the following key areas of focus being foundation components.

Where Are We Today?

Site and facility review
Benchmark analysis
Recreation/ sports programs and services assessments
Levels of services standards
GIS mapping

Where Are We Going Tomorrow?

Community engagement needs analysis
Statistically-valid survey
Demographics & recreation trends analysis review
Staffing and maintenance review

How Do We Get There?

Needs prioritization
Capital development planning
High level concepts
Financial planning
Funding and revenue planning
Strategic action plan implementation

The Consulting Team proposes a comprehensive planning approach to address the requirements of the Recreation and Park Strategic Master Plan and will deliver a living and working document that provides guidance for both short-term and long-term goals in a financially sustainable and achievable manner. The following is a detailed approach to develop the master plan related to implementing specific action items.

Task 1 – Project Management, Progress Reporting & Data Review

A. Kick-off Meeting, Data Collection & Project Management – A kick-off meeting should be attended by the key Johns Creek Recreation and Parks Division and Public Works Department staff and Consulting Team members to confirm project goals, objectives, and expectations that will help guide actions and decisions of the Consulting Team. Detailed steps of this task include:

- **Confirmation** – The project goals, objectives, scope, and schedule will be confirmed.
- **Outcome Expectations** – Discuss expectations of the completed project.
- **Communications** – Confirmation on lines of communication, points of contact, level of involvement by the Department and local leaders, and other related project management details. Also, protocols and procedures for scheduling meetings should be agreed to.
- **Data Collection** – The Consulting Team will collect, log, and review key data and information to facilitate a thorough understanding of the project background.
- **Progress Reporting** – The Consulting Team will develop status reports to the City on a monthly basis. More importantly, we will be in close and constant contact with your designated project coordinator throughout the performance of the project.
- **Prepare database of stakeholders** – The Consulting Team will work with the City who will gather contact information from a variety of sources. This information will be used in the key leadership/focus group interview portion of the Master Plan.

Task 2 – Community Profile and Needs Assessment

The Consulting Team will utilize a **robust** public input process to solicit community input on how the parks and recreation system and programs meet the needs of residents into the future. This task is an integral part of the planning process. A wide range of community/participation methods may be utilized with traditional public meetings. The Consulting Team will prepare a community outreach agenda to include the number and types of meetings which will be held. Also, a statistically-valid-wide needs assessment survey will be conducted to identify community needs and issues related to recreation/park programs and facilities. Specific tasks include:

A. Demographic & Recreation Trends Analysis – The Consulting Team will utilize the City's projections and supplement with census tract demographic data obtained from ESRI, the largest research and development organization dedicated to Geographical Information Systems (GIS) and specializing in population projections and market trends; for comparison purposes data will also be obtained from the U.S. Census Bureau. This analysis will provide an understanding of the demographic environment for the following reasons:

- To understand the market areas served by the City and distinguish customer groups.
- To determine changes occurring in the City and the region, and assist in making proactive decisions to accommodate those shifts.
- Provide the basis for Equity Mapping and Service Area Analysis

The demographic analysis will be based on US 2020 Census information, 2021 updated projections, and 5 (2026) and 10 (2031) year projections. The following demographic characteristics will be included:

- Population density; Age Distribution ; Households; Gender; Ethnicity; Household Income

From the demographic base data, sports, recreation, and outdoor trends are applied to the local populace to assist in determining the potential participation base within the community. For the sports and recreation trends, the Consulting Team

*Request for Proposals #RFP 22-068:
Recreation and Park Strategic Master Plan*

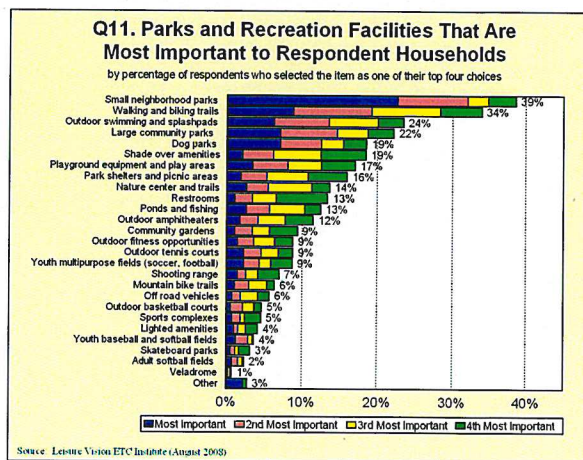
utilizes the Sports & Fitness Industry Association's (SFIA) 2022 Study of Sports, Fitness and Leisure Participation, ESRI local market potential, as well as participation trends from the Outdoor Foundation on outdoor recreation trends.

- B. Benchmark Analysis** — A benchmark analysis could be completed to compare the City of Johns Creek's recreation and parks system to five (5) other relevant peer agencies. If desired, the Consulting Team can work with the City to identify the 15 key metrics to be surveyed and analyzed, as well as the benchmarked communities.
- C. Facilitate the Public Input Process** — The PROS Team will identify, describe and implement a comprehensive strategy and methodology for citizen involvement in this Master Plan development process. Elements of the engagement process include:
- **Key Leadership and Stakeholder Interviews** — The PROS Consulting Team will perform up to 15 interviews with key community leaders and stakeholders to evaluate the future vision for City of Johns Creek recreation and parks within the first 30 days of the project. The community values, strengths and challenges of the City, trends, and level of services provided will also be evaluated during this time.
 - **Focus Groups** — The PROS Consulting Team will organize and facilitate up to six (6) focus group sessions with user groups, key partners, and/or unique groups within the community that represent a common interest.
 - **Public Forums** — We propose to conduct a total of three (3) public forums, which may be virtual: one (1) initial public to introduce the project and project goals; one (1) to share preliminary findings, gain input for the community's vision and core values for the recreation system; and one (1) as a final briefing and input opportunity on the draft plan. These will include live polling exercises, the opportunity for Q&A and also for the meeting to be recorded and shared on the City's website for the community to view it later.

The PROS Team will work with City staff to schedule and conduct meetings with the Department to provide progress reports. We will act as professional facilitators to gather specific information about services, use, preferences and any agency strengths, weaknesses, opportunities and threats. The PROS Team will provide well organized and directed activities, techniques and formats that will ensure that a positive, open and proactive public participation process is achieved. Also, we will provide written records and summaries of the results of all public process and communications strategies. We will work with the Department to identify methods to hear from as many people as possible, including users and non-users of the services and facilities.

- D. Electronic Survey** — Also, the Consulting Team can create an online survey administered through www.surveymonkey.com. This survey will be promoted through the City's website and promotional mediums to maximize outreach and response rates. These surveys would provide quantitative data and guidance in addition to the stakeholder and focus groups in regards to the recommendations for park amenities, specific programs, facility components, usage, and pricing strategies.

- E. Statistically-Valid Needs Assessment Survey** — The Consulting Team can perform a random, scientifically valid community-wide household survey to quantify knowledge, need, unmet need, priorities and support for system improvements that include facility, programming, and the park needs of the City. The survey will be administered by phone or by a combination of a mail/phone survey and will have a minimum sample size of 375 completed surveys at a 95% level of confidence and a confidence interval of +/- 5%. Prior to the survey being administered, it will be reviewed by the City.



- F. Crowd-Sourcing Project Website (OPTIONAL)** – The Consulting Team can develop a customized project website that will provide on-going project updates and will serve as the avenue to crowd-source information throughout the project for the entire community. This could be combined with input through Social Media and could also host videos through a dedicated YouTube Channel and utilize the Town's website. E.g. www.durangoparksplan.com or www.plansfparks.org. It has proven to be a very effective tool in engaging the community on an on-going basis as well as maximize outreach to an audience that may not traditionally show up at public meetings or choose to respond to a phone or mail survey.

Task 3 – Parks, Facilities and Recreation Programs Assessment

- A. Parks and Facilities Inventory and Assessment** – The Consulting Team will provide an electronic form for the Department to use in completing facility/amenity inventory. A park and facility tour will be performed with the Operations and Maintenance staff, and Programming staff. The findings from this review will be documented in a prepared data collection form. During this tour, general observation of park and recreation facilities will include:

- Photographs along with text to illustrate key environmental features in the City service area
- General state and condition
- Compatibility with neighborhoods
- Compatibility of amenities offered throughout the system
- Aesthetics/Design
- Safety/security
- Public access
- Program capacity and compatibility with users
- Partnership opportunities
- Revenue generation opportunities

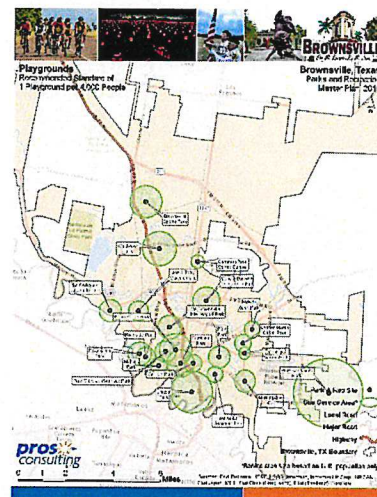


- B. Park Classifications and Level of Service Standards** – The Consulting Team will work with the Department to review and confirm, modify or add to existing park classifications, and preferred facility standards for all park sites, trails, open space amenities including common areas and indoor and outdoor facilities. These classifications will consider size, population served, length of stay, and amenity types/services. Facility standards include level of service standards and the population served per recreational facilities and park amenities. Any new or modified classification or standard will be approved as required. These are based on regional, statewide or nationally accepted parks and recreation standards, as well as the Consulting Team's national experience and comparison with peer/survey agencies. These standards will be adapted based on the needs and expectations of the City.

2020 Inventory - Developed Facilities										2020 Facility Standards		Anticipated Future Park Development 2020 - 2025	2025 Facility Standards	
Park Type	Wendover Inventory	School Parks	HOA/Metro District	Total Inventory	Current Service Level based upon population		Recommended Service Levels: Revised for Local Service Area		Meet Standard/ Need Exists	Additional Facilities/ Amenities Needed		Inventory	Meet Standard/ Need Exists	Additional Facilities/ Amenities Needed
Neighborhood Parks	57.80	-	-	57.80	1.69	acres per	1,000	1.50	acres per	1,000	Meets Standard	-	Need Exists	5 Acres(s)
Community Parks	136.30	-	-	136.30	3.99	acres per	1,000	4.00	acres per	1,000	Meets Standard	-	Need Exists	32 Acres(s)
Regional Parks	452.60	-	-	452.60	13.24	acres per	1,000	13.00	acres per	1,000	Meets Standard	-	Need Exists	93 Acres(s)
Total Park Acres	646.70	-	17.99	664.69	19.44	acres per	1,000	18.50	acres per	1,000	Meets Standard	-	Need Exists	112 Acres(s)
Open Space	159.60	-	-	159.60	4.67	acres per	1,000	0.00	acres per	1,000	Meets Standard	-	Need Exists	- Acres(s)
Undeveloped Parks	98.90	-	-	98.90	2.89	acres per	1,000	0.00	acres per	1,000	Meets Standard	-	Need Exists	- Acres(s)
Total Park Acres	905.20	-	17.99	923.19	27.00	acres per	1,000	18.50	acres per	1,000	Meets Standard	-	Need Exists	- Acres(s)
TRAILS:														
Trails (paved and unpaved)	30.00	-	3.73	33.73	0.99	mile per	1,000	1.25	mile per	1,000	Need Exists	9 Mile(s)	Need Exists	17 Mile(s)
OUTDOOR AMENITIES:														
Basketball Courts	14.50	-	-	14.50	1.00	court per	2,358	1.00	court per	2,500	Meets Standard	-	Need Exists	2 Court(s)
Tennis Courts	-	1.98	-	4.29	1.00	court per	7,971	1.00	court per	8,000	Meets Standard	-	Need Exists	1 Court(s)
Pickleball Courts	8.00	-	2.00	8.00	1.00	court per	4,274	1.00	court per	8,000	Meets Standard	-	Need Exists	1 Court(s)
Diamond Fields	5.00	1.98	-	6.98	1.00	field per	4,899	1.00	field per	4,000	Need Exists	2 Field(s)	Meets Standard	-
Multi-purpose Rectangular Fields	9.00	2.97	-	11.97	1.00	field per	2,857	1.00	field per	5,000	Meets Standard	-	Need Exists	4 Field(s)
Playgrounds	14.00	3.30	1.32	18.62	1.00	site per	1,836	1.00	site per	2,500	Meets Standard	-	Need Exists	- Site(s)
Picnic Shelters Pavilions	29.00	-	0.33	29.33	1.00	site per	1,166	1.00	site per	2,000	Meets Standard	-	Need Exists	- Site(s)
Sand Volleyball Courts	5.00	-	-	5.00	1.00	site per	8,839	1.00	site per	12,000	Meets Standard	-	Need Exists	- Site(s)
Outdoor Swimming Pools	1.00	-	1.65	2.65	1.00	site per	12,904	1.00	site per	50,000	Meets Standard	-	Need Exists	- Site(s)
State Parks	1.00	-	0.33	1.33	1.00	site per	25,711	1.00	site per	50,000	Meets Standard	-	Need Exists	- Site(s)
Splash Pads	-	-	-	-	1.00	site per	N/A	1.00	site per	40,000	Need Exists	1 Site(s)	Need Exists	1 Site(s)
Dog Parks	2.00	-	0.33	2.33	1.00	site per	14,676	1.00	site per	10,000	Need Exists	1 Site(s)	Need Exists	2 Site(s)
Disc Golf	1.00	-	-	1.00	1.00	site per	34,195	1.00	site per	10,000	Need Exists	2 Site(s)	Need Exists	3 Site(s)
INDOOR AMENITIES:														
Indoor Aquatic Space	11,970.00	-	-	11,970.00	0.35	SF per person	0.50	SF per person	-	-	5,128	Square Feet	Need Exists	9,015
Indoor Recreation Space	46,429.00	-	-	46,429.00	1.36	SF per person	2.00	SF per person	-	-	21,961	Square Feet	Need Exists	37,511
2020 Estimated Population	34,195													
2025 Estimated Population	41,970													

Request for Proposals #RFP 22-068:
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- C. Geographical Analysis through Mapping** — The Consulting Team can work with the City to determine appropriate GIS mapping. The Consulting Team would utilize GIS to perform geographical mapping to identify service area analysis for specific facilities and programs. This includes mapping by classification and major amenities by facility standards as applied to population density and geographic areas. A service area is defined as a circular area around a park or amenity whose radius encompasses the population associated with the appropriate facility standard for each park classification and amenity. Using the facility standards and service areas provided by the Consulting Team for each park and major facility type (amenity), a series of maps by each park classification and major amenities will be prepared. This mapping identifies gaps and overlaps in service area. It is assumed that the City will provide base GIS information including inventory and general location of park sites and amenities. The Consulting Team will provide maps in digital format (ARCGIS and Adobe Acrobat PDF format) and hard copy.



- D. Recreation Program Analysis** — Recreation programs and special events are the backbone of park and recreation agencies. This assessment will review how well the Department aligns itself with community needs. The goal of this process is to provide recreation program enhancements that result in successful and innovative recreation program offerings. The Consulting Team will provide insight into recreation program trends from agencies all around the country. The process includes analysis of:

- Age segment distribution
- Lifecycle analysis
- Core program analysis and development
- Similar provider analysis/duplication of service
- Market position and marketing analysis
- User fee analysis for facilities and programs/services
- Review of program development process
- Backstage support, or service systems and agency support needed to deliver excellent service

Ultimately, the outcome of the process will be the creation of a dynamic recreation program plan that results in increased registration, drives customer retention and loyalty, improves customer satisfaction, and increases revenues. Additionally, it will help focus Department efforts in core program areas and create excellence in those programs deemed most important by program participants. **We will also examine impacts of school and private facilities in the area and their potential partnerships with the Department.**

- E. Prioritized Park and Facility / Program Priority Rankings**— The Consulting Team will synthesize the findings from the community input, survey results, standards, demographics and trends analysis, park and facility assessment, program assessment, and the service area mapping into a quantified park and facility / program ranking. This priority listing will be compared against gaps or surplus in parks, facilities and amenities, as well as programs. This will list and prioritize facility, infrastructure, amenities, and program needs for the parks and recreation system and **provide guidance** for the Capital Improvement Plan. The analysis will include probable future parks, recreation facilities, open spaces and trail needs, as well as program needs based on community input, as well as state and national user figures and trends. Also, a set of prioritized recommendations for maintenance and renovation of parks, trails and recreation facilities will be developed. The Team will conduct a work session with the City to review the findings and make revisions as necessary.

Facility	Overall Rank
Outdoor swimming pool/family aquatic center	1
Connected walking & biking trails	2
Nature center & trails	3
Indoor swimming pools/leisure pool	4
Small neighborhood parks	5
Off-leash dog park	6
Indoor ice arena	7
Multi-generational community center	8
Senior center	9
Indoor running/walking track	10
Indoor fitness & exercise facilities	11
Youth soccer fields	12
Greenspace & natural areas	13
Outdoor ice arena	14
Outdoor tennis courts	15
Indoor lap lanes for exercise swimming	16
Youth baseball & softball fields	17
Skateboarding park	18
Playground equipment	19
Adult softball fields	20
Outdoor basketball courts	21
Indoor sports fields (baseball, soccer, etc.)	22
Large community parks	23
Indoor basketball/volleyball courts	24
Disc golf	25
Spraygrounds	26
Youth football fields	27

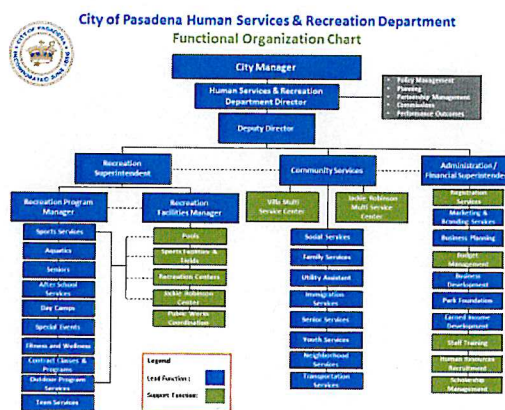
F. Capital Improvement Plan — We recommend the development of a three-tier capital improvement plan that will assist the City of Johns Creek in the inevitable and continuous rebalancing of priorities and associated expenditures. Each tier reflects different assumptions about available resources.

- **Sustainable** - Critical maintenance projects, including lifecycle replacement, repair of existing equipment, and safety and ADA improvements. Many of these types of improvements typically require one-time funding and are not likely to increase annual operations and maintenance costs. In many cases, these types of projects may reduce annual operations and maintenance costs.
- **Expanded Services** - Projects that include strategic changes to the existing parks system to better meet the unmet needs of the community. These types of improvements typically require one-time funding and may trigger slight increases in annual operations and maintenance costs, depending on the nature of the improvements.
- **Visionary** - Complete park renovation, land acquisition and new park/trail development. These improvements will likely increase annual operations and maintenance costs. Visionary projects also include planning efforts to support new/future development.

Task 4 — Operations and Financial Implementation

A. Review of Current Maintenance and Operations — The Consulting Team will perform an analysis of the current maintenance and operational practices of the Department to evaluate its operational situation. This analysis will identify Department staffing needs, improved operational efficiencies, policy development, process improvements, system and technology improvements, and marketing/communication opportunities. This task will include recommendations in a comprehensive manner. This will include data collection, analysis and on-site observations of key organizational components in the following areas:

- Classification of services
- Administrative delivery
- Maintenance and operating standards
- Organizational design and staffing
- Customer service
- Staffing levels
- Field equipment/resources
- Service contracts
- Workload requirements
- Procedures manuals
- Existing policy and procedures management
- Performance measures and indicators
- Information systems and technology
- Marketing and communications
- Identify and expand partnerships/volunteer support for facilities and services
- Review and suggest new rules and regulations related to parks



B. Financial Analysis — The Consulting Team will perform analysis to document the financial situation of the City. The financial analysis will look at the budget, pricing policy, user fees, current and other revenue generating opportunities, grant opportunities, and the revenue forecast. This analysis will identify the financial situation of the Department with three primary goals:

- Understand the financial dynamics to further advance the understanding of operations gained through the work described above
- Review funding and accounting practices with an objective of accurate financial fund tracking and the ability of the Department to have more useful financial information for strategic decision-making

- Seek opportunities to improve the financial sustainability of the Department including evaluating expenditures and increasing current and new sources of revenue
- C. Funding and Revenue Strategies** — Funding strategies will be developed based in part to our review and analysis of the facilities as well as the national experience brought by the Consulting Team. The Consulting Team has identified numerous funding options that can be applied to the Master Plan based on the community values. The funding strategies to be evaluated for recommendations will include at a minimum:
- Fees and charges options and recommendations
 - Endowments/Non-profits opportunities for supporting operational and capital costs
 - Sponsorships to support programs, events, and facilities
 - Partnerships with public/public partners, public/not-for-profit partners and public/private partnerships
 - Dedicated funding sources to support land acquisition and capital improvements
 - Development agreements to support park acquisition, open space and park and facility development
 - Earned Income options to support operational costs
 - Land or facility leases to support operational and capital costs
 - Identify grant opportunities and resources to construct parks and facilities identified in the Master Plan

Task 5 – Action Plan & Strategic Master Plan Development

The Parks Master Plan will be framed and prepared through a series of workshops with the City. The overall vision and mission statements will be affirmed or modified, and direction for the City will be established along with individual action strategies that were identified from all the research work completed. Specific tasks include:

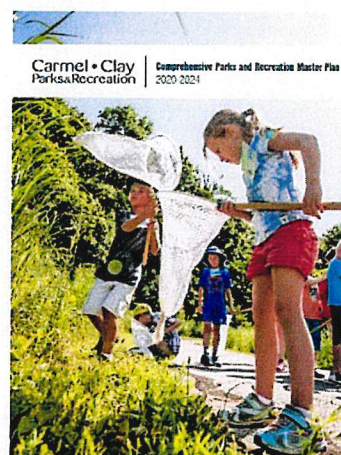
- A. Develop Vision, Mission and Goals/Objectives** — The supporting vision and mission statements will be affirmed or developed with senior staff in a work session. Following this effort, goals/objectives and policies will be established and prioritized. A status briefing will be presented to gain input and consensus on direction.
- B. Strategic Action Plan** - Upon consensus of all technical work, the remaining action plan will be completed with supporting strategies, actions, responsibilities, and priorities/timelines. These strategies will be classified as short-term, mid-term or long-term strategies and priorities. Following a half-day review workshop with the City, the Consulting Team will propose a prioritization schedule and methodology used on successful master plans across the United States from their work. Action plans will be established in the following key areas:
- **Park Development and Improvements** — Recommendations that provide for short and long-term enhancement of park development, improvements, and land acquisition in the City.
 - **Park and Facility Operational Management** — Recommendations that provide for short and long-term enhancement of park and facility operational management practices of the City.
 - **Programs and Services** — Recommendations that provide for short and long-term development and maintenance of programs and services provided by the City, including opportunities to improve meeting user needs.
 - **Financial and Budgetary Capacity Development** — Recommendations that provide for short and long-term enhancement of the financial and budgetary capacity of the City related to parks and lands.
 - **Policies and Practices** — Specific policies and practices for the City that will support the desired outcomes of this Master Plan will be detailed.
- C. Draft Report Preparation, Briefings and Final Strategic Master Plan** — The Consulting Team will prepare a draft Strategic Master Plan with strategies and action plans taking into account public input received, all analyses performed and the fiscal and operational impacts to the City. A presentation of the draft report will be facilitated with the City. Upon comment by the Department and key stakeholders, the Consulting Team will revise the Draft Master Plan to reflect all input received. Once the draft Master Plan is approved by City, the Consulting Team will prepare a final summary report and present to the City for final approval and adoption. The final plan will be prepared consisting of ten (10) printed and bound color copies and an electronic copy in a format compatible with the City's software.

Section Three — Project Experience and References

PROS Consulting is a small firm with a big presence in the field of management consulting for public entities and non-profit organizations. With a small team of highly professional and experienced consultants, PROS is a flexible firm that is agile to the evolving dynamics of the social, economic, and political environments our clients operate in. PROS is among only a small handful of firms that have tremendous experience in the field as practitioners and have become nationally recognized for helping to shape and further transform the industry of parks and recreation.

PROS Quick Facts

- Since the firm was established in 1995 to uniquely serve the park, recreation and tourism services industry, PROS has completed more than 1,000 projects in over 47 states and numerous projects internationally in seven countries.
- The **PROS Team has worked in highly diverse environments** from the inner cities of Los Angeles, Miami, Atlanta, and Dallas, to remote areas in Appalachia, Montana, and the American West. Our experience includes working with the best-of-the-best, the worst-of-the-worst, and a lot in between.
- Our planning team has great depth of operational experience with **over 100 combined years as former parks and recreation managers**. This perspective of being trained “in the industry” and not just “on the industry” allows us to relate to communities and their residents, recreationalists of all types, and to understand the unique relevance of needs that can be most appropriately served by our clients. In other words, great recreational and park planning is not just collecting surveys and reporting results — it is about **achieving a sustainable balance of services, meeting community needs, and resource protection with community fulfillment**.
- Our approach to planning projects is that we become the **extension of the client’s team** and carry the same accountability as they do in serving their communities.
- This project is not about the PROS Team or what we think is best for your organization and stakeholders, nor do we believe that what works in some parts of the country will work here. This project is about producing reliable, sustainable, relevant, and innovative outcomes for City of Johns Creek, and the people that live, work and play in the region.



Unique Experience for this Project

The PROS Team features unique experience that can serve the City of Johns Creek well in this project, including but not limited to:

- Recent completion of numerous municipal/county parks and recreation planning plans in Georgia including Atlanta, Gwinnett County, Sandy Springs, Athens-Clarke County, Troup County, Milton, Paulding County, Tucker, LaGrange, South Fulton, Smyrna, Augusta.
- Worked with nearly 40% of CAPRA Accredited Agencies. Assisted the following agencies with CAPRA Accreditation in the past through master and strategic plans: Kansas City, MO; Carmel, IN; Westerville, OH; Durango, CO; Oak Brook Park District, IL; Metro Parks Tacoma, WA; Prince George’s County, MD; Mecklenburg County, NC; Olathe, KS; Prince William County, VA; Loudoun County, VA; and many others throughout the last 27 years.
- Since 2012, PROS Consulting has completed planning projects for 55% of the Gold Medal winning agencies from the National Recreation and Park Association.

*Request for Proposals #RFP 22-068:
Recreation and Park Strategic Master Plan*

Milton Comprehensive Plan

MILTON, GEORGIA

PROS and Barge teamed to develop a comprehensive plan for long-term plan growth, development, and expansion for the City of Milton Parks and Recreation System. The team used several public outreach programs, including a statistically valid survey, interviews with stakeholders, and public input meetings to establish the plan's vision and guiding principles.

This study resulted in several key system improvement recommendations. Included in the comprehensive plan is the development of a master plan for the 42-acre Providence Park. The park is envisioned as a passive-use park made up of a mix of facilities that will be determined through additional public outreach.

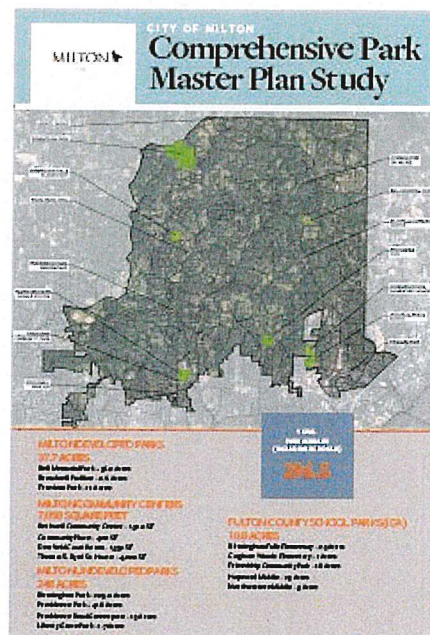
As proposed, the site includes a restroom building, a 13,000-SF inclusive playground, and a 6,500-SF nature center with outdoor gathering decks overlooking a lawn area and Providence Lake. Also included is a new camping area for scouts and church groups.

Reference

City of Milton
Tom McKlveen, Parks and Recreation Dir.
678-242-2519
tom.mcklveen@cityofmiltonga.us

Similarities

- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

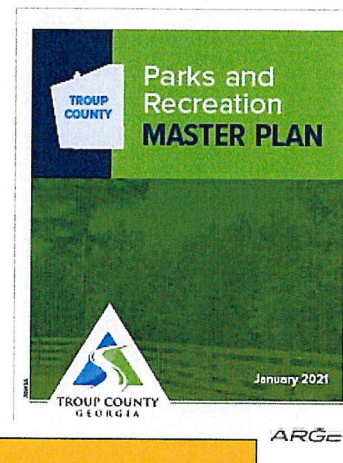


Troup County Parks and Recreation Master Plan

TROUP COUNTY, GEORGIA

The PROS/Barge team assisted Troup County with development of a county-wide comprehensive parks and recreation master plan. Our team's efforts included conducting park evaluations of property throughout the county. Our team developed park classifications and worked to determine the level of service analysis and recommendations. The scope for this project includes a full assessment with an extensive public input process that included interviews, focus group meetings, community needs survey, and public input meetings. The document included demographic information, department research and facility reviews, GIS mapping information, and funding requirements for park and recreation services to be implemented over the next 10 years.

The final plan includes an assessment and recommendation of recreational activities and programs, as well as guidelines to acquire future accreditation from the NRPA.



Reference

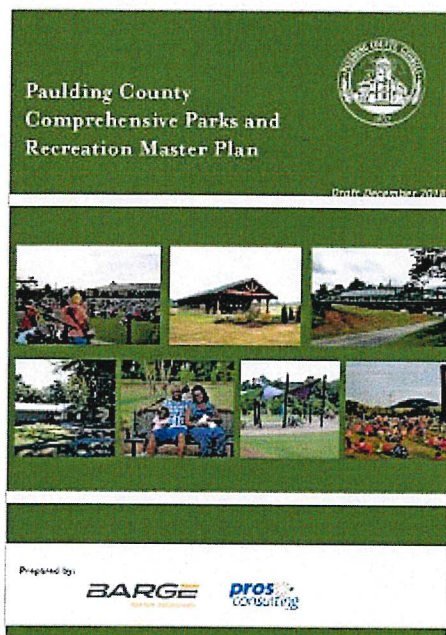
Troup County Parks and Recreation
Lance Dennis, Parks and Recreation Director
404-667-3805
ldennis@troupcountyga.gov

Similarities

- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

Paulding Parks and Recreation Master Plan

PAULDING COUNTY, GEORGIA



The Paulding County Comprehensive Recreation, Parks, Greenspace, and Trail Master Plan developed a system-wide guide to help the Paulding County Parks, Recreation, and Cultural Affairs Department provide the highest quality recreation opportunities to county residents over the next 10 years. The Barge team, along with subconsultant PROS Consulting, prepared the planning document. The team conducted park inventories of all the County parks, which consisted of park condition assessments. Additionally, the master plan includes recommendations on staffing, maintenance, programming, park facility improvements, and funding recommendations.

The team was able to further understand the park and recreation needs of residents through a statistically-valid survey. Using the information gathered through the stakeholder and public meetings, the survey, and the park inventories, the team compared the County's existing parks and recreation conditions against national standards to determine level of service and park recommendations.

Reference

Paulding County
Michael Justus, Park Director
770-445-8065
mjustus@paulding.gov

Similarities

- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

Tucker Parks and Recreation Master Plan

TUCKER, GEORGIA

The Barge team, along with subconsultants PROS, and the ETC Institute, were engaged to create a city-wide guide for the newly incorporated City of Tucker, aiding in the provision of high-quality recreation opportunities to residents over the next decade.

Following comprehensive inventories of the existing park system, the design team began hosting stakeholder and public engagement meetings and performed a statistically valid survey, both of which further explained the needs and desires of the Tucker community.

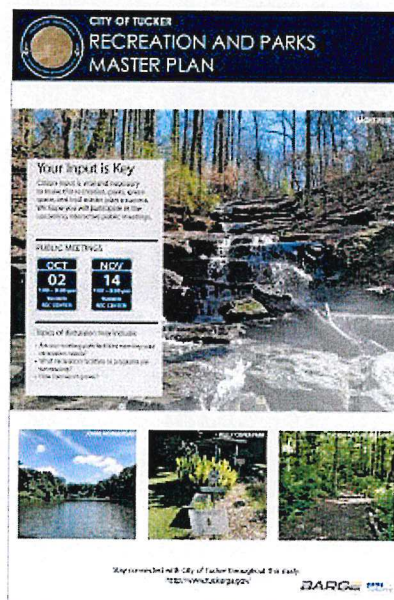
The design team compared the City's existing parks and recreation conditions against national standards for similar communities to determine level of service and park recommendations. Strategies and recommendations were also based on resident feedback, garnered during the public meetings and in the survey responses. Data gathered through both processes revealed there was a shortage of Mini Parks, Neighborhood Parks, Community Parks, Sports Complexes, and Special Use Parks.

Reference

City of Tucker
Rip Robertson, Park Director
470-273-3076
rr Robertson@tuckerga.gov

Similarities

- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

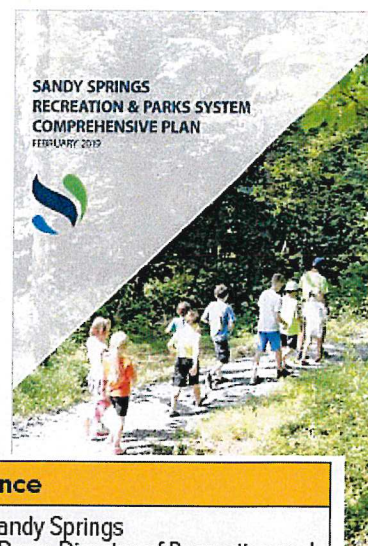


Sandy Springs Park and Recreation Master Plan

SANDY SPRINGS, GEORGIA

The Sandy Springs Recreation and Parks System Plan developed a city-wide guide to help make sure the Sandy Springs Recreation and Parks Department provides the highest quality recreation opportunities to City residents over the next 20-years. Barge along with subconsultants PROS, and the ETC Institute, prepared the planning document. The team conducted park inventories of all the city parks, which consisted of park condition assessments. The team conducted stakeholder and public engagement meetings throughout the process, allowing the team to better understand the park and recreation needs of City residents.

Additionally, the master plan includes recommendations on staffing, maintenance, programming, park facility improvements, and funding recommendations. This document is critical for the Sandy Springs Recreation and Parks Department because, as the City continues to grow, it becomes increasingly important to protect and enhance the City's parklands, connect the parks to areas within and outside the City, and to expand the park system.



Reference

City of Sandy Springs
Michael Perry, Director of Recreation and Parks, CPRE
770-730-5600
mperry@sandyspringsga.gov

Similarities

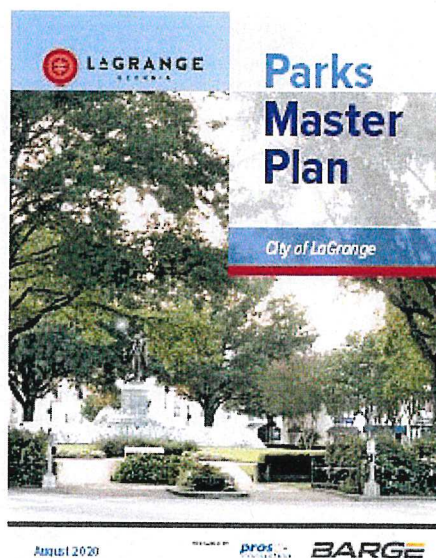
- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

LaGrange Parks Master Plan

LAGRANGE, GEORGIA

Barge provided the City of LaGrange with a 10-year parks master plan. The report included research and analysis on existing parks and their service areas using ArcGIS software. The analysis resulted in recommendations for additional park space determined by gaps in the service area. As part of this year-long project, Barge developed a 10-year capital improvement plan for the community to help them determine the implementation costs and to budget for them. PROS Consulting assisted Barge with items in the master plan including benchmarking, park maintenance, and staff recommendations.

As part of the project, the Barge team researched local, regional, and state-wide projects in order to coordinate with existing plans such as the State Comprehensive Outdoor Recreation Plan (SCORP). We also coordinated with Troup County, who currently maintains the parks, throughout the process. We developed a division of responsibility and provided detailed park maintenance levels with recommendations on staffing in order to maintain the parks. The Barge team created a draft memo of understanding (MOU) to help alleviate the misunderstandings between the two entities.



Reference

City of LaGrange
Meg Kelsey, City Manager
706-883-2010
mkelsey@lagrange.org

Similarities

- PROS/Barge Project Team
- Georgia Project
- Public Involvement
- Recreation Plan

Section Four – Project Team

PROS Consulting

The full name and location of the office that will be working on this project are:

Full Legal Company Name: PROS Consulting, Inc. **Years in Business:** 27 (formed in 1995)

Type of Company: S-Corporation

Contact Information: 35 Whittington Drive, Suite 300; Brownsburg, Indiana 46112;
P: 877.242.7760; F: 877.242.7761

Contacts: Leon Younger, President; 317.679.5615; leon.younger@prosconsulting.com or Brian Trusty, Principal; 214-998-8779; brian.trusty@prosconsulting.com

Qualifications	PROS Consulting
Experience with parks, recreational facilities, programs and service management	Over 100 years combined experience as practitioners in the parks and recreation industry and as planners.
A firm understanding of the work of parks and recreation agencies	Successfully completed over 1,000 planning projects in all levels of the public sector.
Familiarity with public sector cost accounting and budgeting	Successfully completed over 150 cost of service, financial management, or revenue enhancement plans for public clients.
Knowledge of existing park-centric partnerships throughout the country	Directly assisted over 70 public clients with identifying, establishing, and maintaining innovative partnerships.
Experience developing fiscal or financial plans at facility level (park or sector), or system level	Successfully completed over 200 business plans for individual parks and park systems.
Public facilitation experience	Facilitated over 4,000 meaningful public meetings and focus groups throughout the United States.
Personnel training experience	Organized and facilitated personnel development and training programs for over 10,000 participants in the last 25 years.
Familiarity with and experience doing business in Georgia	Completed parks and recreation planning projects in Atlanta, Gwinnett County, Sandy Springs, Athens-Clarke County, Troup County, Milton, Paulding County, Tucker, LaGrange, South Fulton, Smyrna, Augusta and many others across the region
Experience in CAPRA Accreditation and Gold Medal NRPA Agencies	Since 2012, PROS Consulting has completed planning projects for 55% of the Gold Medal winning agencies from the National Recreation and Park Association. Worked with nearly 40% of CAPRA Accredited Agencies Three (3) CAPRA Visitors on Staff
Forensic accounting and economic analysis experience	Utilized forensic accounting in all cost of service, business plan projects, and economic impact analysis; former public finance director and CPA on staff.
Operational and programming analysis experience	PROS Consulting has completed over 300 operational and programming studies for a wide variety of parks and recreation planning projects on a system-wide level as well as site/facility specific.
Statistically-valid survey development and benchmarking	Members of the project team have completed over 400 statistically-valid surveys on park related projects. Through this work, members of the project team have developed a benchmark of "best practice" agencies across North America.

"PROS Consulting has proved to be responsive, innovative, and sensitive to the unique needs and interests of our community. Based on the recently completed Parks and Recreation Master Plan, I am confident it will provide us a sound framework for decision-making for the next five years and beyond. PROS has assisted us to become the award-winning park system CCPR is today on many planning projects and has played an integral role in CCPR's planning efforts for nearly two decades."

Michael Klitzing, Parks & Recreation Director, Carmel Clay Parks & Recreation

Subcontractors

We have expanded our expertise and capabilities in order to best serve the needs of the City of Johns Creek in this project. Our sub-consultants have worked with us on similar projects in the past and have a great reputation across the industry, both locally and nationally.

Barge Design Solutions, Inc.

Barge Design Solutions, Inc., is an employee-owned professional services firm comprised of 400+ employees, headquartered in Nashville and with four offices in Georgia, our Atlanta office is where our primary team is located to serve the City of Johns Creek. Since 1955, Barge has been carefully, thoughtfully designing solutions for clients across the public and private sector. We offer a multidisciplinary suite of design services with emphasis on depth of experience in planning, landscape architecture, and engineering.

Wherever the built and natural environments intersect with communities, there are challenges and opportunities to be met with design. Every day we approach our clients' real world problems with technical solutions. Whether planning for future or responsively addressing an immediate need, we apply our skills to make a lasting impact, in particular on the parks and recreation systems for the communities we serve.

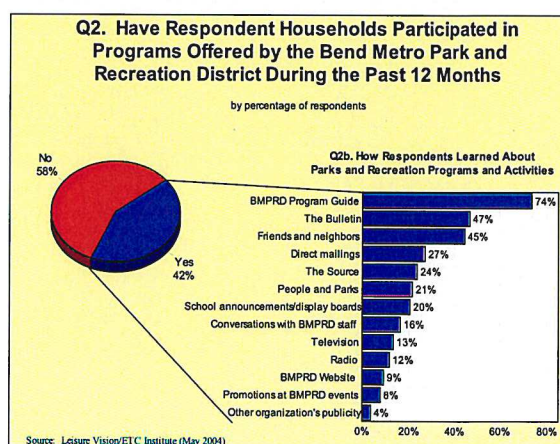
Our professionals have prepared dozens of master plans for both individual parks and comprehensive park systems, as well as full, detailed design services for park and recreation system components. This is not a sideline endeavor of our firm. Parks and recreation planning and design has been a core business function of our firm for over 40 years. Over the last three years alone, we have completed or are working on 245 parks and recreation planning and design projects

ETC Institute

ETC Institute is a 102-person market research firm that specializes in the design and administration of market research for governmental organizations. Our major areas of emphasis include citizen satisfaction surveys, parks and recreation surveys, community planning surveys, business surveys, transportation surveys, employee surveys, voter opinion surveys, focus groups, and stakeholder interviews. Since 1982, ETC Institute has completed research projects for organizations in 49 states. ETC Institute has designed and administered more than 3,500 statistically valid surveys and our team of professional researchers has moderated more than 1,000 focus groups and 2,000 stakeholder meetings. During the past five years alone, ETC Institute has administered surveys in more than 700 cities and counties across the United States. ETC Institute has conducted research for more major U.S. cities and counties than any other firm.

Core services of the firm involve conducting statistically valid surveys and related market research. ETC Institute has conducted more than 600 surveys for parks and recreation systems in 46 states across the country for a wide variety of projects including parks and recreation master plans, strategic plans and feasibility studies.

Established in 1992, the principals and associates of ETC Institute helped secure funding for more than \$2 billion of parks and recreation projects. **PROS Consulting and ETC Institute have teamed on more than 400 similar parks and recreation projects.**

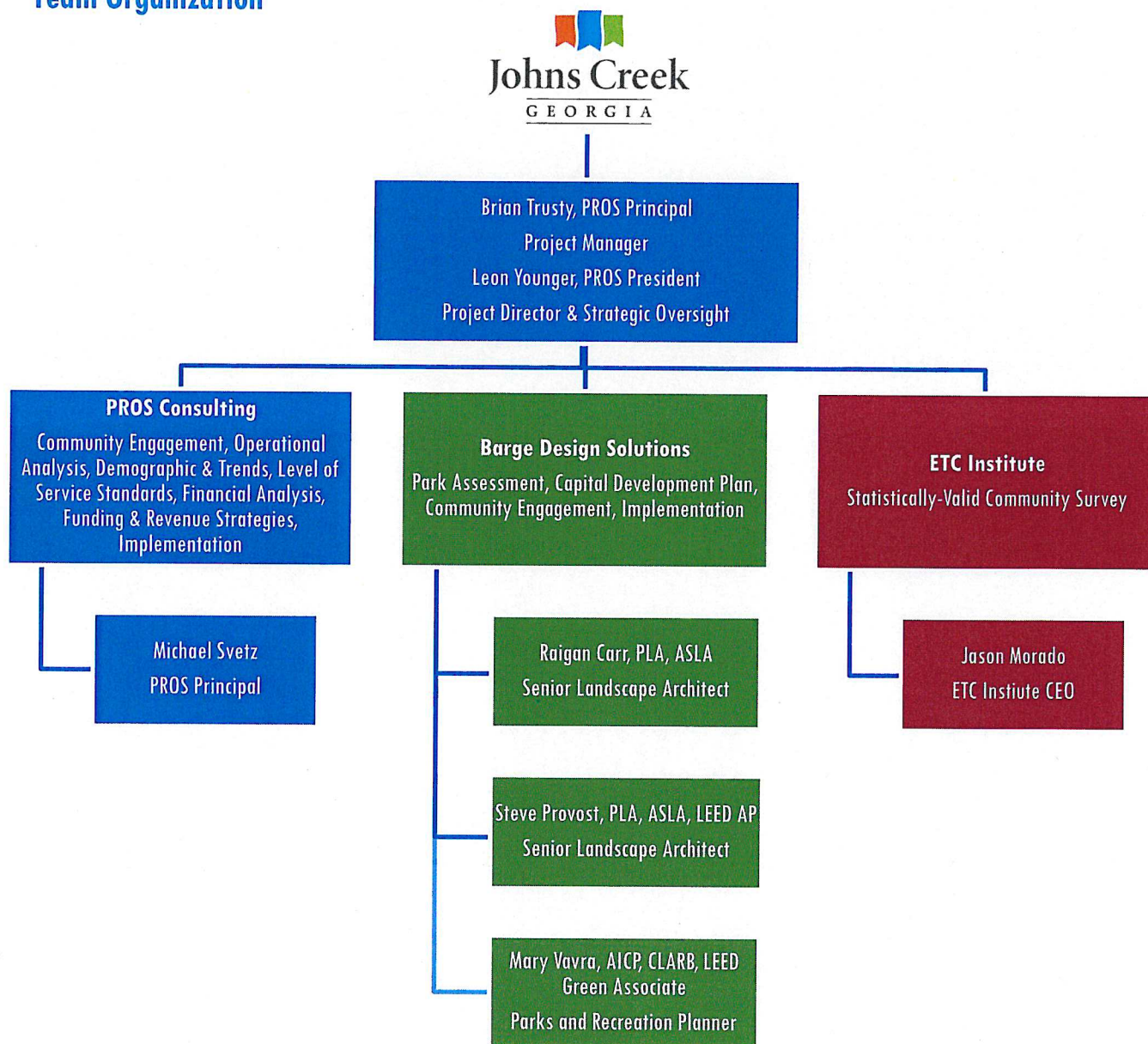


Project Management

The Consulting Team on this project will be led by PROS Consulting Principal, Brian Trusty with strategic oversight by PROS Consulting President, Leon Younger as Project Director, as well as all members of the PROS Consulting team. Central to our project approach is providing a high level of responsiveness to the City of Johns Creek staff and maintaining accessibility throughout the project lifespan.

With our existing staff and project related presence in the region through this entire year, the PROS Team will ensure a timely and effectual response to all needs of the City. Our team is flexible and will work hard to effectively serve as an extension of the City's project staff.

Team Organization



Brian Trusty

PROS Consulting Principal

Education

B.S., Texas A&M University, 1995

M.S., Texas A&M University, 2000

Employment History

Principal, PROS Consulting, Jan. 2022-Present

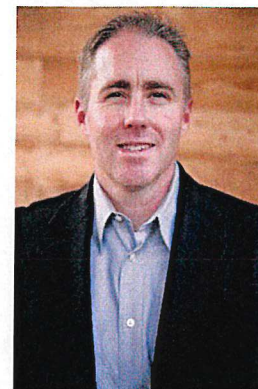
Vice-President, National Audubon Society, Nov. 2012-2021

Vice-President, PROS Consulting, Jan. 2007 to Oct. 2012

Executive Director, Adventure Sports Center International (ASCI), May 2005 to Nov. 2007

Manager — Nature Park System, Lower Colorado River Authority, Sep. 2000 to March 2005

President and Founder, SierraQuest Corporation, Sep. 1993 to Aug. 2003



Professional Experience

Brian Trusty has enjoyed a 28-year career in parks and recreation, land and habitat management, tourism, and economic development that includes executive management responsibilities in private for-profit, private non-profit, and public organizations. Brian's career includes managing an outdoor adventure tour program he founded that operated in 22 U.S. states, Canada, and Mexico; managing a system of nature parks for the Lower Colorado River Authority (LCRA) in Texas; leading the development and operation of the premier adventure sports destination on the east coast; performing strategic planning and management consulting for parks and recreation and land management agencies throughout the United States; and leading Audubon's conservation and environmental education programs in Texas and the Central Flyway. Brian also led the charge in uniting and elevating Audubon extensive network of nature centers and wildlife sanctuaries throughout the United States for the last two years. Brian has served on the Texas State Parks Advisory Committee since 2013 as its Chair, and was the primary author on the recent Committee recommendations to the Texas Parks and Wildlife Commission regarding financial sustainability for the Texas State Parks System in the future. This led to the successful passage of a state constitutional amendment in 2019 establishing a dedicated public funding source for Texas State Parks. In 2019, Brian was recognized as a Distinguished Alumni of Texas A&M's Parks, Recreation and Tourism Sciences Department.

Related Project Experience

- State of Kentucky Parks, Operations and Financial Strategic Plan
- Texas State Parks Business Planning Services
- Georgia State Parks Business Development Planning
- California State Parks Operations and Financial Plan
- Bays Mountain Regional Park Long Range Strategic Plan (Kingsport, TN)
- Eastern Kentucky Regional Adventure Tourism Plan
- Maryland State Parks Operational and Financial Plan
- Central Iowa Water Trails Governance and Management Analysis (Des Moines, IA)
- Central Iowa Water Trails Market Assessment and Business Plan (Des Moines, IA)
- Chair, Texas State Parks Advisory Committee, Texas Parks and Wildlife Department
- Chair, Great Plains Landscape Conservation Cooperative, USFWS
- Member, Advanced Environmental Research Institute Advisory Board, University of North Texas
- WOKA Whitewater Park Market Assessment and Operations Plan
- Chickaloon Tribe Matanuska Watershed Recreation and Trails Plan
- City of Glendale, AZ Parks and Recreation Master Plan
- City of Sedona, AZ Parks and Recreation Master Plan
- City of West Richland, WA Parks and Recreation Master Plan
- City of Palmer, AK Parks and Recreation Master Plan
- Town of Crested Butte, CO Regional Parks and Recreation Plan
- Missoula County, MT Parks, Recreation, Trails and Open Space Master Plan

Leon Younger

PROS Consulting President

Education

M.P.A., University of Kansas, Aug. 1988

B.S., Kansas State University, May 1975

Employment History

President, PROS Consulting, Sep. 1995 to present

Director/Chairman of the Board, Indianapolis Parks and Recreation, Apr. 1992 to Sept. 1995

Executive Director, Lake MetroParks (OH), Jun. 1988 to Mar. 1992

Director, Jackson County (MO) Parks and Recreation, Aug. 1983 to Jun. 1988

Certification

Certified Park and Recreation Professional

Professional Experience

Leon is the founder and President of PROS Consulting. He has more than 40 years in parks, recreation, and leisure services. Leon is a recognized leader in applying innovative approaches to managing parks and recreation organizations. He has held positions as Director of Parks and Recreation in Indianapolis, IN; Executive Director of Lake Metroparks in Lake County, OH (Cleveland area); and Director of Parks and Recreation in Jackson County, MO (Kansas City). Leon is routinely invited to present his management and development philosophies at conferences, workshops, and training across the United States, as well as internationally. He is co-creator of the Community Values Model, a business model that synthesizes community & stakeholder input into a strategic plan. He regularly addresses sessions at the National Recreation and Park Association Conferences and has served as a board member and instructor at the Pacific Revenue and Marketing School in San Diego, California and the Rocky Mountain Revenue and Management School in Colorado. Currently, Leon is serving on the Board of Directors for the City Parks Alliance, the only independent, nationwide membership organization solely dedicated to urban parks.



Similar Project Experience

- Atlanta, GA Greenspace Plan
- Athens-Clarke County, GA Parks and Recreation Master Plan
- Gwinnett County, GA Parks and Recreation Master Plan
- Prince George's County, MD Functional Master Plan for Parks, Recreation and Open Space
- Montgomery County, MD Parks and Recreation Needs Assessment and Field Master Plan
- Fairfax County, VA Park Authority Needs Assessment
- Roanoke County, VA Parks and Recreation Master Plan
- Virginia Beach, VA Parks and Recreation Strategic Plan
- Carmel Clay, IN Parks and Recreation Master Plan
- Westerville, OH Parks and Recreation Master Plan
- Grapevine, TX Parks, Recreation and Open Space Plan
- Aspen, CO Recreation Division Business Planning Services
- City of San Francisco, CA Recreation Plan and Needs Assessment
- Shawnee County, KS (Topeka) Parks and Recreation Strategic Master Plan
- City of Kansas City, MO Parks and Recreation Master Plan
- Five Rivers, OH Metro Parks Comprehensive Parks and Recreation Master Plan
- Cleveland Metroparks, OH Strategic, Financial and Operational Master Plan

Michael Svetz, CPM

PROS Consulting, Principal

Education

B.S., Miami University, 1990

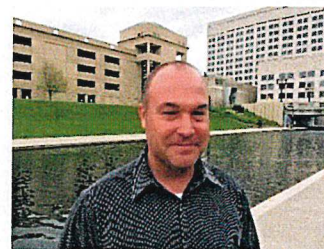
M.S., Miami University, 1991

Certification

Certified Public Manager

Professional Experience

Michael Svetz has nearly 30 years in the field of parks and recreation for local governments, the last 15 of which were at the executive management level. He has held Director-level positions in Strongsville, Ohio (Cleveland vicinity); Charlottesville, Virginia; and most recently for the City of Goodyear, Arizona. He has vast experience in developing and applying cutting edge business processes to create self-sustaining operations of multimillion-dollar community centers, golf courses, and a Major League Baseball Player Development and Spring Training complex. Throughout his career, Mike has successfully developed and implemented strategic master plans for the parks and recreation departments that he led and the city and state associations that he served. As a dedicated public servant, Mike developed a deep knowledge of, and sincere appreciation for, organizational development, citizen engagement, board involvement, and political acumen, all of which are critical elements in the successful creation and implementation of any parks and recreation plan. Since joining PROS Consulting, he has participated in numerous projects in master planning, business planning, maintenance, and strategic implementation. His project management and organizational skills and have assisted in the creation of innovative and fiscally sustainable projects across the United States.



Similar Project Experience

- Paulding County, GA Parks and Recreation Master Plan
- Sandy Springs, GA Parks and Recreation Master Plan
- Milton, GA Parks and Recreation Master Plan
- Fairfax County, VA Park Authority Needs Assessment

Jason Morado

ETC Institute

Director of Community Research

Education

M.B.A., Webster University, 2009

B.S. in Business Administration — Marketing, Avila University 2000



Summary of Professional Experience

Mr. Morado has over 15 years of experience in the design, administration, and analysis of community market research. He has served as the project manager on community survey research projects for over 400 local governmental organizations throughout the U.S. Mr. Morado is experienced in all phases of project management of market research studies, including survey design, developing sampling plans, quantitative and qualitative analysis, interpretation of results and presentation of findings. His areas of emphasis include citizen satisfaction surveys, parks and recreation needs assessment surveys, community planning surveys, business surveys, and transportation studies. He has also led the coordination and facilitation of focus groups and stakeholder interviews for a wide range of topics.

Similar Project Experience

Mr. Morado has served as a project manager for over 150 parks and recreation surveys for local governmental organizations. Some of these organizations include:

- Paulding County, GA Parks and Recreation Master Plan
- Sandy Springs, GA Parks and Recreation Master Plan
- Milton, GA Parks and Recreation Master Plan
- Atlanta, GA Parks and Recreation Master Plan

Barge Design Solutions, Inc.

Raigan Carr, PLA, ASLA
SENIOR LANDSCAPE ARCHITECT



Firm	Barge Design Solutions, Inc.
Education	Bachelor of Landscape Architecture, Auburn University, 1994
Professional Registrations/Certifications	Professional Landscape Architect in GA
Affiliations	American Society of Landscape Architects

RELEVANT EXPERIENCE

Cauley Creek Park Master Plan *Johns Creek, GA* Senior Landscape Architect. Barge prepared a master plan for the 133-acre Cauley Creek Park. The park fronts the Chattahoochee River to the south. The team conducted a site inventory and analysis and prepared a vulnerability analysis for the site.

Dunwoody Park System Plan *Dunwoody, GA* Senior Landscape Architect. Designed the redevelopment master plan for this 102-acre regional park. The master plan concentrated on developing the under utilized areas of the park and focused on providing a balance between passive and active use and providing a variety of recreation opportunities to accommodate a wider community.

Spaulding County Comprehensive Plan *Spaulding County, GA* Senior Landscape Architect. Worked with the County to produce a long-term plan for growth and development of the park and greenway system throughout the county. She helped gather input from park users by hosting a series of public meetings in communities around the county. This input is combined with research of the existing park system, projected growth studies, the county comprehensive plan, and regional projects and trends.

Steve Provost, PLA, ASLA, LEED AP
SENIOR LANDSCAPE ARCHITECT



Firm	Barge Design Solutions, Inc.
Education	Bachelor of Landscape Architecture, Auburn University, 1991
Professional Registrations/Certifications	Professional Landscape Architect in GA; American Society of Landscape Architects, LEED Accredited Professional
Affiliations	Georgia Parks and Recreation Association

RELEVANT EXPERIENCE

Cauley Creek Park Master Plan *Johns Creek, GA* Senior Landscape Architect. Barge prepared a master plan for the 133-acre Cauley Creek Park. The park fronts the Chattahoochee River to the south. The team conducted a site inventory and analysis and prepared a vulnerability analysis for the site.

Steve worked as Senior Landscape Architect/Project Manager on the following projects:

Milton Comprehensive Park Plan *Milton, GA*

Paulding Parks and Recreation Master Plan *Paulding County, GA*

Sandy Springs Parks and Recreation Master Plan *Sandy Springs, GA*

LaGrange Parks Master Plan *LaGrange, GA*

Tucker Parks and Recreation Master Plan *Tucker, GA*

Troup County Parks and Recreation Master Plan *Troup County, GA*

Spaulding County Comprehensive Plan *Spaulding County, GA*

Dunwoody Park System Plan *Dunwoody, GA*

Chatham County Park System Plan *Savannah, GA*

*Request for Proposals #RFP 22-068:
Recreation and Park Strategic Master Plan*

Mary Vavra, AICP, CLARB, LEED Green Associate
PARKS AND RECREATION PLANNER



Firm	Barge Design Solutions, Inc.
Education	Master of Landscape Architecture, University of Texas/Austin, 2006 Bachelor of Science, Landscape Architecture, Auburn University, 1997
Professional Registrations/Certifications	Registered Landscape Architect in TN, TX; American Institute of Certified Planners; LEED Green Associate; Council of Landscape; Architectural Registration Board
Affiliations	National Recreation and Park Association, American Planning Association, American Society of Landscape Architects, Rebuilding Together Board Member and Mobility Co-chair of Nashville Mayor's Sustainability Advisory Committee

RELEVANT EXPERIENCE

Mary worked as the parks planner on the following projects:

Paulding Parks and Recreation Master Plan Paulding County, GA

Sandy Springs Parks and Recreation Master Plan Sandy Springs, GA

LaGrange Parks Master Plan LaGrange, GA

Tucker Parks and Recreation Master Plan Tucker, GA

Troup County Parks and Recreation Master Plan Troup County, GA

Lowndes County Comprehensive Parks and Recreation Master Plan Valdosta, GA

Montgomery County Comprehensive Parks and Recreation Plan Montgomery County, TN

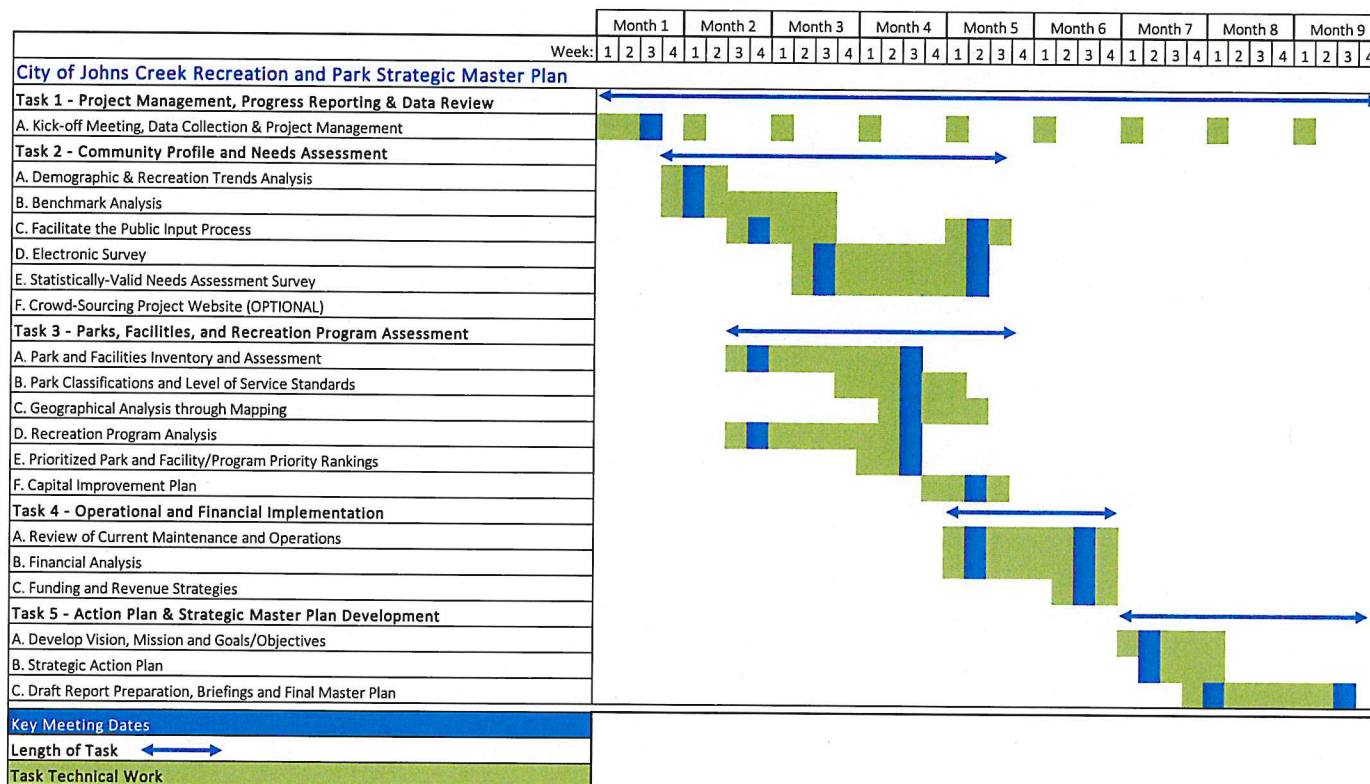
Snow Hinton Park Master Plan Tuscaloosa, AL

Parks, Recreation, and Cultural Arts Master Plan Update Collierville, TN

Pascagoula Comprehensive Parks and Recreation Master Plan Pascagoula, MS

Cullman Parks and Recreation Master Plan Cullman, AL

Section Five – Project Schedule



AGENDA REPORT

To: Honorable Mayor and City Council Members

From: Roman Carey, Stormwater Engineer

Date: April 11, 2022 – Work Session

Item: Stormwater – Old Alabama Road Culvert Extension Project

Item Summary

Staff recommends approval of a construction contract with Summit Construction for \$447,998 and a Construction Engineering and Inspection (CEI) Task Order with Wood PLC, Inc., for \$40,000 for the extension of a stormwater culvert located adjacent to Old Alabama Road (and within the City's Extent of Service). The project will help prevent further erosion and scouring at the existing culvert discharge and shore up the stability of the roadway slope. The funding for the construction project is available within the Fiscal Year 2022 Budget established for the Stormwater Utility.

Background

One of Council's strategic priorities for 2021 was expanding the City's role in care and maintenance of the stormwater system and shifting to a more proactive approach for maintenance. On June 21, 2021, Council adopted the Stormwater Utility Ordinance, the Extent of Service Policy, the Stormwater Utility Fee Rate Schedule, and the associated Credit Manual. The Stormwater Utility became effective July 1, 2021.

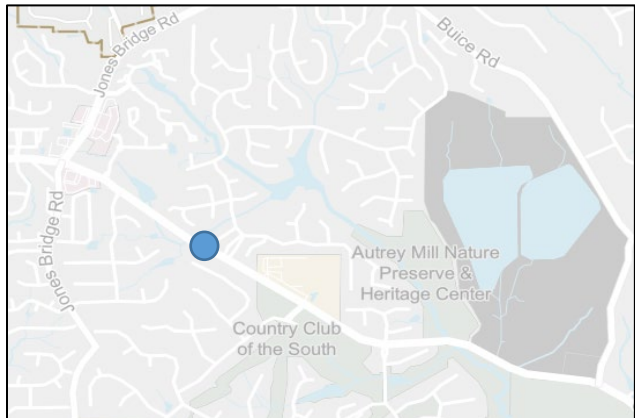
One of the biggest changes effective with the Stormwater Utility was the expansion of the Extent of Service (or portion of the stormwater infrastructure for which the City is responsible). Council expanded the Extent of Service from the public right-of-way to the upstream and downstream headwalls. This expanded extent of service increased the City's portion of responsibility from approximately 11,000 assets (in the right-of-way) to approximately 23,200 assets.

Using the previously completed inventory and condition assessment of stormwater assets, staff identified over a hundred pipe and catch basin cleanings within the expanded Extent of Service for repair work that could be completed without engineering. To efficiently address the repair needs, at the October 11, 2021 Council Meeting, Council awarded on-call contractors for stormwater asset cleaning and pipe lining.

As a next step, staff anticipated completing necessary engineering for larger and more complicated repairs and then returning to Council as needed for construction contracts.

Update

One of the stormwater repairs identified that required engineering was a failing culvert on the north side of Old Alabama Road approximately 0.12 miles northwest of Autry Falls Way. The existing stormwater pipe has no headwall. Without a headwall to properly handle the velocity of the water exiting the pipe, the ground under and around the pipe has become heavily scoured and eroded away. The result is called a “perched” stormwater culvert because the pipe end perches or hangs above the surrounding area.



Location of Old Alabama Road Culvert Extension Project

A photo of conditions in December 2021 is shown to the right. Old Alabama Road is directly behind the wooden fence at the top of the image.



Existing Conditions in December 2021

The Old Alabama Road Culvert Extension Project is designed to extend the culvert, add a headwall, and re-grade and re-slope the land to address erosion taking place adjacent to the stormwater pipe. Shoring this area up will reduce further erosion from occurring near the existing stormwater structures. The area impacted by the project is shaded in yellow on the inset map below and to the right.



Area Impacted by Project

After completing engineering for this project and acquiring the necessary easements, the project was put out to bid. The City received four construction bids ranging from \$447,998 to \$1,089,617. The lowest bidder was Summit Construction. The bid and qualifications were reviewed by the Purchasing Manager (as further described in the attached Purchasing Recommendation). The low bid was deemed responsive and compliant and is recommended for the construction contract award. Additionally, staff recommends proceeding with Construction, Engineering, and Inspection (CEI) services Task Order with Wood for \$40,000.

Financial Impacts

The Stormwater Utility budget has \$1,927,502 budgeted for pipe repairs and maintenance for Fiscal Year 2022. Approximately \$1,145,000 has been spent or encumbered on identified pipe lining, cleaning, and replacement projects with another \$250,000 planned which leaves approximately \$532,500 available for stormwater repair projects. Staff recommends funding the Old Alabama Road Culvert Extension project with the Stormwater Utility funds available for stormwater repairs.

Recommendation

For the Old Alabama Road Culvert Extension Project, staff recommends a construction contract with Summit Construction for \$447,998 and a Task Order for CEI Services with Wood for \$40,000.

Next Steps

Following Council authorization, staff will complete the contracting process and prepare for construction. The groundbreaking is anticipated in April 2022. Construction, weather permitting, is expected to last six months from the issuance of the Notice to Proceed. The anticipated project construction completion would be in late Fall 2022.

Attachments

1. Purchasing Recommendation
2. Construction Contract
3. Task Order for CEI Services



MEMO

To: Honorable Mayor and City Council

From: Ronnie Campbell, Finance Director *Flannd*

Date: March 28, 2022

Subject: **Purchasing Recommendation for ITB #22-075 (Old Alabama Road Culvert Extension)**

The above referenced Invitation to Bid (ITB) was released on February 17, 2022 with a due date of March 16, 2022 at 2:00PM. The solicitation was advertised in the Johns Creek Herald, on the City's website, in the State of Georgia Procurement Registry, and on BidNet. Suppliers who registered with the National Institute of Governmental Purchasing (NIGP) codes matching this project specification, received notice of this solicitation from the following two platforms:

DOAS Georgia Procurement Registry	1175 Individuals / Firms
BidNet Georgia Purchasing Group	269 Individuals / Firms

On February 24, 2022 a Pre-Bid Meeting was held via Zoom teleconference with Four (4) Firms/Individuals participating. Twenty six (26) individuals/firms downloaded bid documents and are plan holders of Bid 22-075.

The following (4) proposals were received and reviewed for compliance by the Purchasing Manager on March 16, 2022:

- L-J, Inc. (Cayce, SC)
- GS Contstruction, Inc. (Lawrenceville GA)
- The Dickerson Group, Inc. (Lawrenceville GA)
- Summit Construction & Development LLC (Stone Mountain, GA)

The Evaluation Committee consisting of the City Stormwater Utility Manager, Storwater Engineer, Public Works Director, and Purchasing Manager organized and reviewed cost proposals and supporting documents submitted for ITB #22-075 (Old Alabama Road Culvert Extension Project).

The City's Purchasing Policy requires award of contract to the lowest responsive and responsible bidder. It is the unanimous decision of the Evaluation Committee to make recommendation of awarding the contract

for the above referenced ITB to **Summit Construction & Development LLC** as the lowest responsive and responsible bid meeting the minimum specifications.

The contractor's cost for the OLD ALABAMA ROAD CULVERT EXTENSION PROJECT is \$447,997.76

This project requires the Mayor and City Council approval per our Purchasing Policy.

Prepared By: Neil Trust 2022.03.21 15:06:37 -04'00'
Neil Trust, Purchasing Manager – CPP, GCPA, CPM, GCPM



CONTRACT AGREEMENT
ITB #22-075

OLD ALABAMA ROAD CULVERT EXTENSION

This Agreement made and entered into this __ day of _____, in the year 2____; by and between The City of Johns Creek, Georgia, having its principal place of business at 11360 Lakefield Drive, Johns Creek, Georgia 30097 and Summit Construction & Development LLC (“Contractor”), located at 2108 Bentley Drive, Stone Mountain, GA 30087.

WHEREAS, the City of Johns Creek is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Johns Creek; and

WHEREAS, the City of Johns Creek has caused Invitation to Bid (ITB) #22-075 to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected (“Summit Construction & Development LLC”) is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the ITB #22-075 and the Contractor’s submittal was deemed by the City of Johns Creek to be the lowest most responsive, responsible bid meeting the minimum specifications to the City per the scope dated March 16, 2022.

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

The Contractor agrees with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out in each designated area as delineated in Specifications (Exhibit A) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A-SPECIFICATIONS

EXHIBIT B-COST PROPOSAL

EXHIBIT C-IMMIGRATION & SECURITY FORM / REQUIRED DOCUMENTS

EXHIBIT D-MAP

2.0 Key Personnel

The City of Johns Creek enters into this Agreement having relied upon Contractor providing the services

of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

3.1 Pricing. The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the ITB and final pricing documents as incorporated into the terms of the Contract. Unless clearly stated otherwise in the Standard Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as Exhibit "B" and incorporated herein, shall be firm throughout the term of this Contract.

3.2 Billings. If applicable, and unless the ITB provides otherwise, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract. Standard payment terms: Net-30.

3.3 Delay of Payment Due to Contractor's Failure. If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

3.4 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

4.1 The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The term of this Contract shall be for a period of One hundred and eighty (180) Calendar days from the issuance of Notice to Proceed and all orders/services issued and postmarked by the City during said term shall be filled at the contract price.

4.2 Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the ITB/RFP and/or Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay. This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

5.1 The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Johns Creek. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Johns Creek Representative within ten (10) day after issuance.

5.2 Inasmuch as the City of Johns Creek and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Johns Creek without the express knowledge and prior written consent of the City.

6.0 Indemnification

6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a monthly basis. If requirements are not met, City of Johns Creek Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have no more than thirty (30) days to remedy the situation.

If requirements are not remedied City of Johns Creek has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- a) Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- b) Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents, submit to City a Notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising from Contractor's failure to perform the work in accordance with the Contract Documents.
- c) Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 13.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change Order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Time and Liquidated Damages

10.1 The Contractor shall not proceed to furnish such services and the City shall not become obligated to pay for same until a written authorization to proceed ("Notice to Proceed") has been sent to the Contractor from the City. The Contractor shall commence the Work no later than ten (10) days after the effective date of the Notice to Proceed and shall achieve Substantial Completion of the Work, as hereinafter defined, no later than One hundred and eighty (180) calendar days from issuance of the Notice to Proceed, in accordance with the Contract Documents. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time. The Work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by the parties hereto in writing as provided herein.

The Contractor represents that it has taken all difficulties due to weather conditions into consideration in preparing the proposed Contract Sum and in establishing the time for completion of the Work. the completion time will not be extended for normal bad weather. Time for completion of the Work includes an allowance for calendar days on which work cannot be performed out-of-doors. For the purposes of this Agreement, the Contractor agrees that it expects to lose working days to weather in accordance with the following table:

January-14 days	May-6 days	September-2 days
February-14 days	June-3 days	October-3 days
March-10 days	July-4 days	November-5 days
April-7 days	August-2 days	December-9 days

If the total number of calendar days lost per month due to bad weather exceeds the total monthly calendar days identified in the above table, the contract time will be extended by the number of calendar days needed to include the excess number of days lost. However, the Owner will not be obligated to pay any additional sums resulting from such a delay, including but not limited to overhead and profit.

10.2 The Contractor shall pay the City the sum of \$150.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

11.0 Insurance

11.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

11.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this Agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect.

12.0 Termination

12.1 Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- a) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- b) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;

- c) The Contractor fails to comply with confidentiality laws or provisions; and/or
- d) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

12.2 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Contract:

- a) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- b) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- c) The Contractor fails to make substantial and timely progress toward performance of the contract;
- d) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- e) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- f) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- g) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

12.3 Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- a) Immediately terminate the Contract without additional written notice; and/or
- b) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- c) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

12.4 Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Contractor for work performed to date in accordance with Section 3 herein. The City shall have no further liability to Contractor for such termination.

12.5 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, profit, delay damages or other costs associated with the performance of the

Contract.

12.6 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- a) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- b) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- c) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- d) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- e) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

13.0 CLAIMS and DISPUTE RESOLUTION

13.1 Claims Procedure

- a) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City-directed work as provided in Section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- b) Contractor shall file its Claim within the earlier of: 120 Days from City's final offer in accordance with Section 8; or the date of Final Acceptance.
- c) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- d) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- e) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- f) After Contractor has submitted a fully-documented Claim that complies with all applicable provisions of this Section 13.1, City shall respond, in writing, to Contractor with a decision within sixty (60) Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

13.2 Arbitration

- a) If Contractor disagrees with City's decision rendered in accordance with paragraph 13.1f, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim; failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its Subcontractors.
- b) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:
 - 1. Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
 - 2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
- c) All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of Fulton County.
- d) If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
- e) Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
- f) All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or Subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

14.0 Confidential Information

14.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- a) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- b) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;

- c) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- d) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

14.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

14.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

14.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

14.5 Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

15.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB, as amended, and the Contractor's submittal, the language in the former shall govern.

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

16.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

16.1 Federal Requirements.

16.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Johns Creek contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

- a) Equal Employment Opportunity - The Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- b) Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded;
- c) Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - 1. Any patent that shall result under this Contract; and
 - 2. Any patent rights to which the Contractor purchases ownership with grant support;
- d) Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - 1. The copyright in any work developed under this contract; and
 - 2. Any rights of copyright to which the Contractor purchases ownership with grant support.
- e) Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States, or any of their duly authorized representatives; and
- f) Retention of all required records for three years after the City makes final payment and all other pending matters are closed.

16.2 Georgia Security and Immigration Compliance Act

- a) The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "Exhibit C" and incorporated herein by reference and made a part of this contract.
- b) The Contractor further certifies that any subcontractor employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c) Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

17.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Johns Creek's prior written consent.

18.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

19.0 Drug-Free and Smoke-Free Work Place

19.1 A drug-free and smoke-free work place will be provided for the Contractor's employees during the performance of this Agreement; and

19.2 The Contractor will secure from any sub-contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

19.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

- a) The Contractor has made false certification herein; or
- b) The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

20.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

21.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Johns Creek all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Johns Creek pursuant hereto.

22.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a Monthly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

25.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable:)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF JOHNS CREEK:

SUMMIT CONSTRUCTION & DEVELOPMENT LLC

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

ATTEST: _____
Sign

ATTEST: _____
Sign

NAME: _____
Print

NAME: _____
Print

DATE: _____

DATE: _____

SEAL:

SEAL:

EXHIBIT A

Bid Specifications

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Johns Creek requests that interested parties submit informal bids/proposals to extend a culvert in the City of Johns Creek. This project would involve re-grading the existing slope, installing a junction box, installing RCP, and reestablishing the flow of water through the culvert. This work includes the following project:

*OLD ALABAMA ROAD CULVERT EXTENSION
135 Colony Club Falls Drive
Johns Creek, GA 30022*

All work shall be constructed according to the Construction Plans and are made part of the contract by reference.

SCOPE OF WORK

The Contractor shall construct the project per:

- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work and specifications;
- The Plans - drawings/details/notes;
- Purchase Order or Contract Order;
- Approved Schedule;
- City of Johns Creek ordinances and regulations;
- OSHA standards and guidelines;
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. The contractor will be responsible for constructing all improvements shown on the plans unless specifically noted otherwise in the specifications/plans.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions. In case of discrepancies between the plans and specifications, the most stringent prevails.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. **Bidder shall submit (3) references demonstrating experience completing projects of similar scope (please include contact email please).**

The City will inspect the work as it progresses.

Retainage in the amount of 10% of the total amount due on each monthly invoice will be held by the City until project completion and acceptance.

BID QUESTIONS:

All questions related to the project and documents must be asked electronically through BidNet. A response will be made within 72 hours electronically via BidNet. Contact with City staff during the solicitation period is forbidden. Offerors may contact the procurement officer for any clarification on schedule and bid submissions at purchasing@johnscreekgov.gov.

PROCUREMENT SCHEDULE:

Bid Release	February 16, 2022
Pre-bid Zoom Teleconference (recommended)	February 24, 2022 (10:00 a.m.)
Deadline to Submit Questions	March 9, 2022
<u>Deadline to Submit Bid</u>	<u>March 16, 2022 (By 2.00 p.m.)</u>
Anticipated Work Session	March 28th, 2022
Anticipated Council Meeting	April 11, 2022
Anticipated NTP	April 18, 2022
Completion Date	mid October 2022

SPECIAL PROVISIONS

All materials and workmanship associated with this contract shall meet current GDOT Specifications and Standards for construction materials, methods and procedures. Please refer to the GDOT website for the most current versions of the Specifications and Special Provisions.

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

PROSECUTION AND PROGRESS

The Contractor will have One hundred and eighty (180) calendar days from issuance of Notice to Proceed to be substantially complete with the project. The Contractor will be considered substantially complete when all contract work except for punch list work has been completed and accepted.

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed by the completion date indicated above. Upon Notice of Award the Contractor will be required to submit a Progress Schedule. The Contractor shall be assessed liquidated damages in the amount of \$150.00 per calendar day for any work not completed by the deadline. Liquidated damages shall be deducted from the 10% retainage held by the City.

Normal workday for this project shall be 8:00 AM to 5:00 PM and the normal work week shall be Monday through Friday. The City will consider extended workdays or work weeks upon written request. No work will be allowed on City holidays (a complete list can be found on the City website).

The Contractor shall not install lane closures or perform work or move equipment or materials on the traveled way that interferes with traffic flow between the hours of 6:00 am to 9:00 am and 4:00 pm to 7:00 pm (Monday through Friday), and 9:00 am to 1:00 pm on Sundays.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon notification from the contractor that all work is complete. A Punch List of found deficiencies will be submitted to the

contractor upon completion of the Final Inspection. All repairs shall be completed by the Contractor at his expense prior to issuance of Final Acceptance. 10% retainage will be held from the total amount due the Contractor until Final Acceptance of work is issued by the City.

The City will retain 10% of the fee due the Contractor. The retainage will be paid as the final invoice after the project has been completed and accepted. All punch-list work must be complete before release of any retainage.

PERMITS AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

MATERIALS

Contractor will be responsible for quality control testing of materials incorporated into the project. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications.

Contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

INVOICING

The Contractor shall invoice monthly for work satisfactorily completed. Invoices need to be sent to the City's Project Manager for approval. Please include ITB 22-075 and the contract order # on all invoices.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

The City reserves the right to add, modify, or delete quantities. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. Contractor will not be entitled to an adjustment of unit price on an item which increased or decreased from the original plan quantity.

All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work". The bidder shall include the cost for all incidental work in the "Grading Complete" bid item. Contractor will notify the City in writing if quantities of contract items will exceed plan. At no time will contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

All information given concerning existing conditions is for information purposes only. It is the Contractors responsibility to inspect the project site to verify existing conditions prior to submitting their bid.

No adjustment will be made to the bid based on missing or inaccurate information on the plans.

UTILITIES

Contractor shall be responsible for protecting all utilities and for coordinating any utility relocation necessary for the completion of the work.

Contractor shall be responsible for the adjusting to grade of existing utility structures that are incorporated into the work including but not limited to water valves and sewer cleanouts.

All known utility facilities are shown schematically on highway plans, and are not necessarily accurate in location as to plan or elevation. Utility facilities such as service lines or unknown facilities not shown on plans will not relieve the contractor of their responsibility under this requirement. "Existing utility facilities" means any utility that exists on the project in its original, relocated or newly installed position.

TRAFFIC CONTROL

The Contractor shall, at all times, conduct his work as to assure the least possible obstruction to the citizens. Work staging and operations shall be conducted in a manner to minimize interference with traffic flow thru existing parking areas. The safety and convenience of the general public and the protection of persons and property shall be provided for by the Contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

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

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the Contractors expense. At no time will Contractor remove regulatory signing which may cause a hazard to the public. The Contractor shall, within 24 hours place temporary pavement markings (paint or removable tape) to match existing pavement markings. No additional payment will be made for this work.

The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The Contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to insure that ingress and egress are safely provided when and where needed.

Two way traffic shall be maintained at all times, utilizing certified flaggers as necessary, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area.

All personnel, equipment, and materials required for installing and maintaining traffic control shall be the responsibility of the contractor.

Mandatory: Contractor shall furnish copies of traffic control certifications and a headshot photo of all personnel providing traffic control services during project. This requirement shall be furnished to the City at the project kick-off meeting.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The Contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the Contractor, he shall restore, at his/her own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or

otherwise restoring as may be directed, or she/he shall make good such damage or injury in an acceptable manner. The Contractor shall correct all disturbed areas before retainage will be released.

SURVEY

The Contractor will be responsible for all staking necessary to complete construction activities. All survey equipment, stakes and other materials needed will be considered incidental to construction operations and no additional compensation will be provided.

RIGHTS AND USE OF MATERIAL

Materials excavated within the project limits become the property of the Contractor. The Contractor, at his/her discretion, may elect to incorporate any of the excavated material into his/her work provided and that it is suitable for the intended use. Materials identified to be removed and are unsuitable for the project will be removed from the site by the Contractor. All excavation, placement, hauling and grading of on-site material will be the Contractors responsibility.

GRADING COMPLETE

The Contractor shall be responsible for all grading work including all clearing, grubbing, hauling, grading, excavation, backfilling, and compaction tasks associated with the work. In addition to the above listed tasks, any costs associated with providing borrow material from a location not within the project limits will be the responsibility of the Contractor. Sub-grade excavation to required elevations, removal of excavated material if necessary, sub-grade compaction, fine grading, and back-filling excavated area with suitable material will be the responsibility of the Contractor. Also included in this work will be the removal and hauling off of existing construction materials, trees and any other items necessary to complete the work.

Finished grade of disturbed areas will match and blend with adjacent areas not disturbed by construction operations. The Contractor is also responsible for all ditch grading required to maintain drainage.

Tree save fence shall be installed and maintained by the contractor as indicated on the plans.

EROSION/SEDIMENT CONTROL

It is the responsibility of the Contractor to follow all Federal, State and Local erosion and sediment control laws and specifications. This includes meeting all NPDES guidelines.

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

Contractor shall install and maintain erosion control BMP's per the plans.

GRASSING COMPLETE

Contractor will be responsible for temporary and permanent grassing all disturbed areas, unless specified otherwise within the Landscape Plans. This work shall consist of ground preparation, furnishing and planting, seeding (including the cost of the seed), fertilizing, sprigging, mulching and watering of all areas disturbed due to construction operations. This work will comply with GDOT Section 700 – "Grassing", and GDOT Section 702- "Vine, Shrub, and Tree Planting." Finished grade of disturbed areas will match

and blend with adjacent areas not disturbed by construction operations. In the event that areas are damaged prior to final project acceptance, the Contractor will repair or replace as necessary. Please refer to the seeding schedule in the plans for species and spreading rates.

COORDINATION

The Contractor shall keep the City updated on the construction schedule, daily work plans and any challenges, setbacks in a timely manner.

REINFORCED CONCRETE PIPE

This work shall consist of installation of 48" RCP. Removal of unsuitable material and replacement with suitable material is the responsibility of the contractor. The City staff will inspect all delivered material, and verify compaction prior to placement, and during backfilling of pipe. This work will not be considered complete if all connections are not secured appropriately. Payment for this work will be made per linear foot of RCP installed. Cost includes sealing pipe at the catch basin, junction box and headwall.

JUNCTION BOX

This work shall consist of installation of a junction box. Removal of unsuitable material and replacement with suitable material is the responsibility of the contractor. The City staff will inspect all delivered material, and verify compaction prior to placement, and during backfilling. This work will not be considered complete if all connections are not secured appropriately. Payment for this work will be per junction box. Cost includes sealing pipe at junction box.

SAFETY

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

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the Contractor fails to accomplish restoration and clean-up within an acceptable period of time. Failure to perform clean-up activities may result in suspension of the work.

REQUIRED BONDS

- 5% Bid Bond (Contract value).
- 100% Payment Bond (Contract value).
- 100% Performance Bond (Contract value)

INSURANCE REQUIREMENTS

The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

EXHIBIT B
COST PROPOSAL

CITY OF JOHNS CREEK

ITB 22-075

Old Alabama Road Culvert Extension

Bid Results Electronic via BidNet 3/16/2022 2:00PM

Project 1			
Roadway Items (1)			
Code	Description	UOM	QTY
150-1000	TRAFFIC CONTROL	Lump-Sum	1
205-0001	UNCLASS EXCAV	Cubic Yard	75
206-0002	BORROW EXCAV, INCL MATL	Cubic Yard	650
207-0203	FOUND BK FILL MATL, TP II	Cubic Yard	200
208-0200	ROCK EMBANKMENT	Cubic Yard	500
210-0100	GRADING COMPLETE	Lump-Sum	1
310-1101	GR AGGR BASE CRS, INCL MATL	Ton	80
318-3000	AGGR SURF CRS	Ton	50
643-8200	BARRIER FENCE (ORANGE), 4 FT	Linear Foot/Feet	560
Drainage Items (2)			
Code	Description	UOM	QTY
500-3800	CLASS A CONCRETE, INCL REINF STEEL	Cubic Yard	10
550-1480	STORM DRAIN PIPE, 48 IN, H 1-10	Linear Foot/Feet	80
668-4300	STORM SEWER MANHOLE, TP 1	Each	2
668-4311	STORM SEWER MANHOLE, TP 1, ADDL DEPTH, CL 1	Linear Foot/Feet	10
Erosion Control Items (3)			
Code	Description	UOM	QTY
163-0232	TEMPORARY GRASSING	Acre	1
163-0240	MULCH	Ton	10
163-0300	CONSTRUCTION EXIT	Each	2
163-0527	CONSTRUCT AND REMOVE RIP RAP CHECK DAMS, STONE PLAIN RIP RAP/SAN	Each	16
165-0030	MAINTENANCE OF TEMPORARY SILT FENCE, TP C	Linear Foot/Feet	270
165-0041	MAINTENANCE OF CHECK DAMS - ALL TYPES	Linear Foot/Feet	260
165-0101	MAINTENANCE OF CONSTRUCTION EXIT	Each	2
171-0030	TEMPORARY SILT FENCE, TYPE C	Linear Foot/Feet	530
573-2006	UNDDR PIPE INCL DRAINAGE AGGR, 6 IN	Linear Foot/Feet	200
603-2180	STN DUMPED RIP RAP, TP 3, 12 IN	Square Yard	60
603-7000	PLASTIC FILTER FABRIC	Square Yard	60
700-6910	PERMANENT GRASSING	Acre	1
700-7000	AGRICULTURAL LIME	Ton	3
700-8000	FERTILIZER MIXED GRADE	Ton	1
700-8100	FERTILIZER NITROGEN CONTENT	Pound	50
711-0100	TURF REINFORCING MATTING, TP 1	Square Yard	130
Landscape Items (4)			
Code	Description	UOM	QTY
702-	Virginia Sweetspire (4' on center)	Lump-Sum	1
702-	Service Berry Tree	Lump-Sum	1

Summit Construction	
Roadway Items (1)	
Price	Total Cost
\$10,460.00	\$10,460.00
\$20.00	\$1,500.00
\$12.00	\$7,800.00
\$22.50	\$4,500.00
\$12.50	\$6,250.00
\$310,487.76	\$310,487.76
\$40.00	\$3,200.00
\$20.00	\$1,000.00
\$2.50	\$1,400.00
Group Total : \$ 346,597.76	
Drainage Items (2)	
Price	Total Cost
\$1,600.00	\$16,000.00
\$395.00	\$31,600.00
\$12,500.00	\$25,000.00
\$400.00	\$4,000.00
Group Total : \$ 76,600.00	
Erosion Control Items (3)	
Price	Total Cost
\$675.00	\$675.00
\$100.00	\$1,000.00
\$1,000.00	\$2,000.00
\$150.00	\$2,400.00
\$0.50	\$135.00
\$1.00	\$260.00
\$100.00	\$200.00
\$3.50	\$1,855.00
\$5.50	\$1,100.00
\$35.00	\$2,100.00
\$2.50	\$150.00
\$500.00	\$500.00
\$100.00	\$300.00
\$100.00	\$100.00
\$1.00	\$50.00
\$7.50	\$975.00
Group Total : \$ 13,800.00	
Landscape Items (4)	
Price	Total Cost
\$5,000.00	\$5,000.00
\$6,000.00	\$6,000.00
Group Total : \$ 11,000.00	
Project Total : \$ 447,997.76	
Summit Construction	

EXHIBIT C

REQUIRED FORMS & DOCUMENTS

CITY OF JOHNS CREEK

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Invitation to Bid (ITB) for which prices have been set. The price or prices offered herein shall apply for the period of time stated in the ITB.

It is understood and agreed that this proposal constitutes an offer, which when accepted in writing by Purchasing Office, City of Johns Creek, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the City of Johns Creek.

It is understood and agreed that we have read the City's specifications shown or referenced in the ITB and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City of Johns Creek reserves the right to reject any or all submittals, waive technicalities, and informalities, and to make an award in the best interest of the city.

It is understood and agreed that this proposal shall be valid and held open for a period of Seventy Five (75) days from proposal opening date.

PROPOSAL SIGNATURE AND CERTIFICATION

(Offeror to sign and return with proposal)

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

Authorized Signature  Date 03/16/2022

Print/Type Name Ruben Bucio Duran

Print/Type Company Name Here Summit Construction & Development, LLC

Purchasing Division

11360 Lakefield Drive | Johns Creek, GA 30097 | www.johnscreekGA.gov | 678-512-3200

CITY OF JOHNS CREEK

DISCLOSURE FORM

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

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

Name of Offeror Summit construction & Development, LLC

Name and the official position of the Johns Creek Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.) *Offeror(s) will list N/A-Not Applicable to the fields below, if applies:*

N/A

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

Amount/Value

Description

N/A

N/A

Please list any family member that is currently (or has been employed within the last 12 months) by the City of Johns Creek and your relation:

N/A

N/A

Purchasing Division

11360 Lakeland Drive | Johns Creek, GA 30097 | www.JohnsCreekGA.gov | 678-512-3200

IMMIGRATION AND SECURITY FORM
CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The [Contractor] further certifies that at the time of the execution of this contract, the [Contractor] employs 44 employees.

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

357508

EEV / Basic Pilot Program* User Identification Number

Summit Construction & Development, LLC
 BY: Authorized Officer or Agent
 (Contractor Name)
President

05/25/2011

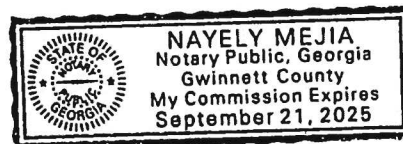
Date

Title of Authorized Officer or Agent of Contractor

Ruben Bucio Duran
 Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON
 THIS 16 DAY OF March 20122

Nayely Mejia
 Notary Public
 My Commission Expires: Sept, 21, 2025



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

Purchasing Division



O.C.G.A. § 50-36-1(e)(2) Affidavit
Verifying Lawful Presence in the United States
 (Individual submitting proposal on behalf of firm or individual)

By executing this affidavit under oath, as an applicant for a(n) Ruben Bucio Duran, as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☐ I am a United States citizen.
- ☒ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

Driver license

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in Stone Mountain (city), Georgia (state).

Signature of Applicant

Ruben Bucio Duran

Printed Name of Applicant and Title

Subscribed and sworn to before me on

this the 16 day of March, 2022.

Nayely Mejia
 (Clerk/Notary Public)

My commission expires: Sept. 21, 2025

Purchasing Division



CERTIFICATION ON SPONSER

DRUG-FREE WORKPLACE

I hereby certify I am a principle and duly authorized representative of
Summit Construction & Development, LLC, ("Contractor"), whose address is
2108 Bentley drive. Stone Mountain GA 30087

_____, and I further certify that:

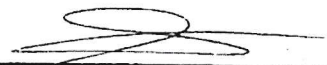
(1) The Provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and

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

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

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

CONTRACTOR

Date: 03/16/2022 Signature: 

Print Name: Ruben Bucio Duran Title: President

Purchasing Division



LIST OF SUBCONTRACTORS

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

SUBCONTRACTOR	WORK TO BE PERFORMED	% OF THE WORK

Company Name: Summit Construction & Development, LLC

- City of Johns Creek requires 51% participation by the Prime Contractor on all projects.
- Prime Contractor required to submit E-verify affidavit's for each Subcontractor performing services. Subcontractor Affidavit OCGA 13-10-91 form.

ITB 22-075 NAME Old Alabama Road Culvert Extension

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

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

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Summit Construction & Development, LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☒ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☐ Other (see instructions) ► _____

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
2108 Bentley Drive

6 City, state, and ZIP code
Stone Mountain GA 30087

7 List account number(s) here (optional)

8 Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

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

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-				
--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

2	6	-	3	9	5	0	3	3	5
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here Signature of U.S. person ► _____

Date ► **03/16/2022**

General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

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

BID BOND

KNOW ALL MEN BY THESE PRESENTS, THAT Summit Construction & Development, LLC

(Name of Contractor) _____

(Address of Contractor) at 2108 Bentley Dr., Stone Mountain , GA 30087

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

Great Midwest Insurance Company

(Name of Surety) _____

800 Gessner, Suite 600, Houston, TX 77024

(Address of Surety) _____

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

City of Johns Creek Georgia

(Name of Obligee)

10700 Abbotts Bridge Rd., Suite 190, Johns Creek, Georgia 30097

(Address of Obligee)

Hereinafter referred to as Obligee, in the penal sum of Five Percent of Amount Bid Dollars (\$ 5% of Amount Bid) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

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

TITLE

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

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

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Seg. And SS 36-86-101, et. Seg. And is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this 16 day of March A.D., 2022

ATTEST:

Daly
(Principal Secretary) Amy Naudin

(SEAL) [Signature]
(Witness to Principal) Christina Seaman O.
2108 Bentley drive . Stone Mountain GA 30087
(Address)

(Surety) Great Midwest Insurance Company

Witness: [Signature]
BY: [Signature]
(Attorney-in-Fact) and Licensed Non-Resident GA Agent
Kevin Wojtowicz, Attorney-In-Fact & Licensed Non-Resident GA Agent
(Attorney-in-Fact)

(Seal)

Summit Construction & Development, LLC
(Principal)

BY: [Signature] Kevin Ryan Duran
2108 Bentley Drive . Stone Mountain GA 30087
(Address)

1000 Central Ave, Suite 200, St. Petersburg, FL 33705

Attorney-In-Fact Address

800 Gessner, Suite 600, Houston, TX 77024

Surety Address



POWER OF ATTORNEY

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Dale A. Belis, Marilyn Ann Blome, Donald Bramlage, Edward M. Clark, Christian Collins, F. Danny Gann, David R. Hoover, Jarrett Merlucci, Laura D. Mosholder, Charles J. Nielson, Jessica P. Reno, Audria R. Ward, Edward T. Ward, Kevin Wojtowicz, Richard Zimmerman, Charles D. Nielson, Brett M. Rosenhaus

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.



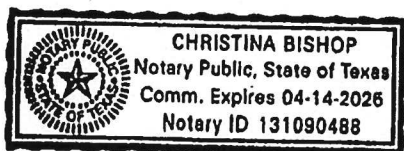
GREAT MIDWEST INSURANCE COMPANY

BY

Mark W. Haushill
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY

Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 16 Day of March, 20 22.



BY

Leslie K. Shaunty
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/15/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER McGriff Insurance Services 517 North Church Street Thomaston, GA 30286 706 647-8121		CONTACT NAME: PHONE (A/C, No, Ext): 706 647-8121 FAX (A/C, No): 888-831-8407 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A : Amerisure Insurance Company NAIC # 19488 INSURER B : Hartford Fire Insurance Company 19682 INSURER C : Ironshore Specialty Insurance Company 25445 INSURER D : INSURER E : INSURER F :	
INSURED Summit Construction and Development LLC 2108 Bentley Drive Stone Mountain, GA 30087			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ BI/PD Ded:5,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	X		CPP21202190002	03/15/2022	03/15/2023	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	X	X	CA21202180001	03/15/2022	03/15/2023	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			CU21202200002	03/15/2022	03/15/2023	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☒ Y ☐ N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	WC21202210001	03/15/2022	03/15/2023	PER STATUTE ☐ OTH-ER ☐ E.I. EACH ACCIDENT \$1,000,000 E.I. DISEASE - EA EMPLOYEE \$1,000,000 E.I. DISEASE - POLICY LIMIT \$1,000,000
B	Leased/Rented			20MSE15965	03/15/2022	03/15/2023	Limit: \$175,000
C	Pollution			EC1003E00	03/15/2022	03/15/2023	Limit: \$5,000,00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

** Workers Comp Information **

Proprietors/Partners/Executive Officers/Members Excluded:

Ruben Duran, Company Owner

** Supplemental Name **

(See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

City of Johns Creek Neil Trust 11360 Lakefield Drive Johns Creek, GA 30097	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
---	--

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DESCRIPTIONS (Continued from Page 1)

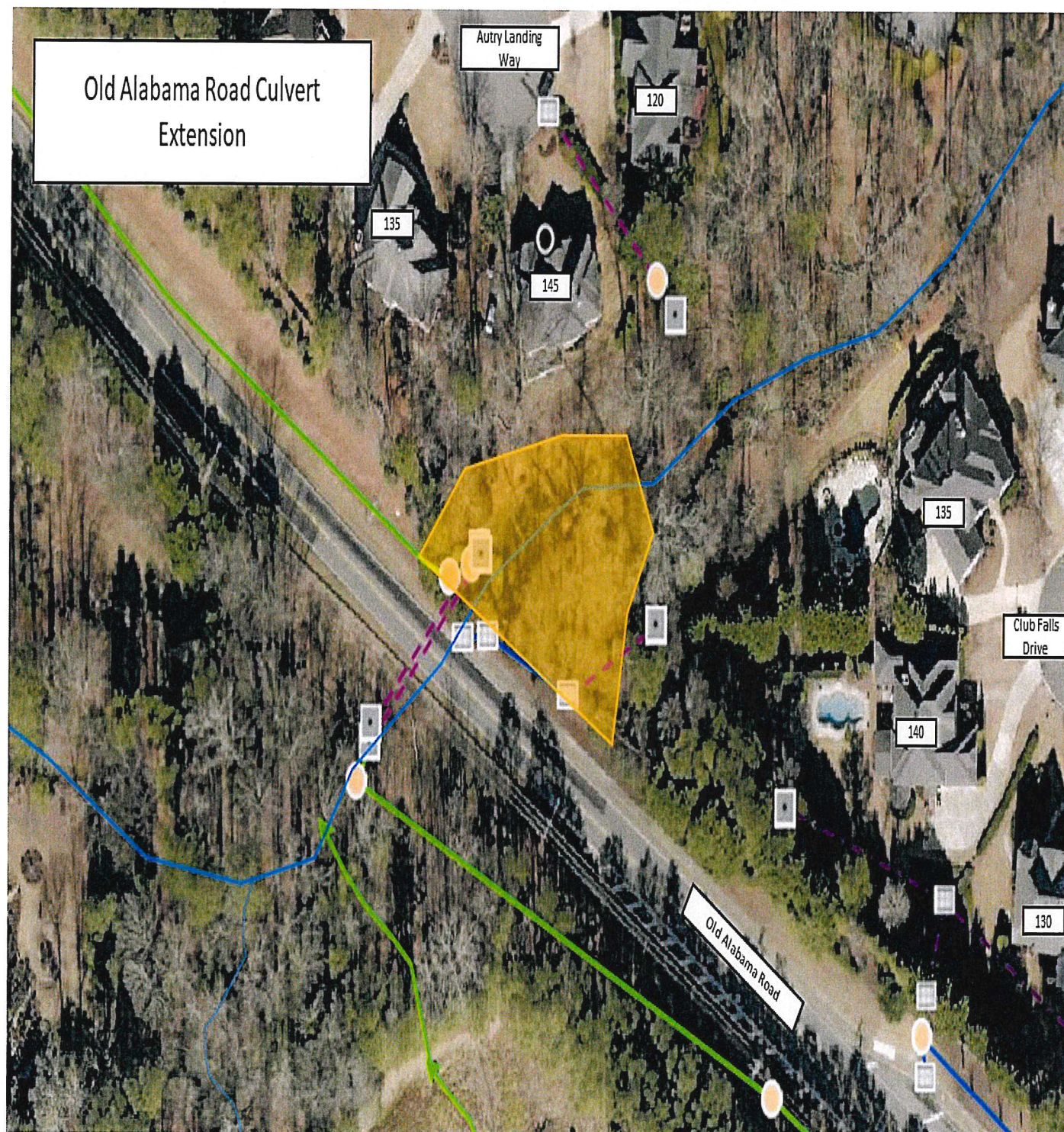
First Supplemental Name applies to all policies - Summit Construction and Development LLC

First Supplemental Name applies to all policies - Express Hauling and Dumpsters LLC

First Supplemental Name applies to all policies - Summit Construction and Development LLC

EXHIBIT D.

MAP



**PROFESSIONAL ENGINEERING SERVICES
CONTRACT AGREEMENT (RFQ #20-154)
TASK ORDER #56**

**CONSTRUCTION ENGINEERING & INSPECTION
OLD ALABAMA ROAD CULVERT EXTENSION**

SCOPE OF SERVICES

This TASK ORDER between the parties is entered pursuant to the CONTRACT AGREEMENT (RFQ #20-154), and shall serve as authorization by the City of Johns Creek to Wood Environment & Infrastructure Solutions, Inc. (“CONSULTANT”) to perform the services described herein pursuant to the terms and conditions, mutual covenants and promises provided herein and in the CONTRACT AGREEMENT (RFQ #20-154). Now therefore, the parties agree as follows:

Location of Project:

This project is within the Falls of Autry Mill subdivision adjacent Old Alabama Road.

Description of Services: The services to be performed by the CONSULTANT pursuant to this TASK ORDER (the “WORK”), include, but are not limited, to the following:

Provide Construction Engineering & Inspection services to include the following:

TASK 1- CEI Services:

- Assure proper coordination of all stakeholders including utility companies.
- Maintain organized, accurate and complete records of all events and activities associated with the project. These will include but not be limited to project diaries, Materials Certification Logs, tickets and any quantity computation documentation. The consultant is expected to measure pay item quantities to verify contractor pay requests. All documents will be kept current and available for inspection and audit by the City for the duration of the project.
- Provide interpretations of the specifications and special provisions.
- Make minor adjustments to the construction plans and/or corresponding documentation to better fit field conditions.
- Periodically review and verify the horizontal and vertical accuracy of the contractor’s work. The consultant shall periodically review and check the “lines and grade” on all phases of work including sub-grade, base installations, curb and gutter, etc. where required.

- Provide periodic inspection of the contractor's construction survey and staking where required.
- Act as the representative of the City, while in the field and to make recommendations to the City to resolve issues and disputes which may arise in relation to the construction contract.
- Maintain an appropriate number of qualified staff on sites during contractor operations.
- Review and recommend approval of all contractor invoices and forward invoices to the City for payment. A cost summary sheet shall be included with all invoices. The cost summary sheet shall show all quantities incorporated into the project for that reporting period. These quantities shall be reviewed, verified and checked by the consultant. The summary sheet will have individual line items for each pay item in the construction package. Verified cost summary sheets shall be submitted to the City by the consultant by the 10th of each month.
- Forward complete project file and records to the City at project close-out.
- Conduct meetings, as appropriate, between parties associated with this contract and provide minutes from these meetings to the City and the project file.
- Conduct a pre-construction meeting. Discuss scope of the project, the project schedule (including liquidated damages), testing requirements, reporting requirements, erosion control, traffic control, bulletin board requirements, and expected quality of the contractor's work.
- Maintain a current certified log of all materials and their supplier entering and being incorporated into the project.
- Assure that materials sampling and testing is performed by the CONSULTANT. Material testing, such as breaking concrete cylinders, shall be performed in a GDOT approved Material Testing Laboratory.
- Verify that all materials and applicable concrete mix designs incorporated into the work are from GDOT approved suppliers, and/or that appropriate materials testing is performed by the CONSULTANT and approved. Maintain as part of the project documents current and accurate records of all sampling and materials testing results and material invoices. All materials testing documentation and material invoices shall be in a format which meets GDOT requirements.
- The CONSULTANT will contact the city with ANY item, which significantly changes the character of the original scope of work. The consultant will NOT authorize any additional work without approval of the City.

- Review and assess any claim submitted by the contractor. The City expects that most potential claim situations can be addressed in the field without being “elevated” any further. When the consultant is unable to reach an agreement with the contractor the consultant shall forward the claim to the City with recommendations regarding the disposition of the claim and include back-up information in support of the recommendations.
- Periodically review and verify that the contractor is meeting all NPDES guidelines, if applicable.
- Review and document compliance with all permits issued as part of this project.
- Provide digital photographs of the project sites prior to, during and after construction operations.
- Organize, attend and provide minutes of progress meetings with the prime contractor and any subcontractor whose work is on the current critical path.
- The CONSULTANT shall notify utilities to begin required relocations when construction bids are approved by the City Council. This notification shall indicate the approved contractor’s name, date of the pre-construction meeting and estimated construction start date.
- Coordinate and attend utility relocation meetings with the contractor and utility companies whose facilities are within the project limits and are in conflict with construction. The consultant will be responsible for facilitating the transfer of information between utility companies and the contractor to prevent delays with utility relocation.
- Review and verify that the traffic control procedures implemented by the contractor conform to the City plans and specifications, GDOT specifications and MUTCD requirements. For projects involving detours, the consultant shall verify that proper signing is being maintained.
- Inform & coordinate with all affected businesses and homeowners prior to working at the affected property.
- Provide direction to the contractor as needed and inspect all work, including but not limited to, traffic control, grading, retaining wall construction, resurfacing of roadway, trail construction, drainage improvements, driveway construction, erosion control, and grassing.
- Inspect all work on the project to verify that materials and workmanship meet or exceed GDOT specifications, standards and details, and the plans, details and contract documents including scope of work and approved budgets.

- Provide monthly progress reports to the City.

TASK 2- CMT Services

- Material Testing

CONSULTANT Deliverables to CITY

- All electronic documents, project files, material invoices, tickets, inspection reports, photographs, and permits associated with this project

ITEMS to be provided by CITY

- Bid Package
- Final Plans

Design Specifications and Guidelines: The engineering and design services will be performed in a lump sum approach as follows:

Task 1 – CEI Services	<u>\$ 38,000.00</u>
Task 2 – CMT Services	<u>\$ 2,000.00</u>
TOTAL	<u>\$ 40,000.00</u>

This TASK ORDER is subject to the terms and conditions of the original CONTRACT AGREEMENT (RFQ #20-154) entered between the parties.

General Scope of Service: The WORK under this TASK ORDER is to be commenced upon receipt of “Notice to Proceed” (NTP). The WORK will be completed within 210 calendar days after Notice to Proceed.

The CONSULTANT shall prepare a schedule showing milestone completion dates based on completing the WORK within 210 calendar days (hereinafter referred to as the “Schedule for Completion”), excluding City review time. The Schedule for Completion will be revised to reflect the actual NTP date and will be updated as required throughout the project duration.

Every 30 days commencing with the execution of the TASK ORDER, the CONSULTANT shall submit a report which shall include, but not be limited to, a narrative describing actual work accomplished during the reporting period, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, and any newly planned activities or changes in sequence (hereinafter referred to as “Narrative Report”). No invoice for payment shall be submitted and no payment whatsoever will be made to the CONSULTANT until the Schedule for Completion, and the completion of Narrative Reports are updated and submitted to the City. In no event shall payment be made more often than once every 30 days.

The CONSULTANT shall coordinate and attend periodic meetings with the CITY regarding the status of the TASK ORDER. The CONSULTANT shall submit transmittals of all correspondence, telephone conversations, and minutes of project meetings.

The CONSULTANT shall accomplish all of the pre-construction activities for the TASK ORDER as part of the WORK. The pre-construction activities shall be accomplished in accordance with the all local codes and ordinances (where applicable), the applicable guidelines of the American Association of State Highway and Transportation Officials, current edition, hereinafter referred to as “AASHTO”, the GDOT’s Standard Specifications Construction of Roads and Bridges, current edition, TASK ORDER schedules, and applicable guidelines of the Georgia Department of Transportation.

The CONSULTANT agrees that all reports, plans, drawings studies, specifications, estimates, maps, computations and printouts and any other data prepared under the terms of this TASK ORDER shall become the property of the City. This data shall be organized, indexed, bound and delivered to the City no later than the advertisement of the PROJECT for letting. The City shall have the right to use this material without restriction or limitation and without compensation to the consultant.

The CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of interpreting all designs, drawings, specifications, and other services furnished by or on behalf of the City pursuant to this TASK ORDER. The CONSULTANT shall correct or revise, or cause to be corrected or revised, any errors or deficiencies in the designs, drawings, specifications, and other services furnished for this TASK ORDER. All revisions shall be coordinated with the CITY prior to issuance. The CONSULTANT shall also be responsible for any claim, damage, loss or expense resulting from the incorrect interpretation of provided designs, drawings, and specifications pursuant to this TASK ORDER.

For each “Phase” enumerated in “Design Specifications and Guidelines,” the fees shall be paid for such phase as provided however, the CONSULTANT agrees that fees are earned pursuant to the WORK performed, which in no event shall exceed the amount set forth in the attached Fee Schedule and which hourly rate shall in no event exceed that provided in the Contract Agreement. Accordingly, invoices shall be submitted pursuant to completion of the Work performed based upon percentage completion of the relevant Phase.

Attachments:

Attachment A – Location Map

CONTRACTOR

By: Mirsada.Ilic Digitally signed by Mirsada.Ilic
DN: cn=Mirsada.Ilic
Date: 2022.03.21 16:58:11 -04'00'

Title: Principal in Charge

Name: Mirsada Ilic, Wood E&IS, Inc

Date: March 21, 2022

CITY

By: _____

Title: _____

Name: _____

Date: _____

Location Map:



AGENDA REPORT

To: Honorable Mayor and City Council

From: Kimberly Greer, Assistant City Manager

Agenda: April 11, 2022 – Work Session

Item: Rogers Bridge Art – IGA with Fulton County

Item Summary

Staff recommends approval of an updated Intergovernmental Agreement (IGA) with Fulton County to formalize the process for artist and art selection for the repurposing of the steel from the historic Rogers Bridge. The updated IGA incorporates feedback and best practices shared by Fulton County Department of Arts & Culture and minor revisions requested by the Fulton County Attorney. Additionally, Councilman Tunki has agreed to serve as the Johns Creek City Council representative to the Selection Panel to determine the artist(s) and art project(s). As the IGA works through the formal approval process with both the City and Fulton County Board of Commissioners, staff will coordinate with Fulton County Department of Arts & Culture to convene the Selection Panel members and finalize the project brief for the Expression of Interest.

Background

In 1912, a steel pin truss bridge referred to as Rogers Bridge was built to span the Chattahoochee River connecting what is now Johns Creek to Duluth. Abandoned in the 1960s, the crossing fell into disrepair.

After years of partnership and planning, in November 2019 Council approved the Intergovernmental Agreement (IGA) with Duluth, Fulton County, and Gwinnett County for the construction of the replacement of the bridge. In their unanimous approval, Council expressed excitement about re-establishing pedestrian and cycling connectivity across the Chattahoochee River. The groundbreaking was held on March 29, 2021.

As the City will receive half of the salvaged material or approximately five tons of steel, at the June 21, 2021 Work Session staff discussed with Council their interest in the use of the asset. Council agreed with staff's recommendation to retain select pieces of the bridge for use in Cauley Creek Park for things such as trail markers, informational signage posts, and other park elements. Council acknowledged the requests for salvaged bridge material from community organizations including the Johns Creek Convention and Visitors Bureau, Johns Creek Historical Society, Johns Creek Beautification (Artspot Subcommittee), Johns Creek Art Center, and commercial businesses. Rather than an application process to distribute the salvaged steel, Council asked staff to gather the interested parties to discuss and understand their ideas for the material.

In September 2021, staff hosted a meeting of all identified interested parties including several that became engaged after hearing about the Council discussion. The group discussed the historical significance of the steel, explored ideas to preserve and repurpose the asset as both art and history, and brainstormed next steps in the path forward. The group raised four major ideas for further Council consideration.

After discussing at the November 15, 2021 Work Session, Council reached consensus to pursue art with a geometric repeating pattern and sculpture art. Fulton County expressed interest in participation and Council was receptive to have them as a partner and contributor towards this significant and historic opportunity.

At the February 28, 2022 Council Meeting, Council authorized four Tourism Product Development projects for 2022 including \$50,000 towards the repurposing the steel from historic Rogers Bridge into art. Following Council's approval of the projects, staff has been working through logistics for implementation. As discussed at the March 14, 2022 Work Session, Fulton County Commissioner Liz Hausmann secured \$150,000 towards the project as part of Fulton County's FY2022 Budget. Staff suggested an Intergovernmental Agreement (IGA) could best formalize the roles of the partners and the process for the public art.

In preparation for the March 28, 2022 Work Session, staff drafted an Intergovernmental Agreement as a means to clarify and govern the process to select artist(s) and commission art work(s) to be crafted utilizing the Rogers Bridge steel. After sharing the materials with Council for review, staff shared the draft with Fulton County. As discussed at the March 28, 2022 Work Session, staff collaborated with Fulton County to understand any adjustments that would be appropriate based on their experience and expertise in public art. Council agreed with staff's request to return to the April 11, 2022 Work Session with a finalized IGA incorporating the feedback from Fulton County. Additionally, in Council's discussion of the proposed partnership, two Councilmembers expressed willingness to serve on the Selection Panel for the process. They agreed to coordinate and inform staff of which would serve in that role.

Update

The attached IGA has been finalized and is recommended for Council consideration. The minor adjustments (compared to the original drafted shared at the March 28, 2022 Work Session) are detailed below.

1. Caption and introductory whereas clauses refined with feedback from the County Attorney's Office such as including the date the foundational Rogers Bridge IGA was adopted by Fulton County.
2. Article 1 of the proposed IGA continues to describe the process to create the public art but the beginning of the process is now referred to as an "Expression of Interest" rather than a "Call for Proposals" to align with the jargon used by the industry. The change in term has been carried through the document including Section 1.3, Section 3.1, and Section 3.2.
3. Rather than detail every step in the selection process, the process description has been condensed to summarize the process in Section 1.3 of Article 1.
4. Section 1.5 of Article 1 has been updated to include anticipated post-commission responsibilities. As discussed at the March 28, 2022 Work Session, as a jointly-funded project, the art will be jointly-owned, but it is anticipated the County will conduct annual inspections of the art with a qualified art conservator and the owner of the land on which the public art is situated will be responsible for maintenance and insurance. For example, art located at Cauley Creek Park would be maintained and insured by the City; art located at a Fulton County library in Johns Creek, but on County property would be maintained and insured by the County.
5. Section 1.6 of Article 1 has been updated to include that Selection Panel will make recommendations as to appropriate uses for any remaining pieces of the historic steel if it is not all used in the process of creating public art or for the previously identified plans to incorporate at Cauley Creek Park for things such as trail markers and informational signage posts.
6. Article 2 – Term of Agreement now sets the base term of the Agreement at two years rather than the originally proposed one year. Fulton County suggested a two-year term is more reasonable given the time that is anticipated for the creation of the public art piece(s).

7. Article 4 – Compensation and Consideration has been amended to ensure both parties have taken all appropriate steps to encumber the funds for the project.
8. Article 5 – Legal Responsibilities has been condensed to clarify that neither the City nor the County are waiving any immunity granted by law.
9. Article 10 – Termination and Remedies has been updated to reflect in the event of termination, after paying any outstanding bills, the remaining funds would be returned on a pro-rata basis.

Recommendation

The updated IGA has been reviewed and approved by staff including the City Attorney. Staff recommends the attached IGA with Fulton County to govern the process to create public art from historic Rogers Bridge.

Next Steps

Councilman Tunki has agreed to serve as the Johns Creek City Council representative to the Selection Panel. As the IGA works through the formal approval process with both the City and Fulton County Board of Commissioners, staff will coordinate with Fulton County Department of Arts & Culture to convene the Selection Panel members and finalize the project brief for the Expression of Interest.

Attachment

1. Intergovernmental Agreement with Fulton County – Rogers Bridge Art

**INTERGOVERNMENTAL AGREEMENT
BETWEEN FULTON COUNTY, GEORGIA AND CITY OF JOHNS CREEK, GEORGIA
TO CREATE PUBLIC ART UTILIZING STEEL MATERIAL FROM HISTORIC
ROGERS BRIDGE**

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is entered into this ____ day of _____, 2022, between Fulton County, Georgia (“County”), a political subdivision of the State of Georgia, and the City of Johns Creek, Georgia (“City”), a municipal corporation lying wholly within the County.

WHEREAS, the parties to this Agreement are both governmental units; and

WHEREAS, the County and the City desire to maintain a mutually beneficial, collaborative, efficient and cooperative relationship that will promote the interests of the citizens of both jurisdictions; and

WHEREAS, in 1979, the Fulton County Board of Commissioners established the Fulton County Arts Council to enhance the quality of life of Fulton County residents; and

WHEREAS, the Fulton County Arts Council and the Fulton County Department of Arts & Culture, collectively, serve as Fulton County’s apparatus to support cultural programs and the agency which provides services to Fulton County based nonprofit arts organizations and Fulton County residents including residents of Johns Creek; and

WHEREAS, the County and the City believe the arts are essential to the quality of life of their citizens and to the economic and social health of their communities; and

WHEREAS, on December 4, 2019 (via Agenda Item # 19-0986), the County and the City entered an Intergovernmental Agreement, along with the City of Duluth and Gwinnett County, for the replacement of the historic Rogers Bridge; and

WHEREAS, as part of the creation of the new bridge and public walking trail over the Chattahoochee River, the historic Rogers Bridge was removed in October 2021; and

WHEREAS, the County and the City desire to partner to create public art by one or more artists to ensure that the steel materials from the historic Rogers Bridge is preserved and enjoyed by future generations in recognition of the critical role that the bridge served in Fulton County’s and Johns Creek’s respective history; and

WHEREAS, Article IX, § 3, Paragraph I(a) of the Georgia Constitution authorizes the County and City to enter into an intergovernmental agreement for the provision of facilities or services which they are authorized by law to provide, including for arts programs; and

WHEREAS, the Fulton County Department of Arts & Culture has experience and expertise in selection of artists for public art projects.

NOW, THEREFORE, in consideration of the following mutual obligations, the County and the City agree as follows:

**ARTICLE 1
CREATION OF PUBLIC ART**

- 1.1 This Agreement will govern the creation of public art utilizing the steel material from the historic Rogers Bridge.
- 1.2 To ensure the resultant art product meets the needs of the parties, a Selection Panel, including an elected official from both parties, will determine the artist(s) and public art project(s).
 - 1.2.1 The Selection Panel will include voting members and non-voting members.
 - 1.2.1.1 The voting members will include one elected official from the Fulton County Board of Commissioners and one elected official from the Johns Creek City Council.
 - 1.2.1.2 The non-voting members will include representatives from the Fulton County Arts Council, art professionals, staff from relevant Departments of each party, and community representatives. Community representatives are anticipated to include individuals involved with the Johns Creek Historical Society, Johns Creek Beautification, Johns Creek Arts Center, and the Johns Creek Convention and Visitors Bureau.
- 1.3 The selection process for artists will begin with an Expression of Interest from which eligible applications will be provided to the Selection Panel for review. The shortlisted finalists will be invited to develop detailed proposals for Selection Panel review.
- 1.4 The Fulton County Department of Arts & Culture and City staff will present the recommendations of the Selection Panel for contract award(s) to the Fulton County Board of Commissioners and Johns Creek City Council for approval.
- 1.5 Following the commission of the public art, it is anticipated the Parties will enter into an Intergovernmental Agreement to recognize the joint (City and County) ownership of the public art and maintenance responsibilities. It is anticipated the County will perform a routine inspection of the public art at least once per year by a qualified art conservator in an effort to provide maintenance recommendations. It is anticipated the owner of the land on which the public art is situated (either the City or the County) will be responsible for insuring the public art and any necessary maintenance of the public art.
- 1.6 Following the commission of the public art, the Selection Panel will meet to discuss and make recommendations as to appropriate uses for any remaining pieces of the historic Rogers Bridge steel.

ARTICLE 2 EFFECTIVE DATE/ TERMINATION

The Agreement shall be effective upon the latest date approved by either of the Parties (“Effective Date”).

The Agreement shall commence on the Effective Date and will terminate two years later, unless otherwise terminated pursuant to Article 10 herein.

ARTICLE 3 DUTIES AND RESPONSIBILITIES

Pursuant to this Agreement, each party shall provide the following enumerated services for the selection of artists and creation of public art project(s):

3.1 The County, through the Fulton County Department of Arts & Culture, shall be responsible for:

- a) Running the logistics of the selection process for the artists including preparing the Expression of Interest to call for artists and conveying the Selection Panel to review resumes and work samples as well as subsequent review of detailed proposals from finalists.
- b) Reviewing the decision of the Selection Panel and preparing the recommendation for consideration by the Fulton County Board of Commissioners.
- c) Otherwise cooperating with the City in the performance of this Agreement and providing the City such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

3.2 The City shall be responsible for:

- a) Sharing the Call for Artist / Expression of Interest as released by Fulton County.
- b) Arranging a date and time for the finalists to visit the historic Rogers Bridge steel material.
- c) Reviewing the decision of the Selection Panel and preparing the recommendation for consideration by the Johns Creek City Council.
- d) Otherwise cooperating with the County in the performance of this Agreement and providing the County such documentation and information as it may reasonably request to facilitate the performance of its duties under this Agreement.

ARTICLE 4 COMPENSATION AND CONSIDERATION

4.1 On January 19, 2022, via Item 22-0050, the Fulton County Board of Commissioners allocated \$150,000.00 towards the creation of public art from the historic Rogers Bridge steel as part of the County's adopted Fiscal Year 2022 Budget.

4.2 The City of Johns Creek has allocated \$50,000.00 of Tourism Product Development funds for the creation of public art from historic Rogers Bridge steel as part of the City's Fiscal Year 2022 Budget.

4.3 The intent of the parties is to cover the actual cost of the artist selection and created public art, including any needed foundation(s) for the public art and installation costs, based on the overall budget of \$200,000.00.

4.4 By executing this Agreement, each Party agrees that it has taken all necessary steps to encumber the funds stated in this part to be used for the commission of the artwork.

4.5 If the actual costs are anticipated to be higher than the authorized \$200,000.00 budget, further authorization is required by the parties.

ARTICLE 5 LEGAL RESPONSIBILITIES

Nothing herein shall be construed as a waiver of the County's or the City's sovereign immunity as governmental bodies, or a waiver of any governmental immunities available to the Parties' officers, officials, employees or agents.

ARTICLE 6 EMPLOYMENT STATUS

6.1 All County personnel assigned under this Agreement are and will continue to be employees of the County for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

6.2 All City personnel assigned under this Agreement are and will continue to be employees of the City, or contracted personnel based on other existing arrangements, for all purposes, including, but not limited to: duties and responsibilities, employee benefits, grievance, payroll, pension, promotion, annual or sick leave, standards of performance, training, workers compensation and disciplinary functions.

ARTICLE 7 RECORDKEEPING AND REPORTING

7.1 The Fulton County Department of Arts & Culture shall be the central repository for all project records and make available public records as defined and required by the Georgia Open Records Act, O.C.G.A. § 50-18-70, *et seq.*, O.C.G.A. § 21-2-51 and O.C.G.A. § 21-2-72, now and as they may be amended hereafter. During the term of this Agreement, the County will continue to comply with the applicable provisions of the Georgia Open Records Act.

7.2 Except as limited by any provision of state or federal law, either Party may request, review and access data from the other Party's records relating to this Agreement at a mutually agreed upon time to ensure compliance with this Agreement.

ARTICLE 8 E-VERIFY AND TITLE VI

Each party agrees that it will comply with all E-Verify and Title VI requirements and execute any documents reasonably required related to such compliance. Further, each party agrees that any contracts let for work completed pursuant to this Agreement shall contain all required E-verify and Title VI requirements under applicable law.

ARTICLE 9 AUTHORIZATION

Each of the individuals executing this Agreement on behalf of his or her respective party agrees and represents to the other party that he or she is authorized to do so and further agrees and represents that this Agreement has been duly passed upon by the required governmental agency or council in accordance with all applicable laws and spread upon the minutes thereof. The parties hereto agree that this Agreement is an intergovernmental contract and is entered into pursuant to Article IX, Section III, Paragraph I of the Constitution of the State of Georgia 1983.

ARTICLE 10 TERMINATION AND REMEDIES

Either party may unilaterally terminate this Agreement, in whole or in part, for any reason whatsoever or no reason at all, by providing notice in writing to the other party delivered at least thirty (30) days prior to the effective date of the termination. Upon termination, any remaining funds for the project will be disbursed on the pro rata basis upon which they were provided, and any remaining steel will be returned to the City. The Parties will pay any outstanding verified invoices of the artist(s) for wind down of the commission on the same pro rata basis upon which the funds were provided.

ARTICLE 11 NOTICES

All required notices shall be given by certified first class U.S. Mail, return receipt requested. The parties agree to give each other non-binding duplicate e-mail notice. Future changes in address shall be effective upon written notice being given by the City to the County Department of Arts & Culture or by the County to the City Clerk via certified first-class U.S. mail, return receipt requested. Notices shall be addressed to the parties at the following addresses:

If to the County: Fulton County Department of Arts & Culture
 Attn: Director
 141 Pryor Street SW, Suite 2030
 Atlanta, Georgia 30303

With a copy to: Fulton County Office of the County Attorney
Attn: County Attorney
141 Pryor Street SW, Suite 4038
Atlanta, Georgia 30303

If to the City: City Manager
11360 Lakefield Drive
Johns Creek, GA 30097

With a copy to: City Attorney
11360 Lakefield Drive
Johns Creek, GA 30097

ARTICLE 12 NON-ASSIGNABILITY

Neither party shall assign any of the obligations or benefits of this Agreement.

ARTICLE 13 ENTIRE AGREEMENT

The Parties acknowledge, one to the other, that the terms of this Agreement constitute the entire understanding and Agreement of the parties regarding the subject matter of the Agreement. This Agreement constitutes the entire understanding and agreement between the Parties concerning the subject matter of this Agreement, and supersedes all prior oral or written agreements or understandings. No representation oral or written not incorporated in this Agreement shall be binding upon the City or the County. All parties must sign any subsequent changes in the Agreement.

ARTICLE 14 SEVERABILITY, VENUE AND ENFORCEABILITY

If a court of competent jurisdiction renders any provision of this Agreement (or portion of a provision) to be invalid or otherwise unenforceable, that provision or portion of the provision will be severed and the remainder of this Agreement will continue in full force and effect as if the invalid provision or portion of the provision were not part of this Agreement. No action taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement and will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature. This Agreement is governed by the laws of the state of Georgia without regard to conflicts of law principles thereof. Should any party institute suit concerning this Agreement, venue shall be in the Superior Court of Fulton County, Georgia. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

ARTICLE 15
BINDING EFFECT

This Agreement shall inure to the benefit of, and be binding upon, the respective parties' successors.

ARTICLE 16
COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

(SIGNATURES APPEAR ON FOLLOWING PAGES)

IN WITNESS WHEREOF, the City and County have executed this Agreement through their duly authorized officers on the day and year first above written.

FULTON COUNTY, GEORGIA

Robert L. Pitts
Chair, Board of Commissioners

(SEAL)

Tonya R. Grier
Clerk to Commission

APPROVED AS TO FORM:

Y. Soo Jo, County Attorney

APPROVED AS TO SUBSTANCE:

David Manuel
Director, Fulton County Department of
Arts & Culture

CITY OF JOHNS CREEK, GEORGIA

_____(SEAL)

John Bradberry
Mayor

Allison Tarpley
City Clerk

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:

E. Ronald Bennett, Jr.
City Attorney

Ed Densmore
City Manager

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AGENDA REPORT

To: Honorable Mayor and City Council

From: Kimberly Greer, Assistant City Manager

Date: April 11, 2022 – Work Session

Item: Expansion of Special Events

Item Summary

The concept of expanding special events is constrained by three major factors: (1) resources or budget funds provided for the events, (2) staffing or resources to manage events, and (3) ownership or the extent to which the City wants to control the aspects and elements of the events. Council guidance on the three factors will help staff understand the desired level and type of expansion to the special events offered in Johns Creek. Staff presents suggestions for 13 potential event additions and requests Council direction on budget, staffing, and interest in partnering with other organizations to add events to the City's calendar of special events.

Background

Special events and recreational programs enhance the quality of life for the residents of Johns Creek. With a budget of roughly \$167,000, three full-time recreation staff members, six part-time staff members, a few partnerships, and volunteers, the City puts on a full complement of special events and recreational programs each year as well as adaptive recreation programming for children with special needs. Additionally, at Park Place (in Newtown Park), the City offers a variety of fun, educational and socially engaging activities for Johns Creek residents age 62+. Year-round programs include fitness classes, lunch & learns, movies, birthday celebrations, bocce, book club, bridge, canasta, knitting/crocheting, workshops, and day trips.

The majority of athletic programs in the City are run by partner organizations (like Newtown Recreation and Ocee Park Athletic Association) and a variety of more passive recreation programs are added by other partner organizations (like Autrey Mill Nature Preserve Association) all using the City parks and City park facilities. Programs offered by City park associations include youth soccer, youth lacrosse, youth tennis, youth flag football, youth baseball/softball, nature study, scout badge programs, camps, gardening, and military veterans' activities.

Council sets the special event and programming budget as part of adoption of the annual budget and reviews the events schedule with Council before the event season begins. Staff reviewed the proposed 2022 schedule for special events and programs with the Recreation and Parks Advisory Committee (RPAC) at their February 16, 2022 meeting. After incorporating their feedback, the proposed schedule for special events and programs was discussed with Council at the February 28, 2022 Work Session. Council reviewed and directed staff to move ahead with implementation. A full listing of the approved events is attached for reference.

Following Council's finalization of the base special events and programming, as identified at their Annual Strategic Planning Retreat, Council expressed interest in a follow-up discussion regarding potentially growing

the calendar of City special events. Council agreed the first step would be Council-level discussion at Work Session regarding parameters such as resources (budget, staffing, etc.) and intention for provision method (direct provision or partnerships to support existing events by other organizations).

A related concept that came up at the Annual Strategic Planning Retreat was the idea of expanding the City's use of volunteers. A large part of the way the City team of three full-time recreation professionals are able to run all special events and recreational programming is the use of volunteers. Specifically, the City's Park Place Coordinator spends part of her time managing volunteers. From folks to assist with set-up of a festival to running activities at events, our Park Place Coordinator works with the four area high schools to connect to volunteers as well as answering direct interest from residents that connect with us through our website and express an interest in giving back to their community.

At the Retreat, Council indicated an inclination to expand and formalize the use of volunteers. Mayor Bradberry suggested volunteers could be formalized into a "Creek Corps" with formal ranks and responsibilities and the organized group of volunteers would essentially be on standby to support the new events and programs. Council briefly discussed the idea of releasing the funds included in the FY2022 Budget for an additional entry level staff position to serve as a Volunteer Coordinator and assist with an expanded special event line-up. Such a person could be used to formalize and expand the use of volunteers as a force multiplier to enable the expansion of special events.

Additionally at the March 28, 2022 Work Session, Council discussed the possibility of consolidating the Arts and Culture Board and the Public Art Board. One of the areas for their consolidated purpose suggested by Council was special events. In their preliminary discussion, Council acknowledged the need to differentiate between what types of special events would continue to be reviewed through RPAC versus the consolidated Arts and Culture Board. As Council discusses expansions to the special event listing, if vetting through a citizen board is anticipated (discussed below in the Next Steps section) Council will want to consider which board would be appropriate for which events.

Update

The concept of expanding special events is constrained by three major factors: (1) resources or budgeted funds provided for the events, (2) staffing or resources to manage events, and (3) ownership or the extent to which the City wants to control the aspects and elements of the events. Council guidance on the three factors will help staff understand the desired level and type of expansion to the special events offered in Johns Creek.

#1: Budget / Resources

Context: The FY2022 Budget for special events and programs has been fully allocated to support the event and program schedule approved by Council. To add more special events, more budget resources are required. For the events to be "free" for attendees, from the deposit on food trucks to the face painters and music, most of the features and aspects of the event itself cost the City money. The cost of an event depends on the level of complexity – a typical event costs \$10K with more involved community festivals costing around \$20-\$25K and less involved speaker-driven commemorative events costing around \$5K.

Preliminary Discussion: At the Annual Strategic Planning Retreat, some Councilmembers seemed open to tapping into some of the FY2021 surplus (that rolled into unassigned fund balance at the close of the fiscal year) for additional events in FY2022 with a full complement of additions to be

budgeted in FY2023 as part of the annual budget process. Although Council can use the unassigned fund balance at its discretion, the adopted Budget Policy favors use for unforeseen expenditures and/or one time capital expenditures that do not adding to operations. Operational increases remain in the budget moving forward and create recurring expenditures (for which use of the unassigned fund balance would be inappropriate).

#2: Staffing

Context: In terms of staffing, the current complement of events and programs is essentially the maximum capacity of the existing staff team. Unless it is increasing the quantity of an existing event (like an additional movie in the summer movie series), the existing team (of three full-time equivalents (FTE)) does not have additional bandwidth to add events.

Preliminary Discussion: At the Annual Strategic Planning Retreat, Council acknowledged the bandwidth issue and suggested a potential remedy of utilizing funds in the FY2022 Budget for an additional entry level position to assist managing new events and managing volunteers as a force-multiplier for staff capacity. Of note, when the funds were set aside by the prior Council, members of that body had indicated an interest in using the new entry level position to focus on youth sports. Furthermore, a Councilmember has since indicated an interest in using a new entry level position to focus on arts, culture, and history.

#3: Ownership / Control

Context: The overwhelming majority of events advertised as “City” events are fully run and managed by the City. One of the exceptions is the Johns Creek Arts Festival for which the City partners with Splash Festivals and makes a financial contribution towards event expenses (typically the portable toilet facilities, tent/chair rentals, generator rental, and rental fees from the Atlanta Athletic Club’s Heisman Field). The Recreation and Parks Division staff do not run, manage, or help organize any aspects of the Arts Festival. One of the benefits to directly running events is that the City can directly address challenges or feedback from residents for improvements.

Preliminary Discussion: At the Annual Strategic Planning Retreat, some Councilmembers expressed interest in partnering with community organizations and expanding upon events that were being provided or celebrated in the community.

To ground the discussion of potential new events, staff put together the following listing of 13 potential events. Should Council wish to focus on the financial aspect, the body could essentially pick from the list until a financial threshold (set by the body) is reached. Should Council wish to limit the addition of staffing to one FTE, the responsibilities of that individual (whether or not additional areas like arts and culture could be added) would be impacted based on the number of events and volunteer program they were responsible for managing. The greater the desire and willingness for expansion and the anticipated diversity of duties (special events, arts and culture, volunteer management, history, etc.) will result in additional FTE requests. Finally, the extent to which Council is interested in partnering and relinquishing control for events would be a means by which Council could increase (or decrease) the number of events that can be added.

Events are listed in calendar order in which they would be added to the line-up if Council greenlighted the addition this month. The funding suggested relates to the anticipated activities at the event which is explained below the chart. The events have been listed in two charts – splitting by fiscal year. Both charts include a line

towards the bottom indicating the current spending on special events and programming (in the amount of \$167,000) so that the additions are shown in context.

	FY2022 - New Events	Date	Location	Potential Partner	Funding
1	Juneteenth	June 19, 2022	Newtown Park	Impact Johns Creek	\$5,000
2	Adult Fitness	Year Round	Variety of Parks	Johns Creek Vitality	\$5,000
3	Summer Food Trucks	Summer 2022	Creekside Park	TBD	\$10,000
4	Day of Excellence	August 2022	Creekside Park	TBD	\$10,000
5	Labor Day Picnic	September 2022	Creekside Park	TBD	\$20,000
FY2022 (Proposed Additional)					\$50,000
FY2022 Total (including existing approved special events)					\$217,000

1. Juneteenth Event - Commemorative event to celebrate the freedom of enslaved people in the United States at the end of the Civil War. Food trucks, music, guest speakers, vendors.
2. Adult Fitness - Series of fitness hikes, walks, and health expos to encourage a healthy lifestyle.
3. Summer Food Trucks – Recurring weekly evening of dinner time food trucks (like Thursdays from 5pm – 9pm). Variety of mobile cuisine options with live music and family-friendly entertainment.
4. Day of Excellence – Community celebration of excellence with food trucks, live music, family-friendly games, entertainment, vendors, etc.
5. Labor Day Picnic – Community picnic with food trucks, live music, family-friendly games, entertainment, vendors, etc.

	FY2023 – New Events	Date	Location	Potential Partner	Funding
6	Concert Addition	Fall 2022	Newtown Park	TBD	\$20,000
7	Movie Addition	Fall 2022	Creekside Park	TBD	\$4,000
8	Diwali Festival	November 2022	TBD	Local organizations of Hindus, Jains and Sikhs	\$25,000
9	Hanukah Celebration	December 2022	Newtown Park	TBD	\$7,000
10	Chinese New Year	February 2023	Creekside Park	JC Arts Center	\$10,000
11	Holi Celebration	March 2023	Shakerag Park	Local organizations of Hindus	\$5,000
12	Daffodil Days Carnival	March 2023	TBD	JC Beatification	\$20,000
13	Memorial Day Event	May 2023	Veterans Memorial Walk	JC Veterans Association	\$5,000
(plus repeat of events listed above as new for FY2022 (numbers 1-5))					\$50,000
FY2023 (Proposed Additional)					\$146,000
FY2023 Total (including existing approved special events)					\$313,000

6. Concert Addition - Live music, food trucks, beer/wine.
7. Movie Addition - Family-friendly movies (rated PG) and/or adult-friendly movies (rated PG-13) shown on a large inflatable movie screen. Food trucks, beer/wine sales for adult-friendly movies.
8. Diwali Festival - Festival of Lights, traditional food, music and fireworks
9. Hanukah Celebration - Menorah display, traditional food, music, games, etc.
10. Chinese New Year – Festival with traditional food, dancing, and music

11. Holi Celebration - Festival of Colors celebrating, spring, love and new life. Music, dancing, colored powder, traditional food.
12. Daffodil Days Carnival - Carnival celebrating spring and the blooming of daffodils. Music, performances, food trucks, vendors, crafts & carnival games/rides for children.
13. Memorial Day Event - Commemorative event honoring the men and women who died while serving in the U.S. military. Memorial wreath, guest speakers, and light refreshments.

Financial Impacts

Funding for the supported events and programs (through September 30, 2022) would need to be provided as a Budget Amendment to the adopted FY2022 Budget. Funding for supported events and programs scheduled after October 1, 2022 could be included as part of the FY2023 Budget.

Next Steps

To advance any expansion to the special event line up (outside of a purely financial contribution to a partner organization) will require the addition of staff. If the funding for an entry level position is released by Council (requiring a majority to be in consensus), the City Manager can proceed with the process of advertising for and hiring an additional staff member.

Traditionally, the Council has been interested to receive feedback from the Recreation and Parks Advisory Committee regarding the proposed Special Event line-up before it is implemented by the staff team. As the proposed events are new and some of them may be implemented with or by a partner organization, Council has further discretion as to whether or not to ask RPAC for feedback. Additionally, once consolidated and re-seated, the Council may want to differentiate that the special events that are more culturally diverse or involve partnership with outside organizations should be reviewed for feedback by the Arts and Culture Board rather than the Recreation and Parks Advisory Committee.

Attachment

1. FY2022 Approved Special Event and Program Listing

2022 Special Event and Program Schedule

Spring Special Events and Programs:

- March (through November): Free Outdoor Fitness Program
- April 16: Easter Extravaganza / Spring Park Party
- April 16: Adaptive Recreation - Easter Egg Dash
- April 23: Pitch, Hit, and Run
- April 30: International Festival
- May 6: Concert at the Park
- May 13: Adaptive Recreation - Movie Night
- May 21: Touch-A-Truck & Public Safety Day

Summer Special Events and Programs:

- Jun 3: Concert at the Park
- Jun 10: Movie at the Park
- Jul 3: Independence Day Celebration (concert & fireworks)
- Jul 8: Movie at the Park
- Jul 15/16: Johns Creek Aquatic Team (JCAT) – State Swim Meet
- Jul 22: Adaptive Recreation - Bingo Night
- Aug 6: Concert at the Park
- Aug 12: Movie at the Park
- Aug 16 (through October 18): Co-Ed Adult Softball Program
- Aug 20: MLB Playball Event

Fall Special Events and Programs:

- Sep 3: Concert at the Park
- Sep 11: Patriot Day Commemoration
- Sep 17: Pup-a-Palooza
- Oct 1: Concert at the Park
- Oct 15/16: Johns Creek Arts Festival
- Oct 19: Trunk-or-Treat Halloween Festival
- Oct 21: Adaptive Recreation - Movie Night
- Nov 4: Adaptive Recreation - Bingo Night
- Nov 12: Honoring Our Veterans

Winter Special Events and Programs:

- Dec 3: Holiday Festival – Reverse Parade and Christmas Tree Lighting and Dreidel Display
- Dec 10: Breakfast with Santa
- Dec 10: Adaptive Recreation – Lunch with Santa

AGENDA REPORT

To: Honorable Mayor and City Council Members

From: Chris Coughlin, Mayor Pro Tempore and Councilmember Post 4

Agenda: April 11, 2022 – Work Session

Item: Resolution Delineating Appropriate Areas for Lights in Newtown Park

Item Summary

I propose the City adopt a Resolution to delineate areas appropriate for permanent lighting in Newtown Park. By addressing this issue before the formal kick-off of the Recreation and Parks Plan update, the City can avoid the distraction of what can be anticipated to be a significant opposition campaign to the mere possibility of adding lighting at Newtown Park. Adopting a Resolution of appropriate areas for lighting would not force the Council to install lights but would alleviate concerns raised by the adjacent residential neighborhoods.

Background

Newtown Park was developed around 1999. Receiving their final plat for neighborhood development on September 8, 1994, the Chartwell neighborhood was developed prior to Newtown Park. Leading up to the construction of Newtown Park, the community engagement and iterations of conceptual design were modified with feedback from the surrounding neighborhoods including Chartwell to limit the inclusion of lights. The Chartwell Homeowners Association's position has been that no lights should be added to Newtown Park citing adverse impact of side-cast lighting, increased impact, increased noise, and increased traffic.

Since the construction of Newtown Park, the Chartwell residents and HOA have actively worked to ensure lights have been kept out of Newtown Park. From zoning hearings to planning process, evidence of Chartwell's opposition to lights is well documented. Both Fulton County's 2006 Newtown Park Master Plan and the City's 2016 Recreation and Parks Strategic Plan detail opposition to lights heard from surrounding residential areas.

To date, none of the sports fields presently has lights although the current Recreation and Parks Strategic Plan calls for adding lighting to the tennis courts. To date, no lighting has been added to any Newtown Park courts or fields.

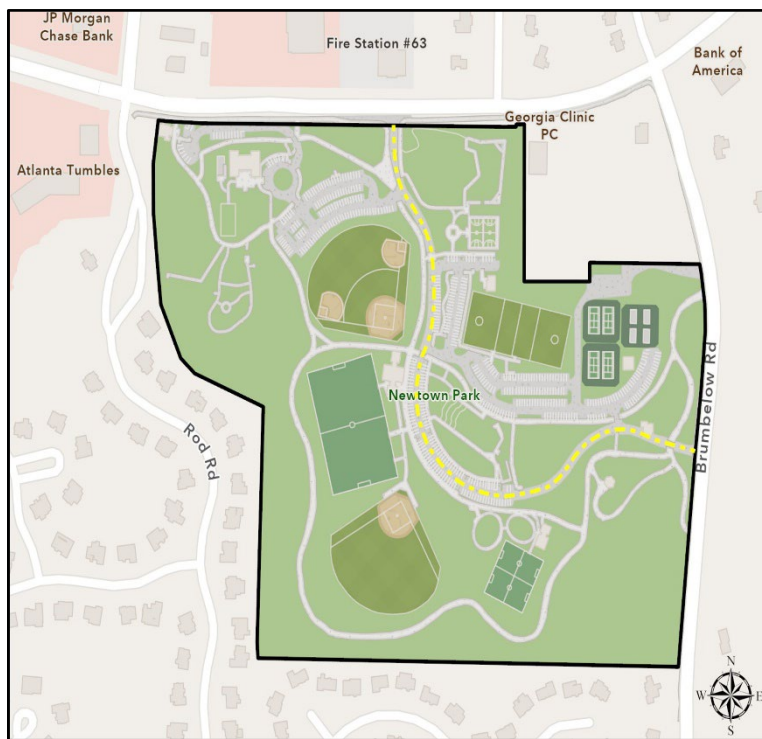
In November 2021, Council was asked by the Jr. Gladiators Lacrosse team to add temporary lights to expand hours for practice. In the winter, light dwindles between 5:30 p.m. and 6:00 p.m. As junior lacrosse, players get out of school and off the bus between 4:30 p.m. and 4:45 p.m.; they have at most an hour of practice before darkness. In February 2022, Council approved a pilot program using temporary, portable lights for 30 days from February 12 - March 12, twice a week on Mondays and Wednesdays until 8:30 p.m. The pilot

program with temporary, portable lighting was designed to enable the lacrosse teams to practice as well as serve as a means that Council could gather feedback to inform either future lighting or discontinue the effort.

Update

Following the lighting pilot program, and spurred by the upcoming update of the Recreation and Parks Strategic Plan, the residents of Chartwell have reached out to discuss lighting. They have requested Council adopt a Resolution by which the City defines a permanent lighting policy for Newtown Park.

As a compromise, rather than staunchly oppose all lighting, they are suggesting the City should divide the park as to where lights are appropriate in the Park versus not appropriate. Using the existing network of park roads a dividing line (shown in yellow) can be established for lights. The fields and park areas north of the Amphitheater would be appropriate for lighting. The areas south of the Amphitheater (and directly adjacent to residential neighborhoods) would not be appropriate for lighting.



Newtown Park - proposed delineation line for lighting shown in yellow

In discussing with staff, lights at Newtown Park are presently unbudgeted and not identified as a priority in any adopted plans. Staff does anticipate lights in the parks will be discussed with the community as part of the upcoming Recreation and Parks Plan update.

Recommendation

I propose the City adopt a Resolution to delineate areas appropriate for permanent lighting in Newtown Park. Doing so would diffuse the situation related to lighting in Newtown Park. By addressing this issue before the formal kick-off of the Recreation and Parks Plan update, the City can avoid the debate of lights at Newtown since we've established the appropriate boundaries of potential lighting for now and in the future.

Adopting a Resolution of appropriate areas for lighting would not force the Council to install lights and if permanent lights were suggested as a prioritized project out of the Recreation and Parks Strategic Plan, they would still have to be budgeted for implementation.

A draft Resolution is attached. After any revisions by Council, the Resolution could be considered for adoption at a future Council Meeting.

Attachment

1. Resolution

**A RESOLUTION DELINEATING APPROPRIATE AREAS FOR LIGHTING AT
NEWTOWN PARK**

WHEREAS, Newtown Park was constructed by Fulton County around 1999 following a community engagement process including feedback from the adjacent neighborhoods; and

WHEREAS, based on feedback from the adjacent neighborhoods regarding the conceptual design of a proposed community park, Newtown Park was constructed without lights on the courts and fields; and

WHEREAS, following incorporation, the ownership and maintenance of Newtown Park was transferred from Fulton County to the City of Johns Creek; and

WHEREAS, the City of Johns Creek adopted its first Recreation and Parks Strategic Plan (the “Plan”) in 2016 and the Plan outlines a prioritization for future improvements to the park system including Newtown Park; and

WHEREAS, the residents of the neighborhoods surrounding Newtown Park were active in the planning process leading up to the adoption of the Plan and continue to vocalize opposition to lights in Newtown Park; and

WHEREAS, the City of Johns Creek conducted a lighting pilot program in the spring of 2022 to gauge the potential impact of lighting the Newtown Park lacrosse field located north of the Mark Burkhalter Amphitheater; and

WHEREAS, the City of Johns Creek will be updating the Recreation and Parks Strategic Plan in 2022 to outline and prioritize future improvements to the park system including Newtown Park; and

WHEREAS, to balance the needs of the community to use the fields and courts with the needs of the adjacent neighborhoods with City of Johns Creek desires to delineate appropriate areas for lighting at Newtown Park.

NOW, THEREFORE BE IT RESOLVED that the Mayor and City Council hereby adopt the attached map labeled as “Exhibit A” which uses the existing park roads to establish the dividing line for areas where it would be acceptable to add lights. The fields, courts, and park areas north of the Amphitheater would be appropriate for lighting. The fields, courts, and park areas south of the Amphitheater (and directly adjacent to residential neighborhoods) would not be appropriate for lighting.

SO RESOLVED, this _____ day of _____, 2022.

Approved:

**STATE OF GEORGIA
COUNTY OF FULTON**

RESOLUTION 2022-04-XX

John Bradberry, Mayor

ATTEST:

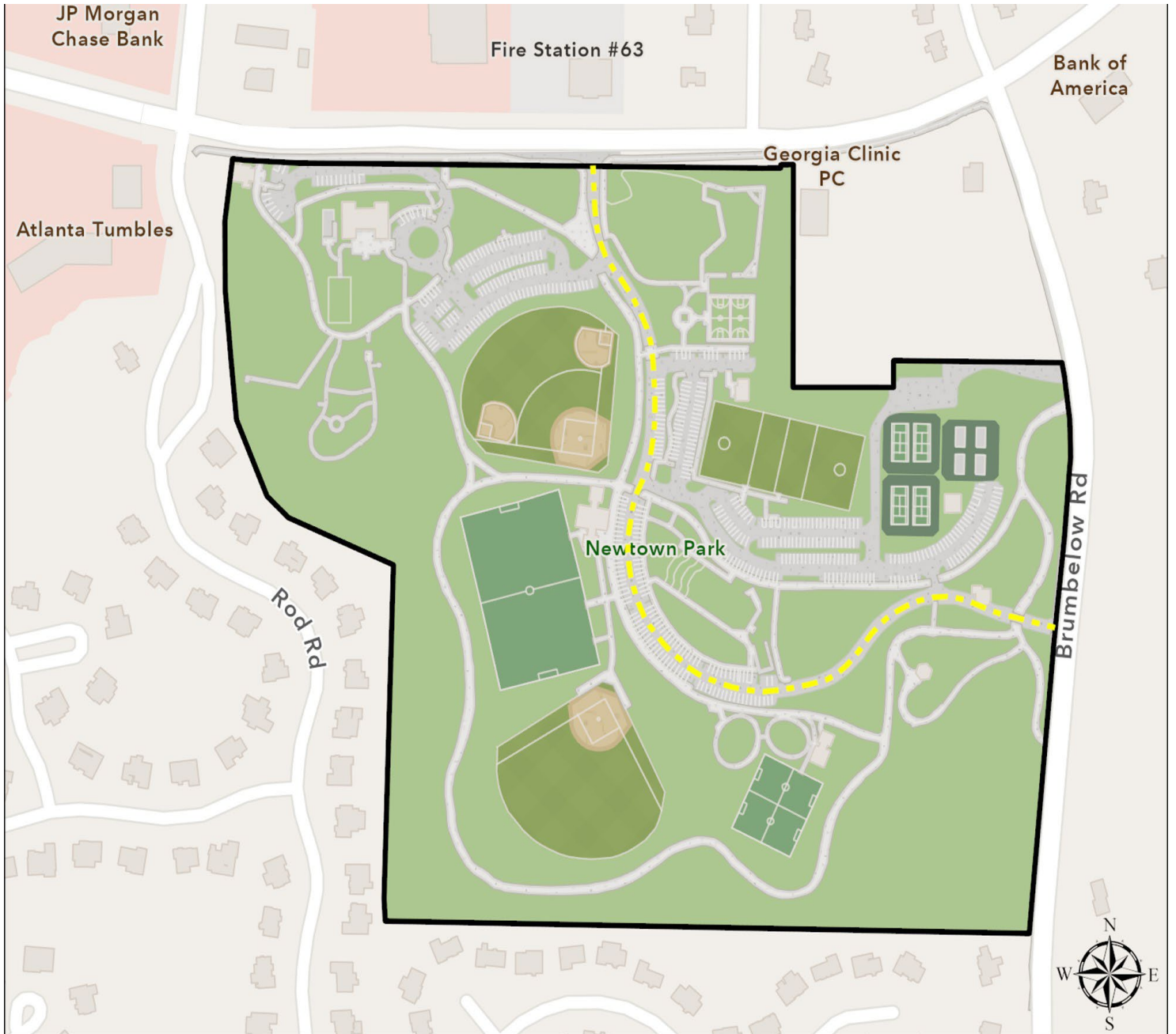
Approved as to Form:

Allison Tarpley, City Clerk

E. Ronald Bennett, Jr., City Attorney

(Seal)

EXHIBIT A



Newtown Park – delineation line for lighting shown in yellow

Areas north of the yellow line are appropriate for lights.

Areas south of the yellow line are not appropriate for lights.

A RESOLUTION TO APPOINT A MEMBER TO POST F TO THE PLANNING COMMISSION FOR THE CITY OF JOHNS CREEK, GEORGIA

WHEREAS, the City of Johns Creek is authorized by the City Charter to create Boards, Commissions and Authorities as the Mayor and City Council deem necessary; and

WHEREAS, the Mayor and Council passed Ordinance 2006-12-42 establishing a City of Johns Creek Planning Commission on January 22, 2007; and

WHEREAS, the Planning Commission has staggered terms as required by Ordinance 2009-01-04 and the staggered two year terms are designated by Posts A, B, C, D, E, F, and G; and

WHEREAS, Member Emmett Shaffer resigned from post F and the Mayor and Council desire to appoint a new member to complete the unexpired term which ends on February 28, 2023; and

WHEREAS, the Mayor of the City of Johns Creek is authorized to appoint members of the Planning Commission, subject to approval by the Council of the City of Johns Creek.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Johns Creek while in a regularly scheduled meeting on April 11, 2022 the following citizens are hereby appointed as a member of the Planning Commission with their two-year term to expire February 28, 2023:

POST F: Arthur Holst (Term Expires 2/28/2023)

Approved:

John Bradberry, Mayor

Attest:

Allison Tarpley, City Clerk

(SEAL)

AGENDA REPORT

To: Honorable Mayor and City Council Members

From: Ronnie Campbell, Finance Director

Agenda: April 11, 2022 Work Session

Item: FY2022 Mid-Year Budget Amendment

Item Summary

Staff has prepared the FY2022 Budget Amendment to capture activity authorized by Council since the March Budget Amendment, account for an unbudgeted revenue, and account for unbudgeted expenditures.

Background

The City's fiscal year runs October 1 – September 30. Following the City's financial policies, budget amendments are considered as changes arise to maintain the accuracy of the budget. The City typically amends the budget at least three times during the year – first to rollover encumbrances from the prior fiscal year, second the mid-year amendment to capture activity since the initial amendment, and third to close-out the year and prepare for the audit process. Additionally amendments are completed throughout the year if needed to address something in a more timely fashion.

To date, the FY2022 Budget has been amended three times since it was adopted in September 2021. The first Budget Amendment (approved on October 25 2021) was done to fully fund the construction of Cauley Creek Park. The second Budget Amendment (approved December 31, 2021) funded the purchase of fire apparatus through the Vehicle Replacement Fund. The third Budget Amendment (approved on February 28, 2022) provide rollover of two encumbrances, closed 24 completed projects, adjusted the E911and the TSPLOST funds to reflect Council action and consensus reached since the adoption of the Budget.

Update

The following eight actions are being recommended as part of the FY2022 Mid-Year Amendment:

1. LMIG Fund – Fund 250

Fund/Object/Project	Project Description		DR	CR
2500000-331150	Revenue	Increase		\$82,907
2500000-541420-PW2202	Expenditure	Increase	\$82,907	

As part of the FY2022 Budget development process, we forecasted and programmed revenues and expenditures totaling \$650,000 in LMIG funding from GDOT. We have since received our FY2022 LMIG funding in the amount of \$732,907. Staff is requesting the additional \$82,907 be recognized as revenue and programmed towards the Sidewalk/Trail Additions project PW2202 where the rest of our FY2022 LMIG funding is being utilized

2. Vehicle Replacement Fund – Fund 350

Fund/Object/Project	Project Description		DR	CR
3500000-383000	Use of Fund Balance	Increase		\$33,699
3500000-399999	Use of Fund Balance	Decrease		\$26,301
3500000-542200-PD2252	Expenditure	Increase	\$60,000	

On December 20, 2021, one of the Police Department's vehicles was involved in an accident and later declared a total loss by our insurance provider. The replacement cost for this vehicle including up-fitting costs will be approximately \$60,000. In that this vehicle is assigned to uniform patrol, a replacement vehicle needs to be ordered as soon as possible. The accrued portion of funding within the Vehicle Replacement Fund and the insurance proceeds total \$33,699 will help offset the \$60,000 expenditure being requested. Staff is requesting the budget amendment recognize the \$33,699 in revenue and authorize a use of \$26,301 Fund Balance within the Vehicle Replacement Fund to purchase the replacement vehicle totaling \$60,000.

3. Rivermont Parkway Sidewalk (Yukon Drive to Barnwell Road) Construction - Fund 301

Fund/Object/Project	Project Description		DR	CR
3010000-331150	Revenue	Increase		\$420,475
3010000-399999	Use of Fund Balance	Decrease		\$81,630
3010000-542200-PW2005	Expenditure	Increase	\$502,105	

On January 24, 2022, Council approved an \$819,001 construction contract with Sol Construction, a 10% constriction contingency, and a \$65,804 Construction Engineering and Inspection (CEI) Task order. Council also approved an Intergovernmental Agreement (IGA) with Fulton County for the relocation of the water main along the same stretch of Rivermont Parkway to be completed with the construction of the sidewalk project. The FY2022 Budget needs to be amended to reflect the acceptance of the \$420,475 contribution from Fulton County and formally transfer the \$81,630 from the available balance in capital project PW2005 to fully fund the construction (as approved by Council in January).

4. Bridge Replacement - Bell Road at Cauley Creek Tributary - Construction - Fund 335

Fund/Object/Project	Project Description		DR	CR
3350000-331150	Revenue	Increase		\$275,850
3350000-541420-S0108	Expenditure	Increase	\$275,850	

On January 24, 2022, Council approved a \$1,759,884 construction contract with Williams Contracting Company, LLC, a construction contingency of \$175,988 and a Constriction Engineering and Inspection (CEI)

Task Order for \$121,000. Council also approved an Intergovernmental Agreement (IGA) with Fulton County for the adjustments and/or relocation of water facilities associated with construction of the project. The FY2022 Budget needs to be amended to reflect the acceptance of the \$275,850 contribution from Fulton County to fully fund the project (as approved by Council in January).

5. Seven Oaks Dam - Fund 302

Fund/Object/Project	Project Description		DR	CR
3020000-371100	Revenue	Increase		\$656,263
3020000-541210-PW1974	Expenditure	Increase	\$656,263	

On February 10, 2020 the City approved an Agreement with the Seven Oaks Homeowners Association (HOA) which set their contribution to the construction of the replacement of the dam. As a percentage cost share, the exact amount was to be set following the approval and authorization of the construction contract. On October 11, 2021, Council approved a \$1,115,881 construction contract with Summit Development & Construction LLC and a Construction Engineering and Inspection (CEI) Task Order for \$137,000. To recognize the contribution from the Seven Oaks HOA, the FY2022 Budget needs to be amended to reflect the acceptance of the \$656,263 contribution from Seven Oaks HOA towards the reconstruction of the Seven Oaks dam (approved by Council in October).

6. Budgeted Transfer for Stormwater Assessment

Fund/Object/Project	Project Description		DR	CR
1000000-591610	Operating Transfer	Decrease		\$36,200
1001565-523600	Expenditure	Increase	\$36,200	

As part of the FY2022 Budget, Council adopted an operating transfer of \$36,200 from the General Fund to the Stormwater Utility Fund. This expenditure was to provide the funding necessary to pay the City's stormwater assessment on 39 City-owned parcels. Upon further review, the expenditure should have been budgeted as a General Fund expenditure within the Facilities Department rather than an operating transfer. Staff is requesting the budget amendment reflect the reallocation of the expended funds.

7. TSPLOST

During the February 28, 2022 Meeting, as part of the year-end Budget Amendment, Council approved an amendment to the TSPLOST I Fund to reflect previous Council authorization. The amendment for project TS0108, was incorrectly reflected as \$9,307,158. The corrected budget should be \$8,795,992 which includes outside funding from Fulton County and a developer totaling \$460,743. Staff requests the corrected amount be captured as part of this Budget Amendment for transparency and auditing purposes.

8. TSPLOST II

Voters approved a continuation of TSPLOST or TSPLOST II as part of the November 2021 election. The adopted project list for Johns Creek includes \$6.5M for bridges, \$14.2M for traffic congestion relief, \$3.5M for landscape / streetscape improvements, \$16.2M for operations and safety projects and \$16.5M for pedestrian / bike improvements. Collections for TSPLOST II began April 1, 2022. The FY2022 Budget needs to be amended to establish a separate Fund for TSPLOST II (Fund 336) and to budget the projects in the categories previously as approved by Council.

Fund/Object/Project	Project Description		DR	CR
3360000-343400	Revenue	Increase		\$65,501,474
3360000-520202-TS0201	Project Management	Increase	\$3,275,074	
3360000-579100-TS0203	Budgeted Inflation	Increase	\$5,240,118	
3360000-541210-TS0210	Bridges	Increase	\$6,500,000	
3360000-541420-TS0220	Traffic Congestion Relief	Increase	\$14,200,000	
3360000-541200-TS0230	Landscape/streetscape	Increase	\$3,500,000	
3360000-541210-TS0240	Operations and Safety	Increase	\$16,286,282	
3360000-541420-TS0250	Pedestrian/bike improvements	Increase	\$16,500,000	

Financial Impact

The proposed Mid-Year Budget Amendment would recognize revenue totaling \$1,435,495 towards the funding of current capital projects; allocate \$26,301 from the Vehicle Replacement Fund to offset the purchase of a replacement vehicle; reclassify the operating transfer of funding for the FY2022 stormwater assessments to the Facilities Department with the General Fund operating budget. Additionally it would establish a balanced budget of \$65,501,474 in revenue and expenditures for TSPLOST II in Fund 336.

Next Step

Completing the Mid-Year Budget Amendment for FY2022 as detailed in the attached Ordinance maintains the accuracy of the FY2022 Budget and prepares the City for the FY2023 Budget development process.

Attachment

1. Ordinance Amending Fiscal Year 2022 Budget

**AN ORDINANCE TO AMEND THE FISCAL YEAR 2022 BUDGET FOR THE CITY OF
JOHNS CREEK, GEORGIA, ADOPTING REVENUES, APPROPRIATING THE
EXPENDITURES**

WHEREAS, a Fiscal Year 2022 Budget for each of the funds of the City was adopted by the Mayor and City Council at the Council meeting on September 13, 2021; and

WHEREAS, three Budget Amendments have been adopted since; the first on October 25, 2021 to fully fund the construction of Cauley Creek Park; and the second on December 31, 2021 to fund the purchase of fire apparatus through the Vehicle Replacement Fund; the third on February 28, 2022 to rollover two encumbrances from FY2021, close 24 completed capital projects, and adjust the E911 and TSPLOST funds to reflect Council action and consensus reached since the adoption of the FY2022 Budget; and

WHEREAS, subsequent to the adoption and amendment of the Fiscal Year 2022 Budget, additional revenues have been received and expenditures have been made that need to be appropriately reflected in the Budget; and

WHEREAS, any increase or decrease in appropriations or revenues of any fund or for any department other than those exceptions provided for herein shall require approval of the Mayor and City Council; and

WHEREAS, as provided in Section 6.27 of the City Charter, such amendments to the Fiscal Year 2022 Budget may be made by majority vote of the Mayor and Council at any Council Meeting.

**NOW THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND CITY
COUNCIL OF THE CITY OF JOHNS CREEK THAT:**

Section 1: the Budget Amendment, shown as "Exhibit A" attached hereto and by this reference made a part of this Ordinance, shall be made part of the Fiscal Year 2022 Budget, as amended; and

Section 2: the Fiscal Year 2022 Budget, as amended, is hereby approved and for each City fund replaces the budgets previously adopted for each respective fund originally adopted and amended by the Mayor and Council; and

Section 3: the expenditures shall not exceed the appropriations authorized by this Fiscal Year 2022 Budget or amendments thereto and that expenditures for the fiscal year shall not exceed actual funding available; and

Section 4: the City Manager or his designee may promulgate all necessary internal rules, regulations and policies to ensure compliance with this Budget Ordinance.

SO ORDAINED, this the _____ day of April, 2022.

Approved:

John Bradberry, Mayor

ATTEST:

Approved as to Form

Alison Tarpley, City Clerk

E. Ronald Bennett, Jr., City Attorney

(Seal)

**2022 Budget Amendment
Exhibit A**

LMIG Fund – Fund 250

Fund/Object/Project	Project Description		DR	CR
2500000-331150	Revenue	Increase		\$82,907
2500000-541420-PW2202	Expenditure	Increase	\$82,907	

Vehicle Replacement Fund – Fund 350

Fund/Object/Project	Project Description		DR	CR
3500000-383000	Use of Fund Balance	Increase		\$33,699
3500000-399999	Use of Fund Balance	Decrease		\$26,301
3500000-5442200-PD2252	Expenditure	Increase	\$60,000	

Capital Project Fund - Fund 301

Fund/Object/Project	Project Description		DR	CR
3010000-331150	Revenue	Increase		\$420,475
3010000-399999	Use of Fund Balance	Decrease		\$81,630
3010000-542200-PW2005	Expenditure	Increase	\$502,105	

Seven Oaks Dam - Fund 302

Fund/Object/Project	Project Description		DR	CR
3020000-371100	Revenue	Increase		\$656,263
3020000-541210-PW1974	Expenditure	Increase	\$656,263	

TSPLOST Fund - Fund 335

Fund/Object/Project	Project Description		DR	CR
3350000-331150	Revenue	Increase		\$275,850
3350000-541420-TS0108	Expenditure	Increase	\$275,850	

TSPLOST II - Fund 336

Fund/Object/Project	Project Description		DR	CR
3360000-343400	Revenue	Increase		\$65,501,474
3360000-520202-TS0201	Project Management	Increase	\$3,275,074	
3360000-579100-TS0203	Budgeted Inflation	Increase	\$5,240,118	
3360000-541210-TS0210	Bridges	Increase	\$6,500,000	
3360000-541420-TS0220	Traffic Congestion Relief	Increase	\$14,200,000	
3360000-541200-TS0230	Landscape/streetscape	Increase	\$3,500,000	
3360000-541210-TS0240	Operations and Safety	Increase	\$16,286,2822	
3360000-541420-TS0250	Pedestrian/bike improvements	Increase	\$16,500,000	

Operating Transfer/General Fund - Fund 100

Fund/Object/Project	Project Description		DR	CR
1000000-591610	Operating Transfer Out	Decrease		\$36,200
1001565-523600	Expenditure	Increase	\$36,200	

AGENDA REPORT

To: Honorable Mayor and City Council Members

From: Riki Forney, Construction Manager

Date: April 11, 2022 – Work Session

Item: 2022 Resurfacing Contracts

Item Summary

Staff completed the procurement process for the FY2022 resurfacing efforts and recommends contract awards totaling \$3,277,643. Council approved a project budget of \$3,000,000 for FY2022 and staff is requesting the balance remainder of \$400,000 from FY2021 be utilized. Specifically, staff recommends a contract award to Blount Construction, Inc. in the amount of \$1,438,632 for the main roads; a contract award to Allied Paving Contractors, in the amount of \$1,769,820 for the neighborhood roads resurfacing; and approval of a task order with Accura Engineering and Consulting, Inc. in the amount of \$69,200 for Construction, Engineering and Inspection (CEI) services. The resurfacing work is anticipated to start in May 2022 and be completed by October 2022.

Background

In 2015, the Council set a target Pavement Quality Indicator (PQI) score of 70 and committed to funding an annual investment to improve the quality of the roadways to maintain a PQI score of 70. After resurfacing every roadway originally scored below a PQI of 70, In January 2018, the City completed a new pavement study. The updated assessment showed the overall conditions of the roadways had improved and a continued annual investment of \$3M (approximately \$1M on main roadways and \$2M on neighborhood roadways) could be expected maintain a PQI score of 70 for the next five years.

Update

Council set aside \$3M as part of the FY2022 Budget to continue the City's efforts to resurfacing neighborhood and main roads. Based on PQI scores, the following roads should be resurfaced in 2022:

Main Roads:

- East Fox Court (from Jones Bridge Road to City Limit)
- State Bridge Rd (from Medlock Bridge Road to Camden Way)
- Abberley Cove (servicing Morton Road Park)
- McGinnis Ferry Road (Eastbound Bell Road to City Limits)
- Brumbelow Road (from Old Alabama Road to Nesbit Ferry)

Neighborhoods:

- Spring Garden
- Medlock Bridge
- Lakehill
- Bridgestone
- Creekside Crossing
- Parsons Station

Staff solicited bids for resurfacing main and neighborhood roads. The City received four bids for main roads that ranged from \$1,438,632 to \$1,692,968. Also, the City received four bids for neighborhoods that ranged from \$2,234,417 to \$2,748,545. Staff recommends awarding the main roads resurfacing contract to Blount Construction, Inc. and the neighborhood roads resurfacing contract to Allied Paving Contractors who were the respective lowest responsive and responsible bidders. The bid summaries and purchasing recommendations are attached. Additionally, staff recommends a task order with Accura Engineering and Consulting, Inc. for Construction Engineering and Inspection (CEI) services.

Financial Impact

Council budgeted \$3,000,000 in the Infrastructure Maintenance Accrual resurfacing of roadways for Fiscal Year 2022. Additionally, a balance of \$400,000 of funding for resurfacing remains from Fiscal Year 2021 that staff recommends utilizing towards resurfacing this year.

The recommended bid by Blount Construction, Inc. for the main roads is \$1,438,632. The recommended bid by Allied Paving Contractors after quantity revisions for neighborhood resurfacing is \$1,769,820. The recommended Task Order with Accura Engineering & for CEI is \$69,200. The total recommended expenditure of \$3,277,643 is within the project budget of \$3,400,000.

Recommendation

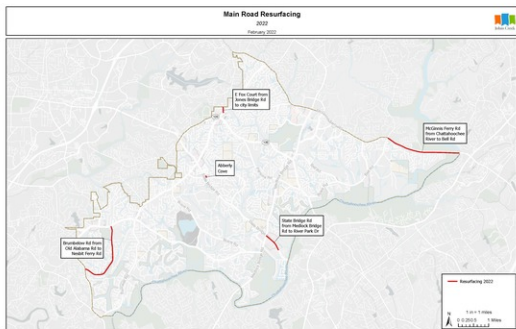
Staff recommends accepting the Blount Construction, Inc. bid in the amount of \$1,438,632 for main roads, Allied Paving Contractors bid in the amount of \$1,769,820 for neighborhoods, and \$69,200 for a task order with Accura Engineering & Consulting Services, Inc. for Construction Engineering and Inspection.

Next Steps

If authorized by Council, staff will complete the contracting process and prepare for the resurfacing efforts. The resurfacing work is anticipated to take approximately six months. After mobilization, the work is anticipated to begin in May 2022 with completion anticipated in October 2022.

Attachments

1. 2022 Resurfacing Map for Main Roads
2. Purchasing Recommendation for Main Roads
3. Construction Contract with Blount Construction, Inc. for Main Roads
4. 2022 Resurfacing Map for Neighborhood Roads
5. Purchasing Recommendation for Neighborhood Roads
6. Construction Contract with Allied Paving Contractors for Neighborhood Roads





MEMO

To: Honorable Mayor and City Council

From: Ronnie Campbell, Finance Director *R. Campbell*

Date: April 11, 2022

Subject: Purchasing Recommendation for ITB #22-080-1 (2022 Main Roads Resurfacing)

The above referenced Invitation to Bid (ITB) was released on February 22, 2022 with a due date of March 21 2022 at 2:00PM. The solicitation was advertised in the Johns Creek Herald, on the City's website, in the State of Georgia Procurement Registry, and on BidNet. Suppliers who registered with the National Institute of Governmental Purchasing (NIGP) codes matching this project specification, received notice of this solicitation from the following two platforms:

DOAS Georgia Procurement Registry	675 Individuals / Firms
BidNet Georgia Purchasing Group	174 Individuals / Firms

No Pre-Bid Meeting was held. Seventeen (17) individuals/firms downloaded bid documents and are plan holders of Bid 22-080-1.

The following (4) proposals were received and reviewed for compliance by the Purchasing Manager on March 21, 2022:

Allied Paving Contractors (Pendergrass, GA)
Blount Construction Company, Inc. (Marietta, GA)
Northwest Georgia Paving (Calhoun, GA)
Stewart Brothers Inc. (Doraville, GA)

The Evaluation Committee consisting of the City Road Construction Manager, Assistant Public Works Director/TSP/LOST Manager, and Purchasing Manager organized and reviewed cost proposals and supporting documents submitted for ITB #22-080-1 (2022 Main Roads Resurfacing).

The City's Purchasing Policy requires award of contract to the lowest responsive and responsible bidder. It is the unanimous decision of the Evaluation Committee to make recommendation of awarding the contract for the above referenced ITB to **Blount Construction Company, Inc.** as the lowest responsive and responsible bid meeting the minimum specifications.

The contractor's cost for the 2022 MAIN ROAD RESURFACING is \$1,438,632.05

This project requires the Mayor and City Council approval per our Purchasing Policy.

Prepared By: *Neil Trust* 2022.04.05
13:35:19 -04'00'

Neil Trust, Purchasing Manager – CPP, GCPA, CPM, GCPM



**CONTRACT AGREEMENT
ITB #22-080-1**

2022 MAIN ROADS RESURFACING

This Agreement made and entered into this ___ day of _____, in the year 2____; by and between The City of Johns Creek, Georgia, having its principal place of business at 11360 Lakefield Drive, Johns Creek, Georgia 30097 and Blount Construction Company, Inc. (“Contractor”), located at 1730 Sands Place, Marietta, GA 30067.

WHEREAS, the City of Johns Creek is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Johns Creek; and

WHEREAS, the City of Johns Creek has caused Invitation to Bid (ITB) #22-080-1 to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected (“Blount Construction Company, Inc.”) is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the ITB #22-080-1 and the Contractor’s submittal was deemed by the City of Johns Creek to be the lowest most responsive, responsible bid meeting the minimum specifications to the City per the scope dated March 21, 2022.

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

The Contractor agrees with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out in each designated area as delineated in Specifications (Exhibit A) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A-SPECIFICATIONS

EXHIBIT B-COST PROPOSAL

EXHIBIT C-IMMIGRATION & SECURITY FORM / REQUIRED DOCUMENTS

EXHIBIT D-MAP

2.0 Key Personnel

The City of Johns Creek enters into this Agreement having relied upon Contractor providing the services

of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

3.1 Pricing. The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the ITB and final pricing documents as incorporated into the terms of the Contract. Unless clearly stated otherwise in the Standard Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as Exhibit "B" and incorporated herein, shall be firm throughout the term of this Contract.

3.2 Billings. If applicable, and unless the ITB provides otherwise, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract. Standard payment terms: Net-30.

3.3 Delay of Payment Due to Contractor's Failure. If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

3.4 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

4.1 The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The term of this Contract shall be for a period from the date the Contractor receives the "Notice to Proceed" until September 30, 2022 when all orders/services issued and postmarked by the City during said term shall be filled at the contract price.

4.2 Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the ITB/RFP and/or Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay. This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

5.1 The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Johns Creek. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Johns Creek Representative within ten (10) day after issuance.

5.2 Inasmuch as the City of Johns Creek and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Johns Creek without the express knowledge and prior written consent of the City.

6.0 Indemnification

6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a weekly basis. If requirements are not met, City of Johns Creek Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have no more than thirty (30) days to remedy the situation.

If requirements are not remedied City of Johns Creek has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- a) Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- b) Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents, submit to City a Notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising from Contractor's failure to perform the work in accordance with the Contract Documents.
- c) Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 13.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change Order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Time and Liquidated Damages

10.1 The Contractor shall not proceed to furnish such services and the City shall not become obligated to pay for same until a written authorization to proceed ("Notice to Proceed") has been sent to the Contractor from the City. The Contractor shall commence the Work no later than ten (10) days after the effective date of the Notice to Proceed and shall achieve Substantial Completion of the Work, as hereinafter defined, no later than September 30, 2022, in accordance with the Contract Documents. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time. The Work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by the parties hereto in writing as provided herein.

The Contractor represents that it has taken all difficulties due to weather conditions into consideration in preparing the proposed Contract Sum and in establishing the time for completion of the Work. the completion time will not be extended for normal bad weather. Time for completion of the Work includes an allowance for calendar days on which work cannot be performed out-of-doors. For the purposes of this Agreement, the Contractor agrees that it expects to lose working days to weather in accordance with the following table:

January-14 days
February-14 days
March-10 days
April-7 days

May-6 days
June-3 days
July-4 days
August-2 days

September-2 days
October-3 days
November-5 days
December-9 days

If the total number of calendar days lost per month due to bad weather exceeds the total monthly calendar days identified in the above table, the contract time will be extended by the number of calendar days needed to include the excess number of days lost. However, the Owner will not be obligated to pay any additional sums resulting from such a delay, including but not limited to overhead and profit.

10.2 The Contractor shall pay the City the sum of \$300.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

11.0 Insurance

11.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

11.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this Agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect.

12.0 Termination

12.1 Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- a) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- b) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;

- c) The Contractor fails to comply with confidentiality laws or provisions; and/or
- d) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

12.2 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Contract:

- a) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- b) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- c) The Contractor fails to make substantial and timely progress toward performance of the contract;
- d) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- e) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- f) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- g) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

12.3 Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- a) Immediately terminate the Contract without additional written notice; and/or
- b) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- c) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

12.4 Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Contractor for work performed to date in accordance with Section 3 herein. The City shall have no further liability to Contractor for such termination.

12.5 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, profit, delay damages or other costs associated with the performance of the

Contract.

12.6 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- a) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- b) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- c) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- d) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- e) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

13.0 CLAIMS and DISPUTE RESOLUTION

13.1 Claims Procedure

- a) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City-directed work as provided in Section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- b) Contractor shall file its Claim within the earlier of: 120 Days from City's final offer in accordance with Section 8; or the date of Final Acceptance.
- c) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- d) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- e) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- f) After Contractor has submitted a fully-documented Claim that complies with all applicable provisions of this Section 13.1, City shall respond, in writing, to Contractor with a decision within sixty (60) Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

13.2 Arbitration

- a) If Contractor disagrees with City's decision rendered in accordance with paragraph 13.1f, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim; failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its Subcontractors.
- b) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:
 - 1. Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
 - 2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
- c) All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of Fulton County.
- d) If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
- e) Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
- f) All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or Subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

14.0 Confidential Information

14.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- a) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- b) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;

- c) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- d) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

14.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

14.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

14.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

14.5 Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

15.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB, as amended, and the Contractor's submittal, the language in the former shall govern.

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

16.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

16.1 Federal Requirements.

16.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Johns Creek contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

- a) Equal Employment Opportunity - The Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- b) Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded;
- c) Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - 1. Any patent that shall result under this Contract; and
 - 2. Any patent rights to which the Contractor purchases ownership with grant support;
- d) Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - 1. The copyright in any work developed under this contract; and
 - 2. Any rights of copyright to which the Contractor purchases ownership with grant support.
- e) Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States, or any of their duly authorized representatives; and
- f) Retention of all required records for three years after the City makes final payment and all other pending matters are closed.

16.2 Georgia Security and Immigration Compliance Act

- a) The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "Exhibit C" and incorporated herein by reference and made a part of this contract.
- b) The Contractor further certifies that any subcontractor employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c) Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

17.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Johns Creek's prior written consent.

18.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

19.0 Drug-Free and Smoke-Free Work Place

19.1 A drug-free and smoke-free work place will be provided for the Contractor's employees during the performance of this Agreement; and

19.2 The Contractor will secure from any sub-contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

19.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

- a) The Contractor has made false certification herein; or
- b) The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

20.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

21.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Johns Creek all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Johns Creek pursuant hereto.

22.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a Monthly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

25.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable:)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF JOHNS CREEK:

BLOUNT CONSTRUCTION COMPANY, INC.

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

ATTEST: _____
Sign

ATTEST: _____
Sign

NAME: _____
Print

NAME: _____
Print

DATE: _____

DATE: _____

SEAL:

SEAL:

EXHIBIT A

Bid Specifications

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Johns Creek Public Works Department (City), requests that interested parties submit formal sealed bids/proposals for the plant mix resurfacing on Johns Creek Main Roads. All roads can be located on the location map provided in this bid package.

Main Road

- State Bridge Road – (Medlock Bridge Road to River Park Drive)
- East Fox Court – (Jones Bridge Road to City Limits)
- Brumbelow Road – (Nesbitt Ferry Road to Old Alabama Road)
- McGinnis Ferry Road-East Bound lanes only – (Bell Road to Chattahoochee River City Limits)
- Abberley Cove

All main road work are to be resurfaced with 1.5” of 12.5mm asphalt, with edge milling of the roadway.

SCOPE OF WORK

- The Contractor shall construct the project per:
- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work and specifications;
- Purchase Order;
- Approved Schedule;
- City of Johns Creek ordinances and regulations;
- OSHA standards and guidelines;
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail and the total price will be corrected.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. The bid basis is for unit pricing. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions. In case of discrepancies between the plans and specifications, the most stringent prevails.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including any to be taken from the finished work have been completed and evaluated. Standard Specification 106 –

Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. **Bidder shall submit (3) references demonstrating experience completing projects of similar scope (please include contact email please).**

The City will inspect the work as it progresses.

Retainage in the amount of 10% of the total amount due on each monthly invoice will be held by the City until project completion and acceptance.

BID QUESTIONS:

All questions related to the project and documents must be asked electronically through BidNet. A response will be made within 72 hours electronically via BidNet. Contact with City staff during the solicitation period is forbidden. Offerors may contact the procurement officer for any clarification on schedule and bid submissions at purchasing@johnscreekga.gov.

PROCUREMENT SCHEDULE:

Bid Release	February 18, 2022
Deadline to Submit Questions	March 14, 2022 5:00 PM ET
<u>Deadline to Submit Bid</u>	<u>March 21, 2022 2:00 PM ET</u>
Anticipated Work Session	March 28, 2022
Anticipated Council Meeting	April 11, 2022
Anticipated NTP	April 18, 2022
Completion Date	September 2022

SPECIAL PROVISIONS

All materials and workmanship associated with this contract shall meet current GDOT Specifications and Standards for construction materials, methods and procedures. Please refer to the GDOT website for the most current versions of the Specifications and Special Provisions.

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

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed by September 30, 2022. Upon Notice of Award the Contractor will be required to submit a Progress Schedule. The Contractor shall be assessed liquidated damages in the amount of \$300.00 per calendar day for any work not completed by the deadline. Liquidated damages shall be deducted from the 10% retainage held by the City.

Normal workday for this project shall be 8:00 AM to 5:00 PM and the normal work week shall be Monday through Friday. The City will consider extended workdays or work weeks upon written request. No work will be allowed on City holidays (a complete list can be found on the City website).

The Contractor shall not install lane closures or perform work or move equipment or materials on the traveled way that interferes with traffic flow between the hours of 6:00 am to 9:00 am and 4:00 pm to 7:00 pm (Monday through Friday), and 9:00 am to 1:00 pm on Sundays.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon notification from the contractor that all work is complete. A Punch List of found deficiencies will be submitted to the contractor upon completion of the Final Inspection. All repairs shall be completed by the Contractor at his expense prior to issuance of Final Acceptance. 10% retainage will be held from the total amount due the Contractor until Final Acceptance of work is issued by the City.

The City will retain 10% of the fee due the Contractor. The retainage will be paid as the final invoice after the project has been completed and accepted. All punch-list work must be complete before release of any retainage.

PERMITS AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

MATERIALS

The city will solicit a task order from a CEI consultant for quality control testing of materials and workmanship incorporated into the project. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications.

Contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing notification signs at all entrances to subdivisions that are to be resurfaced. The notifications are to be installed one day prior to commencement of work. The signs will be furnished by the city. Signs shall be installed on temporary metal stakes driven in the ground or on tripods. Signs are to remain in place until contracted work (except punch-list) has been completed and accepted. No separate payment will be made for this work. The contractor is responsible for returning the signs to the City when the project is complete.

INVOICING

The Contractor shall invoice monthly for work satisfactorily completed. Invoices need to be sent to the City's Project Manager for approval.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

The City reserves the right to add, modify, or delete quantities. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. Contractor will not be entitled to an adjustment of unit price on an item which increased or decreased from the original plan quantity.

All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid

Schedule shall be considered “incidental work”. The bidder shall include the cost for all incidental work in the “Grading Complete” bid item. Contractor will notify the City in writing if quantities of contract items will exceed plan. At no time will contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

All information given concerning existing conditions is for information purposes only. It is the Contractors responsibility to inspect the project site to verify existing conditions prior to submitting their bid.

No adjustment will be made to the bid based on missing or inaccurate information on the plans.

UTILITIES

Contractor shall be responsible for protecting all utilities and for coordinating any utility relocation necessary for the completion of the work.

Contractor shall be responsible for the adjusting to grade of existing utility structures that are incorporated into the work including but not limited to water valves and sewer cleanouts.

All manholes are to be adjusted to grade prior to placement of asphalt per specifications provided by Fulton County. The contractor shall be held responsible for property damage due to unsafe adjusted manholes. Payment for this work will be for each unit. The contractor will also be responsible for the adjustment of all water valves at no additional cost to the city.

Manholes risers will be furnished by Fulton County at no additional cost to the contractor. Pricing for this work is for installation of the manhole risers only.

TRAFFIC CONTROL

The Contractor shall, at all times, conduct his work as to assure the least possible obstruction to the citizens. Work staging and operations shall be conducted in a manner to minimize interference with traffic flow thru existing parking areas. The safety and convenience of the general public and the protection of persons and property shall be provided for by the Contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

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

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the Contractors expense. At no time will Contractor remove regulatory signing which may cause a hazard to the public. The Contractor shall, within 24 hours place temporary pavement markings (paint or removable tape) to match existing pavement markings. No additional payment will be made for this work.

The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The Contractor shall maintain sufficient personnel and equipment (including flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to insure that ingress and egress are safely provided when and where needed.

Two way traffic shall be maintained at all times, utilizing certified flaggers as necessary, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide

access to emergency vehicles and/or emergency personnel through or around the construction area.

All personnel, equipment, and materials required for installing and maintaining traffic control shall be the responsibility of the contractor.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The Contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

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

RIGHTS AND USE OF MATERIAL

Materials excavated within the project limits become the property of the Contractor. The Contractor, at his/her discretion, may elect to incorporate any of the excavated material into his/her work provided and that it is suitable for the intended use. Materials identified to be removed and are unsuitable for the project will be removed from the site by the Contractor. All excavation, placement, hauling and grading of on-site material will be the Contractor's responsibility.

ASPHALT CONCRETE PAVING

Surface course on the main roads shall be a 12.5mm Superpave, Type I, GP 2 only, including bitum material & H lime. (Corrected Optimum Asphalt Content)

The roads shall be topped with 1.5" (165 lbs. /sy.) of topping. This shall include mainlines, deceleration lanes, and turn lanes only.

The plant mix materials from which the asphaltic pavement is manufactured and the plant at which it is manufactured shall meet the requirements of the State of Georgia Department of Transportation (GDOT), Standard specifications, Articles 820; 802; 883; 831; 828; and 882.

Load tickets that meet Georgia Department of Transportation Specifications must accompany all delivered materials. The Contractor must supply copies of all asphalt tickets to the City.

The contractor is not required to use an MTV when placing the surface course material on the main roads in this contract.

COORDINATION

The Contractor shall keep the City updated on the construction schedule, daily work plans and any challenges, setbacks in a timely manner.

THERMOPLASTIC/PREFORMED PLASTIC PAVEMENT MARKINGS

This work shall consist of placement of Thermoplastic Pavement Markings on the asphalt pavement sections and Preformed Plastic Markings with black contrast on the bridge. Final (thermoplastic and preformed plastic) pavement markings shall be placed at least 20 calendar days but no more than 60 calendar days after placement of final asphalt lift. Final pedestrian crosswalk markings shall adhere to the latest standards. Pavement marking materials shall meet GDOT standard specifications and be on the qualified products list.

The 20-day wait period for installing final thermoplastic striping will not count against the available calendar days as long as all other work is complete, including temporary centerline striping, and the road has been re-opened.

SOLID TRAFFIC STRIPE, 24 IN, WHITE

24in. white permanent solid stripe is to be installed as a stop bar at each stop sign where previously existed, or as directed.

SOLID TRAFFIC STRIPE, 5 IN, YELLOW

5in double yellow permanent traffic paint is to be installed at each stop sign of each subdivision entrance approaching main roads for a total length of 120 LF each stripe, at each location.

SIGNAL SYSTEM REPAIR

This work shall consist of repair and installation of loop detectors damaged as a result of the pulverizing, milling, and paving operations. When operations damage existing traffic signal loops, the Contractor shall replace the loops not more than 7 calendar days after final asphalt lift is placed. Contractor shall immediately notify the Traffic Services Manager at (678) 512-3200 when loops are damaged. When loop replacements at an intersection are complete the contractor shall again notify the Traffic Services Manager.

Location of replacement loop detectors and lead-in wire, where practical, shall coincide with original location. If, at the splice location a pull box does not exist, a traffic signal pull box (PB-1) conduit and loop lead-in shall be installed per GDOT specifications and as directed by the Traffic Services Manager. Pull boxes installed shall be on the GDOT qualified products list. Testing of the replacement loop detectors shall be performed at the point where the loop wire is spliced to the existing shielded lead-in wire. There shall be no work or testing required beyond this splice point.

SAFETY

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

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the Contractor fails to accomplish restoration and clean-up within an acceptable period of time. Failure to perform clean-up activities may result in suspension of the work.

REQUIRED BONDS

5% Bid Bond (Contract value).
100% Payment Bond (Contract value).
100% Performance Bond (Contract value)

INSURANCE REQUIREMENTS

The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage

EXHIBIT B
COST PROPOSAL

ITB 22-080-1

2022 Main Roads Resurfacing Received Bid

BidNet Opened 3/21/22 2:15pm

Construction			
MAIN ROADWAY ITEMS (1)			
Code	Description	UOM	QTY
432-5010	MILLING ASPH CONC PVMT VARIABLE DEPTH	SY	53362
653-0120	THERMOPLASTIC PVMT MARKING, ARROW, TP 2	EA	90
653-0170	THERMOPLASTIC PVMT MARKING, ARROW, TP 7	EA	12
653-0210	THERMOPLASTIC PVMT MARKING, WORD, TP 1	EA	4
653-1501	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN , WHITE	LF	36373
653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN ,YELLOW	LF	36081
653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN , WHITE	LF	239
653-1804	THERMOPLASTIC SOLID TRAF STRIPE, 8 IN , WHITE	LF	2113
653-3501	THERMOPLASTIC SKIP TRAF STRIPE, 5 IN, WHITE	LF	16119
653-6004	THERMOPLASTIC SOLID TRAF STRIPE, WHITE	SY	6817
653-6006	THERMOPLASTIC SOLID TRAF STRIPE,YELLOW	SY	21199
402-3130	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, TYPE II, GP 2 ONLY, INCL BITUM MATL & H LIME	TN	8112

Blount Construction Co.	
MAIN ROADWAY	
Unit	Total Cost
\$3.96	\$211,313.52
\$78.75	\$7,087.50
\$157.50	\$1,890.00
\$157.50	\$630.00
\$1.13	\$41,101.49
\$1.13	\$40,771.53
\$13.12	\$3,135.68
\$2.89	\$6,106.57
\$0.44	\$7,092.36
\$5.25	\$35,789.25
\$1.05	\$22,258.95
\$130.85	\$1,061,455.20
Project Total : \$ 1,438,632.05	

Neil Trust-Purchasing Manager

EXHIBIT C

REQUIRED FORMS & DOCUMENTS

CITY OF JOHNS CREEK

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Invitation to Bid (ITB) for which prices have been set. The price or prices offered herein shall apply for the period of time stated in the ITB.

It is understood and agreed that this proposal constitutes an offer, which when accepted in writing by Purchasing Office, City of Johns Creek, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the City of Johns Creek.

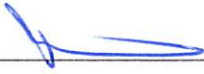
It is understood and agreed that we have read the City's specifications shown or referenced in the ITB and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City of Johns Creek reserves the right to reject any or all submittals, waive technicalities, and informalities, and to make an award in the best interest of the city.

It is understood and agreed that this proposal shall be valid and held open for a period of Seventy Five (75) days from proposal opening date.

PROPOSAL SIGNATURE AND CERTIFICATION

(Offeror to sign and return with proposal)

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

Authorized Signature  Date 03/21/2022

Print/Type Name David Faust

Print/Type Company Name Here Blount Construction Company, Inc.

Purchasing Division

DISCLOSURE FORM

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

not applicable

Amount/Value	Description
	not applicable

	not applicable
--	----------------

227

IMMIGRATION AND SECURITY FORM

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The [Contractor] further certifies that at the time of the execution of this contract, the [Contractor] employs **160** employees.

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

129210

EEV / Basic Pilot Program* User Identification Number

[Signature]
BY: Authorized Officer or Agent
(Contractor Name)
Vice President

03/21/2022

Date

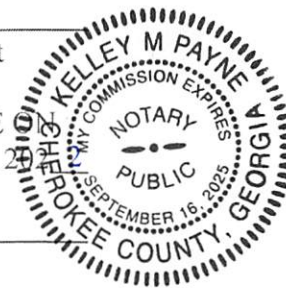
Title of Authorized Officer or Agent of Contractor

David Faust

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
THIS 21 DAY OF March

[Signature]
Notary Public
My Commission Expires: 09/16/2025



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

Purchasing Division



O.C.G.A. § 50-36-1(e)(2) Affidavit
Verifying Lawful Presence in the United States
(Individual submitting proposal on behalf of firm or individual)

By executing this affidavit under oath, as an applicant for a(n) CORPORATION, as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☒ I am a United States citizen.
- ☐ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

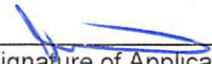
The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

drivers license

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in Marietta (city), Georgia (state).


Signature of Applicant

David Faust, Vice President
Printed Name of Applicant and Title

Subscribed and sworn to before me on

this the 21 day of March, 2022.


(Clerk/Notary Public)

My commission expires: 09/16/2025



Purchasing Division

CERTIFICATION ON SPONSER

DRUG-FREE WORKPLACE

I hereby certify I am a principle and duly authorized representative of
Blount Construction Company, Inc., ("Contractor"), whose address is
1730 Sands Place, Marietta, GA 30067
_____, and I further certify that:

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

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

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

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

CONTRACTOR

Date: 03/21/2022 Signature: 
Print Name: David Faust Title: Vice President

Purchasing Division

LIST OF SUBCONTRACTORS

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

SUBCONTRACTOR	WORK TO BE PERFORMED	% OF THE WORK
PEEK PAVEMENT MARKINGS	STRIPING	10.7 %

Company Name: Blount Construction Co. Inc

- City of Johns Creek requires 51% participation by the Prime Contractor on all projects.
- Prime Contractor required to submit E-verify affidavit's for each Subcontractor performing services. Subcontractor Affidavit OCGA 13-10-91 form.

ITB 22-080-1 NAME Blount Construction Company, Inc.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(Name of Contractor) Blount Construction Company, Inc.

(Address of Contractor) at 1730 Sands Place, Marietta, GA 30067

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

Travelers Casualty and Surety Company of America
(Name of Surety)

1730 Sands Place, Marietta, GA 30067
(Address of Surety)

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

City of Johns Creek Georgia
(Name of Obligee)
10700 Abbotts Bridge Rd., Suite 190, Johns Creek, Georgia 30097
(Address of Obligee)

Hereinafter referred to as Obligee, in the penal sum of Five (5%) Percent of Amount Bid Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to the City of Johns Creek, Georgia, a proposal for furnishing materials, labor and equipment for:
2022 Main Road Resurfacing #22-080-1

TITLE

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

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

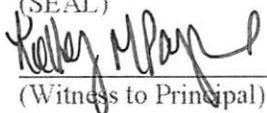
PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Seg. And SS 36-86-101, et. Seg. And is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this 21st day of March A.D., 2022

ATTEST:


(Principal Secretary)

(SEAL)

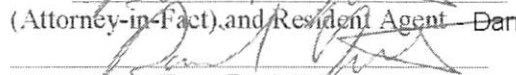

(Witness to Principal)

1730 Sands Place, Marietta, GA 30067
(Address)

(Surety)

ATTEST

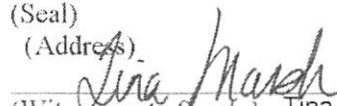
BY:


(Attorney-in-Fact) and Resident Agent Daniel Yates


(Attorney-in-Fact) Daniel Yates

(Seal)

(Address)


(Witness as to Surety) - Tina Marsh

2800 Century Pkwy NE #300

(Address)

Atlanta, GA 30345



BY:

Blount Construction Company, Inc.

(Principal)

David Faust

Vice President

1730 Sands Place, Marietta, GA 30067

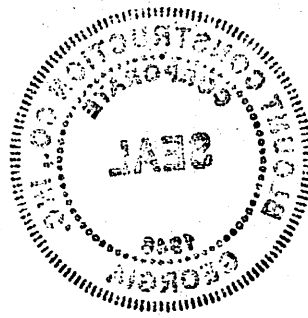
(Address)

Travelers Casualty and Surety Company of America



2800 Century Pkwy NE #300, Atlanta, GA 30345

David H. Hous
1800 Franklin





**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Daniel Yates** of ATLANTA Georgia, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 17th day of January, 2019.



State of Connecticut

City of Hartford ss.

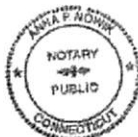
By: _____

Robert L. Raney
Robert L. Raney, Senior Vice President

On this the 17th day of January, 2019, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Anna P. Nowik
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 21st day of March, 2022



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which this Power of Attorney is attached.**



**SURETY BOND ELECTRONIC SIGNATURE & SEAL ADDENDUM
TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**

Travelers Casualty and Surety Company of America ("Travelers") has authorized its Attorneys-in-Fact to utilize an electronic, facsimile, or digital signature (each an "Electronic Signature") to execute bonds on behalf of Travelers and has further authorized its Attorneys-in-Fact to attach this Addendum to any such bonds.

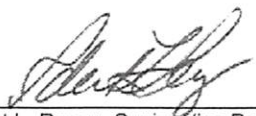
Travelers hereby acknowledges and agrees that the attached bond executed by the Attorney-in-Fact on behalf of Travelers with an Electronic Signature shall have the same force and effect as if executed by the Attorney-in-Fact with a wet ink signature.

Travelers also hereby agrees that the seal below shall be deemed affixed to the attached bond to the same extent as if Travelers' raised corporate seal was physically affixed to the face of the bond.

Dated this 18th day of December, 2020.

Travelers Casualty and Surety Company of America



By: 
Robert L. Raney, Senior Vice President

Request for Taxpayer Identification Number and Certification

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

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. BLOUNT CONSTRUCTION COMPANY, INC.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)
	5 Address (number, street, and apt. or suite no.) See instructions. 1730 SANDS PLACE	Requester's name and address (optional)
	6 City, state, and ZIP code MARIETTA, GA 30067	
7 List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

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

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number											
				-				-			
or											
Employer identification number											
5	8			-	0	6	7	0	9	9	4

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here	Signature of U.S. person ► <i>Kelley Payne</i>	Date ► 2/17/2022
-----------	--	-------------------------

General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Yates Insurance Agency 2800 Century Parkway NE Suite 300 Atlanta GA 30345-		CONTACT NAME: PHONE (A/C, No, Ext): 404-633-4321 FAX (A/C, No): 404-633-1312 E-MAIL ADDRESS: certs@yatesins.com		
INSURED Blount Construction Co Inc 1730 Sands Place Marietta GA 30067		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : BITCO National Insurance Company		20109
		INSURER B : Great American Insurance Company		16691
		INSURER C : BITCO General Insurance Corporation		20095
		INSURER D :		
		INSURER E :		
INSURER F :				

COVERAGES**CERTIFICATE NUMBER:** 980288343**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:			CLP3712983	1/1/2022	1/1/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			CAP3712984	1/1/2022	1/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			TUU033025213	1/1/2022	1/1/2023	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	WC3712982	1/1/2022	1/1/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Subject to policy terms, conditions, forms and exclusions, the insurance coverages afforded by the policies above include the following when required by written contract for the certificate holder and/or entities listed below: Blanket Additional Insured in regards to General Liability for ongoing and completed operations and Automobile Liability; Blanket Primary and Non-Contributory in regards to General Liability; Blanket Waiver of Subrogation in regards to General Liability, Automobile Liability and Workers' Compensation; Per Project Aggregate applies to the General Liability. Umbrella is subject to policy limits, forms, terms, conditions, and exclusions.

See Attached...

CERTIFICATE HOLDER**CANCELLATION**

City of Johns Creek
11360 Lakefield Drive
Johns Creek GA 30097
USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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**ADDITIONAL REMARKS SCHEDULE**Page 1 of 1

AGENCY Yates Insurance Agency		NAMED INSURED Blount Construction Co Inc 1730 Sands Place Marietta GA 30067
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

FORMS:
GL3086 (10/19) - Transportation Contractors Extended Liability Coverage
AP0401 (10/17) - Broadened Coverage - Automobiles
WC000313 (4-84) - Waiver of Our Right to Recover From Others Endorsement
GAI6003 (6/97) - Schedule of Underlying Insurance

Entity: City of Johns Creek



Please review all documents and specifications related to this solicitation.

Addendum Description

Answer to questions asked up until 2/25/22. Pay item 402-4510 changed to 402-3130. Submitting a bid you will acknowledge all addendums electrically.

Notice Modifications

Notice Information	From Value	To Value
No entries		

Category Modifications

Added Categories
No Categories Added
Removed Categories
No Categories Removed

Added Documents[A]

Document	Size	Uploaded Date	Language
Q&A Document 1.pdf [pdf]	2 Kb	02/28/2022 02:59 PM EST	English

Items Modifications

Construction				
1 - MAIN ROADWAY ITEMS				
Code	Description	UOM	Qty	Modification
402-4510	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, TYPE II, GP 2 ONLY, INCL BITUM MATL & H LIME	Ton	8112	Deleted
402-3130	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, TYPE II, GP 2 ONLY, INCL BITUM MATL & H LIME	Ton	8112	Added

Firm: Blount Construction Company, Inc. Acknowledge Addendum #1 Date: 03/21/2022

Questions & Answers - 1

Project 22-080-1 - 2022 Main Roads Resurfacing
Buying Organization The City of Johns Creek

No	Question/Answer	Question Date
Q1	Question: Mix Type Required Can you please clarify what type of asphalt mix you want to use for the final surface on this project? You tell us 12.5mm Type I and II in various parts of the documents. There is only 12.5mm Gp 2 unless you intend to add Polymer to the mix. There is no such thing as 12.5mm Type I or 12.5mm Type II. Answer: In subsection Asphalt Concrete Paving it references 12.5mm Superpave, Type I, Group 2 only, including bitum materials & H lime. Bid quantity sheet will be updated to reflect the preferred pay item.	02/23/2022

Firm: Blount Construction Company, Inc. Acknowledge Addendum #1 Date: 03/21/2022

ITB 22-080-1 Addendum #2

Questions & Answers - 1

Project 22-080-1 - 2022 Main Roads Resurfacing
Buying Organization The City of Johns Creek

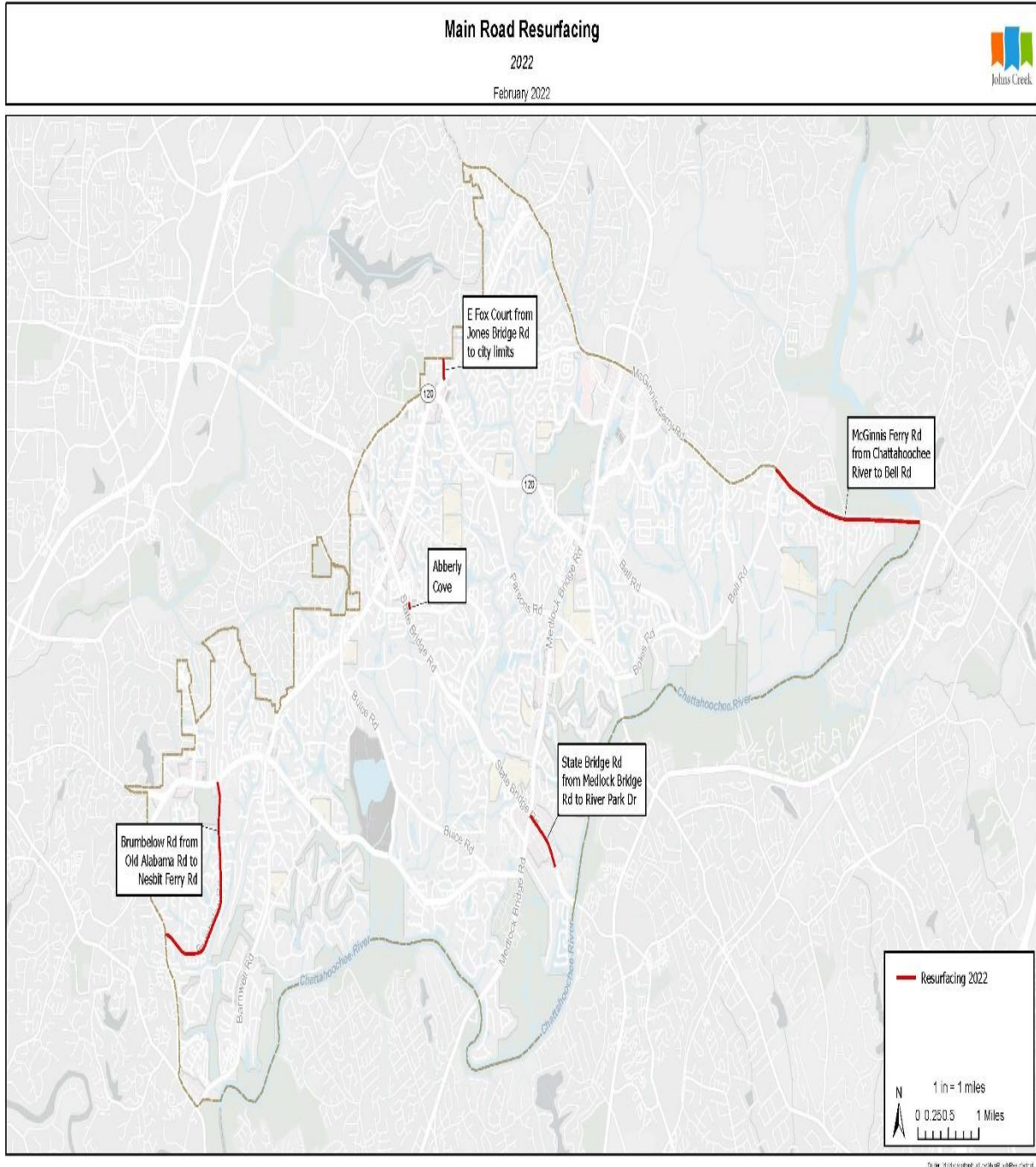
No	Question/Answer	Question Date
Q1	Question: Mix Type Required Can you please clarify what type of asphalt mix you want to use for the final surface on this project? You tell us 12.5mm Type I and II in various parts of the documents. There is only 12.5mm Gp 2 unless you intend to add Polymer to the mix. There is no such thing as 12.5mm Type I or 12.5mm Type II. Answer: In subsection Asphalt Concrete Paving it references 12.5mm Superpave, Type I, Group 2 only, including bitum materials & H lime. Bid quantity sheet will be updated to reflect the preferred pay item.	02/23/2022

We acknowledge receiving the above addendum.

Firm: Blount Construction Company, Inc. Signature:  Date: 03/21/2022

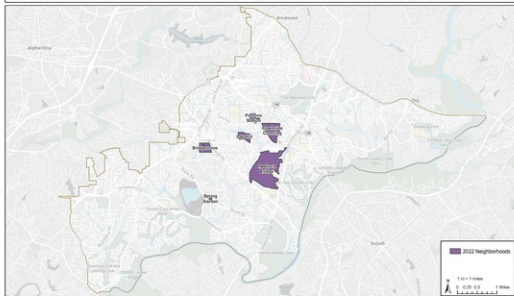
EXHIBIT D.

MAP



2022 Neighborhood Resurfacing

February 09, 2022





MEMO

To: Honorable Mayor and City Council

From: Ronnie Campbell, Finance Director *RC*

Date: April 11, 2022

Subject: **Purchasing Recommendation for ITB #22-080-2 (2022 Neighborhood Roads Resurfacing)**

The above referenced Invitation to Bid (ITB) was released on February 22, 2022 with a due date of March 21 2022 at 2:00PM. The solicitation was advertised in the Johns Creek Herald, on the City's website, in the State of Georgia Procurement Registry, and on BidNet. Suppliers who registered with the National Institute of Governmental Purchasing (NIGP) codes matching this project specification, received notice of this solicitation from the following two platforms:

DOAS Georgia Procurement Registry	667 Individuals / Firms
BidNet Georgia Purchasing Group	174 Individuals / Firms

No Pre-Bid Meeting was held. Nineteen (19) individuals/firms downloaded bid documents and are plan holders of Bid 22-080-2.

The following (4) proposals were received and reviewed for compliance by the Purchasing Manager on March 21, 2022:

Allied Paving Contractors (Pendergrass, GA)
Blount Construction Company, Inc. (Marietta, GA)
Northwest Georgia Paving (Calhoun, GA)
Stewart Brothers Inc. (Doraville, GA)

The Evaluation Committee consisting of the City Road Construction Manager, Assistant Public Works Director/TSPLOST Manager, and Purchasing Manager organized and reviewed cost proposals and supporting documents submitted for ITB #22-080-2 (2022 Neighborhood Roads Resurfacing).

Staff reached out to the firm who submitted the lowest cost proposal to negotiate a revised scope of work quantity at the same unit cost.

The City's Purchasing Policy requires award of contract to the lowest responsive and responsible bidder. It is the unanimous decision of the Evaluation Committee to make recommendation of awarding the contract for the above referenced ITB to **Allied Paving Contractors** as the lowest responsive and responsible bid meeting the minimum specifications.

The contractor's cost for the 2022 NEIGHBORHOOD ROADS RESURFACING is \$1,769,820.00

This project requires the Mayor and City Council approval per our Purchasing Policy.

Prepared By: *Neil Trust* 2022.04.05
13:38:02 -04'00'

Neil Trust, Purchasing Manager – CPP, GCPA, CPM, GCPM



**CONTRACT AGREEMENT
ITB #22-080-2**

2022 NEIGHBORHOOD ROADS RESURFACING

This Agreement made and entered into this ___ day of _____, in the year 2___; by and between The City of Johns Creek, Georgia, having its principal place of business at 11360 Lakefield Drive, Johns Creek, Georgia 30097 and Allied Paving Contractors, Inc. (“Contractor”), located at PO Box 509 / 132 Beck Road, Pendergrass, GA 30567.

WHEREAS, the City of Johns Creek is charged with the responsibility for the establishment of contracts for the acquisition of goods, materials, supplies and equipment, and services by the various departments of the City of Johns Creek; and

WHEREAS, the City of Johns Creek has caused Invitation to Bid (ITB) #22-080-2 to be issued soliciting proposals from qualified Contractors to furnish all items, labor services, materials and appurtenances called for by them in accordance with this proposal. Selected (“Allied Paving Contractors, Inc.”) is required to provide the services as called for in the specifications; and

WHEREAS, the Contractor submitted a response to the ITB #22-080-2 and the Contractor’s submittal was deemed by the City of Johns Creek to be the lowest most responsive, responsible bid meeting the minimum specifications to the City per the scope dated March 21, 2022.

NOW THEREFORE, in consideration of the mutual covenant and promises contained herein, the parties agree as follows:

1.0 Scope of Work

The Contractor agrees with the City to furnish all equipment, tools, materials, skill, labor of every description, and all things necessary to carry out in each designated area as delineated in Specifications (Exhibit A) and complete in a good, firm, substantial and workmanlike manner, the Work in strict conformity with the specifications which shall form an essential part of this agreement. In addition to the foregoing, and notwithstanding anything to the contrary stated herein, the following terms and conditions, amendments, and other documents are incorporated by reference and made a part of the terms and conditions of this Agreement as is fully set out herein:

EXHIBIT A-SPECIFICATIONS

EXHIBIT B-COST PROPOSAL

EXHIBIT C-IMMIGRATION & SECURITY FORM / REQUIRED DOCUMENTS

EXHIBIT D-MAP

2.0 Key Personnel

The City of Johns Creek enters into this Agreement having relied upon Contractor providing the services

of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the City's authorized representative. Any Contractor personnel to whom the City objects shall be removed from City work immediately. The City maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

3.0 Compensation

3.1 Pricing. The Contractor will be paid for the goods and services sold pursuant to the Contract in accordance with the ITB and final pricing documents as incorporated into the terms of the Contract. Unless clearly stated otherwise in the Standard Contract, all prices are firm and fixed and are not subject to variation. Prices include, but are not limited to freight, insurance, fuel surcharges and customs duties. The prices quoted and listed on the attached Cost Proposal, a copy of which is attached hereto as Exhibit "B" and incorporated herein, shall be firm throughout the term of this Contract.

3.2 Billings. If applicable, and unless the ITB provides otherwise, the Contractor shall submit, on a regular basis, an invoice for goods and services supplied to the City under the Contract at the billing address specified in the Purchase Instrument or Contract. The invoice shall comply with all applicable rules concerning payment of such claims. The City shall pay all approved invoices in arrears and in accordance with applicable provisions of City law. Unless otherwise agreed in writing by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the City for any goods or services provided by or on behalf of the Contractor under the Contract. The Contractor shall be solely responsible for paying all costs, expenses and charges it incurs in connection with its performance under the Contract. Standard payment terms: Net-30.

3.3 Delay of Payment Due to Contractor's Failure. If the City in good faith determines that the Contractor has failed to perform or deliver any service or product as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such service or product is performed or delivered. In this event, the City may withhold that portion of the Contractor's compensation which represents payment for services or products that were not performed or delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the City to incur costs, the City may deduct the amount of such incurred costs from any amounts payable to Contractor. The City's authority to deduct such incurred costs shall not in any way affect the City's authority to terminate the Contract.

3.4 Set-Off Against Sums Owed by the Contractor. In the event that the Contractor owes the City any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the City may set off the sum owed to the City against any sum owed by the City to the Contractor in the City's sole discretion.

4.0 Duration of Contract

4.1 The Contract between the City and the Contractor shall begin and end on the dates specified, unless terminated earlier in accordance with the applicable terms and conditions. Pursuant to O.C.G.A. Section 36-60-13, this Contract shall not be deemed to create a debt of the City for the payment of any sum beyond the fiscal year of execution or, in the event of a renewal, beyond the fiscal year of such renewal.

The term of this Contract shall be for a period from the date the Contractor receives the "Notice to Proceed" until September 30, 2022 when all orders/services issued and postmarked by the City during said term shall be filled at the contract price.

4.2 Contract Extension. In the event that this Standard Contract shall terminate or be likely to terminate prior to the making of an award for a new contract for the identified goods and ancillary services, the City may, with the written consent of Contractor, extend this Contract for such period as may be necessary to afford the City a continuous supply of the identified goods and ancillary services.

If not set forth in the ITB/RFP and/or Contractor's submittal, the City will determine the basic period of performance for the completion of any of Contractor's actions contemplated within the scope of this Agreement and notify Contractor of the same via written notice. If no specific period for the completion of Contractor's required actions pursuant to this Agreement is set out in writing, such time period shall be a reasonable period of time based upon the nature of the activity. If the completion of this Contract is delayed by actions of the City, then and in such event the time of completion of this Contract shall be extended for such additional time within which to complete the performance of the Contract as is required by such delay. This Contract may be extended by mutual consent of both the City and the Contractor for reasons of additional time, additional services and/or additional areas of work.

5.0 Independent Contractor

5.1 The Contractor shall be an independent Contractor. The Contractor is not an employee, agent or representative of the City of Johns Creek. The successful Contractor shall obtain and maintain, at the Contractor's expense, all permits, license or approvals that may be necessary for the performance of the services. The Contractor shall furnish copies of all such permits, licenses or approvals to the City of Johns Creek Representative within ten (10) day after issuance.

5.2 Inasmuch as the City of Johns Creek and the Contractor are independent of one another neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both parties hereto. The Contractor agrees not to represent itself as the City's agent for any purpose to any party or to allow any employee of the Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. The Contractor shall assume full liability for any contracts or agreements the Contractor enters into on behalf of the City of Johns Creek without the express knowledge and prior written consent of the City.

6.0 Indemnification

6.1 The Contractor agrees to indemnify, hold harmless and defend the City, its public officials, officers, employees, and agents from and against any and all liabilities, suits, actions, legal proceedings, claims, demands, damages, costs and expenses (including attorney's fees) to the extent rising out of any act or omission of the Contractor, its agents, subcontractors or employees in the performance of this Contract except for such claims that arise from the City's sole negligence or willful misconduct.

6.2 Notwithstanding the foregoing indemnification clause, the City may join in the defense of any claims raised against it in the sole discretion of the City. Additionally, if any claim is raised against the City, said claim(s) cannot be settled or compromised without the City's written consent, which shall not be unreasonably withheld.

7.0 Performance

Performance will be evaluated on a weekly basis. If requirements are not met, City of Johns Creek Procurement will notify the Contractor in writing stating deficiencies, substitutions, delivery schedule, and/or poor workmanship.

A written response from the Contractor detailing how correction(s) will be made is required to be delivered to the City. Contractor will have no more than thirty (30) days to remedy the situation.

If requirements are not remedied City of Johns Creek has the right to cancel this Agreement with no additional obligation to Contractor.

7.1 Final Completion, Acceptance, and Payment

- a) Final Completion shall be achieved when the work is fully and finally complete in accordance with the Contract Documents. The City shall notify Contractor once the date of final completion has been achieved in writing.
- b) Final Acceptance is the formal action of City acknowledging Final Completion. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the City's right under any warranty or guarantee. Prior to Final Acceptance, Contractor shall, in addition to all other requirements in the Contract Documents, submit to City a Notice of any outstanding disputes or claims between Contractor and any of its Subcontractors, including the amounts and other details thereof. Neither Final Acceptance, nor final payment, shall release Contractor or its sureties from any obligations of these Contract Documents or the bond, or constitute a waiver of any claims by City arising from Contractor's failure to perform the work in accordance with the Contract Documents.
- c) Acceptance of final payment by Contractor, or any Subcontractor, shall constitute a waiver and release to City of all claims by Contractor, or any such Subcontractor, for an increase in the Contract Sum or the Contract Time, and for every act or omission of City relating to or arising out of the work, except for those Claims made in accordance with the procedures, including the time limits, set forth in section 13.

8.0 Changes

City, within the general scope of the Agreement, may, by written notice to Contractor, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price, but any claim for such an adjustment must be made within thirty (30) days of the receipt of said written notice.

9.0 Change Order Defined

Change Order shall mean a written order to the Contractor executed by the City issued after the execution of this Agreement, authorizing and directing a change in services. The Price and Time may be changed only by a Change Order.

10.0 Time and Liquidated Damages

10.1 The Contractor shall not proceed to furnish such services and the City shall not become obligated to pay for same until a written authorization to proceed ("Notice to Proceed") has been sent to the Contractor from the City. The Contractor shall commence the Work no later than ten (10) days after the effective date of the Notice to Proceed and shall achieve Substantial Completion of the Work, as hereinafter defined, no later than September 30, 2022, in accordance with the Contract Documents. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the Contract Time. The Work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by the parties hereto in writing as provided herein.

The Contractor represents that it has taken all difficulties due to weather conditions into consideration in preparing the proposed Contract Sum and in establishing the time for completion of the Work. the completion time will not be extended for normal bad weather. Time for completion of the Work includes an allowance for calendar days on which work cannot be performed out-of-doors. For the purposes of this Agreement, the Contractor agrees that it expects to lose working days to weather in accordance with the following table:

January-14 days	May-6 days	September-2 days
February-14 days	June-3 days	October-3 days
March-10 days	July-4 days	November-5 days
April-7 days	August-2 days	December-9 days

If the total number of calendar days lost per month due to bad weather exceeds the total monthly calendar days identified in the above table, the contract time will be extended by the number of calendar days needed to include the excess number of days lost. However, the Owner will not be obligated to pay any additional sums resulting from such a delay, including but not limited to overhead and profit.

10.2 The Contractor shall pay the City the sum of \$300.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the City, estimated at or before the time of executing this Contract. When the City reasonably believes that Substantial Completion will be inexcusably delayed, the City shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the City to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the City has withheld payment, the City shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.

11.0 Insurance

11.1 The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage.

11.2 Contractor shall provide certificates of insurance evidencing the coverage requested herein before the execution of this Agreement, and at any time during the term of this Agreement, upon the request of the City, Contractor shall provide proof sufficient to the satisfaction of the City that such insurance continues in force and effect.

12.0 Termination

12.1 Immediate Termination. Pursuant to O.C.G.A. Section 36-60-13, this Contract will terminate immediately and absolutely if the City determines that adequate funds are not appropriated or granted or funds are de-appropriated such that the City cannot fulfill its obligations under the Contract, which determination is at the City's sole discretion and shall be conclusive. Further, the City may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:

- a) In the event the Contractor is required to be certified or licensed as a condition precedent to providing goods and services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;
- b) The City determines that the actions, or failure to act, of the Contractor, its agents, employees or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized;

- c) The Contractor fails to comply with confidentiality laws or provisions; and/or
- d) The Contractor furnished any statement, representation or certification in connection with the Contract or the bidding process which is materially false, deceptive, incorrect or incomplete.

12.2 Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for the City to declare the Contractor in default of its obligations under the Contract:

- a) The Contractor fails to deliver or has delivered nonconforming goods or services or fails to perform, to the City's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor;
- b) The City determines that satisfactory performance of the Contract is substantially endangered or that a default is likely to occur;
- c) The Contractor fails to make substantial and timely progress toward performance of the contract;
- d) The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the City reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;
- e) The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of the Contract;
- f) The Contractor has engaged in conduct that has or may expose the City to liability, as determined in the City's sole discretion; or
- g) The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property rights of the State, the City, or a third party.

12.3 Notice of Default. If there is a default event caused by the Contractor, the City shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in the City's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, the City may:

- a) Immediately terminate the Contract without additional written notice; and/or
- b) Procure substitute goods or services from another source and charge the difference between the Contract and the substitute contract to the defaulting Contractor; and/or,
- c) Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

12.4 Termination for Convenience. The City may terminate this Agreement for convenience at any time upon thirty (30) day written notice to the Contractor. In the event of a termination for convenience, Contractor shall take immediate steps to terminate work as quickly and effectively as possible and shall terminate all commitments to third-parties unless otherwise instructed by the City. Provided that no damages are due to the City for Contractor's failure to perform in accordance with this Agreement, the City shall pay Contractor for work performed to date in accordance with Section 3 herein. The City shall have no further liability to Contractor for such termination.

12.5 Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by the City, the City shall pay only those amounts, if any, due and owing to the Contractor for goods and services actually rendered up to and including the date of termination of the Contract and for which the City is obligated to pay pursuant to the Contract or Purchase Instrument. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to the City under the Contract in the event of termination. The City shall not be liable for any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, profit, delay damages or other costs associated with the performance of the

Contract.

12.6 The Contractor's Termination Duties. Upon receipt of notice of termination or upon request of the City, the Contractor shall:

- a) Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the City may require;
- b) Immediately cease using and return to the City, any personal property or materials, whether tangible or intangible, provided by the City to the Contractor;
- c) Comply with the City's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract;
- d) Cooperate in good faith with the City, its employees, agents and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
- e) Immediately return to the City any payments made by the City for goods and services that were not delivered or rendered by the Contractor.

13.0 CLAIMS and DISPUTE RESOLUTION

13.1 Claims Procedure

- a) If the parties fail to reach agreement regarding any dispute arising from the Contract Documents, including a failure to reach agreement on the terms of any Change Order for City-directed work as provided in Section 8, or on the resolution of any request for an equitable adjustment in the Contract Sum or the Contract Time, Contractor's only remedy shall be to file a Claim with City as provided in this section.
- b) Contractor shall file its Claim within the earlier of: 120 Days from City's final offer in accordance with Section 8; or the date of Final Acceptance.
- c) The Claim shall be deemed to cover all changes in cost and time (including direct, indirect, impact, and consequential) to which Contractor may be entitled. It shall be fully substantiated and documented. The Claim shall contain a detailed factual statement of the Claim for additional compensation and time, if any, providing all necessary dates, locations, and items of work affected by the Claim.
- d) If an adjustment in the Contract Time is sought: the specific Days and dates for which it is sought; the specific reasons Contractor believes an extension in the Contract Time should be granted; and Contractor's analysis of its Progress Schedule to demonstrate the reason for the extension in Contract Time.
- e) If any adjustment in the Contract Sum is sought: the exact amount sought and a breakdown of that amount into the categories; and a statement certifying, under penalty of perjury, that the Claim is made in good faith, that the supporting cost and pricing data are true and accurate to the best of Contractor's knowledge and belief, that the Claim is fully supported by the accompanying data, and that the amount requested accurately reflects the adjustment in the Contract Sum or Contract Time for which Contractor believes City is liable.
- f) After Contractor has submitted a fully-documented Claim that complies with all applicable provisions of this Section 13.1, City shall respond, in writing, to Contractor with a decision within sixty (60) Days from the date the Claim is received, or with notice to Contractor of the date by which it will render its decision.

13.2 Arbitration

- a) If Contractor disagrees with City's decision rendered in accordance with paragraph 13.1f, Contractor shall provide City with a written demand for arbitration. No demand for arbitration of any such Claim shall be made later than thirty (30) Days after the date of City's decision on such Claim; failure to demand arbitration with said thirty (30) Day period shall result in City's decision being final and binding upon Contractor and its Subcontractors.
- b) Notice of the demand for arbitration shall be filed with the American Arbitration Association (AAA), with a copy provide to City. The parties shall negotiate or mediate under the Voluntary Construction Mediation Rules of the AAA, or mutually acceptable service, before seeking arbitration in accordance with the Construction Industry Arbitration Rules of AAA as follows:
 - 1. Disputes involving \$30,000 or less shall be conducted in accordance with the Southeast Region Expedited Commercial Arbitration Rules; or
 - 2. Disputes over \$30,000 shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA, unless the parties agree to use the expedited rules.
- c) All Claims arising out of the work shall be resolved by arbitration. The judgment upon the arbitration award may be entered, or review of the award may occur, in the Superior Court of Fulton County.
- d) If the parties resolve the Claim prior to arbitration judgment, the terms of the resolution shall be incorporated in a Change Order. The Change Order shall constitute full payment and final settlement of the Claim, including all claims for time and for direct, indirect, or consequential costs, including costs of delays, inconvenience, disruption of schedule, or loss of efficiency or productivity.
- e) Choice of Law and Forum. The laws of the State of Georgia shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of State law. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, such proceeding shall solely be brought in a court or other forum of competent jurisdiction within Fulton County, Georgia. This provision shall not be construed as waiving any immunity to suit or liability, including without limitation sovereign immunity, which may be available to the City.
- f) All Claims filed against City shall be subject to audit at any time following the filing of the Claim. Failure of Contractor, or Subcontractor of any tier, to maintain and retain sufficient records to allow City to verify all or a portion of the Claim or to permit City access to the books and records of Contractor, or Subcontractors of any tier, shall constitute a waiver of the Claim and shall bar any recovery.

14.0 Confidential Information

14.1 Access to Confidential Data. The Contractor's employees, agents and subcontractors may have access to confidential data maintained by the City to the extent necessary to carry out the Contractor's responsibilities under the Contract. The Contractor shall presume that all information received pursuant to the Contract is confidential unless otherwise designated by the City. If it is reasonably likely the Contractor will have access to the City's confidential information, then:

- a) The Contractor shall provide to the City a written description of the Contractor's policies and procedures to safeguard confidential information;
- b) Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;

- c) The Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by the Contractor in connection with the performance of the Contract; and
- d) The Contractor shall provide adequate supervision and training to its agents, employees and subcontractors to ensure compliance with the terms of the Contract. The private or confidential data shall remain the property of the City at all times. Some services performed for the City may require the Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement, if required, may result in termination of the Contract.

14.2 No Dissemination of Confidential Data. No confidential data collected, maintained, or used in the course of performance of the Contract shall be disseminated except as authorized by law and with the written consent of the City, either during the period of the Contract or thereafter. Any data supplied to or created by the Contractor shall be considered the property of the City. The Contractor must return any and all data collected, maintained, created or used in the course of the performance of the Contract, in whatever form it is maintained, promptly at the request of the City.

14.3 Subpoena. In the event that a subpoena or other legal process is served upon the Contractor for records containing confidential information, the Contractor shall promptly notify the City and cooperate with the City in any lawful effort to protect the confidential information.

14.4 Reporting of Unauthorized Disclosure. The Contractor shall immediately report to the City any unauthorized disclosure of confidential information.

14.5 Survives Termination. The Contractor's confidentiality obligation under the Contract shall survive termination of the Contract.

15.0 Inclusion of Documents

Contractor's response submitted in response thereto, including any best and final offer, are incorporated in this Agreement by reference and form an integral part of this agreement. In the event of a conflict in language between this Agreement and the foregoing documents incorporated herein, the provisions and requirements set forth in this Agreement shall govern. In the event of a conflict between the language of the ITB, as amended, and the Contractor's submittal, the language in the former shall govern.

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

16.0 Compliance with All Laws and Licenses

The Contractor must obtain all necessary licenses and comply with local, state and federal requirements. The Contractor shall comply with all laws, rules and regulations of any governmental entity pertaining to its performance under this Agreement.

16.1 Federal Requirements.

16.1.1 Federal Compliance Regulations

Federal regulations apply to all City of Johns Creek contracts using Federal funds as a source for the solicitation of goods and services. Successful bidders must comply with the following Federal requirement as they apply to:

- a) Equal Employment Opportunity - The Contractor shall not discriminate against any employee or applicant or employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- b) Reports - The submission of reports to the City on behalf of the U.S. Department of Housing and Urban Development as may be determined necessary for the activities covered by this contract, which is federally funded;
- c) Patents - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable right to use, and to authorize others to use, for Federal Government purposes:
 - 1. Any patent that shall result under this Contract; and
 - 2. Any patent rights to which the Contractor purchases ownership with grant support;
- d) Copyrights - The U.S. Department of Housing and Urban Development reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:
 - 1. The copyright in any work developed under this contract; and
 - 2. Any rights of copyright to which the Contractor purchases ownership with grant support.
- e) Access to books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purposes of making audit, examination, excerpts and transcriptions by Federal agencies, the Comptroller General of the United States, or any of their duly authorized representatives; and
- f) Retention of all required records for three years after the City makes final payment and all other pending matters are closed.

16.2 Georgia Security and Immigration Compliance Act

- a) The parties certify that Contractor has executed an affidavit verifying that Contractor has registered and participates in the federal work authorization program to verify information of all new employees, per O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02. The appropriate affidavit is attached hereto as "Exhibit C" and incorporated herein by reference and made a part of this contract.
- b) The Contractor further certifies that any subcontractor employed by Contractor for the performance of this agreement has executed an appropriate subcontractor affidavit verifying its registration and participation in the federal work authorization program and compliance with O.C.G.A. 13-10-90, et seq., and Georgia Department of Labor Regulations Rule 300-10-1-02, and that all such affidavits are incorporated into and made a part of every contract between the Contractor and each subcontractor.
- c) Contractor's compliance with O.C.G.A. 13-10-90, et. seq., and Georgia Department of Labor Regulations Rule 300-10-1-02 is a material condition of this agreement and Contractor's failure to comply with said provisions shall constitute a material breach of this agreement.

17.0 Assignment

The Contractor shall not assign or subcontract the whole or any part of this Agreement without the City of Johns Creek's prior written consent.

18.0 Amendments in Writing

No amendments to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of the parties.

19.0 Drug-Free and Smoke-Free Work Place

19.1 A drug-free and smoke-free work place will be provided for the Contractor's employees during the performance of this Agreement; and

19.2 The Contractor will secure from any sub-contractor hired to work in a drug-free and smoke-free work place a written certification so stating and in accordance with Paragraph 7, subsection B of the Official Code of Georgia Annotated Section 50-24-3.

19.3 The Contractor may be suspended, terminated, or debarred if it is determined that:

- a) The Contractor has made false certification herein; or
- b) The Contractor has violated such certification by failure to carry out the requirements of Official Code of Georgia Annotated Section 50-24-3.

20.0 Additional Terms

Neither the City nor any Department shall be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

21.0 Antitrust Actions

For good cause and as consideration for executing this Contract or placing this order, Contractor acting herein by and through its duly authorized agent hereby conveys, sells, assigns, and transfers to the City of Johns Creek all rights, title, and interest to and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Georgia relating to the particular goods or services purchased or acquired by the City of Johns Creek pursuant hereto.

22.0 Reporting Requirement

Reports shall be submitted to the Project Manager on a Monthly basis providing, as a minimum, data regarding the number of items purchased as well as the total dollar volume of purchases made from this contract.

23.0 Governing Law

This Agreement shall be governed in all respects by the laws of the State of Georgia. The Superior Court of Fulton County, Georgia shall have exclusive jurisdiction to try disputes arising under or by virtue of this contract.

24.0 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter contained herein; all prior agreements, representations, statement, negotiations, and undertakings are suspended hereby. Neither party has relied on any representation, promise, or inducement not contained herein.

25.0 Special Terms and Conditions

(Attached are any special terms and conditions to this contract, if applicable:)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers as of the day and year set forth next to each signature.

CITY OF JOHNS CREEK:

ALLIED PAVING CONTRACTORS, INC.

By: _____

By: _____

Title: _____

Title: _____

Name: _____

Name: _____

Date: _____

Date: _____

ATTEST: _____
Sign

ATTEST: _____
Sign

NAME: _____
Print

NAME: _____
Print

DATE: _____

DATE: _____

SEAL:

SEAL:

EXHIBIT A

Bid Specifications

PURPOSE, INTENT AND PROJECT DESCRIPTION

The City of Johns Creek Public Works Department (City), requests that interested parties submit formal sealed bids/proposals for the plant mix resurfacing within (6) Johns Creek subdivisions. All subdivision can be located on the location map provided in this bid package.

Subdivisions within Project Scope

- Spring Garden
- Lakehill
- Creekside Crossing
- Medlock Bridge
- Bridgestone
- Parsons Station

All work within the (6) estimated Subdivisions are to be resurfaced with 1.25" of 9.5mm asphalt, with edge milling on the mainline and branches, and 2" profile mill and replace in the cul-de-sacs.

SCOPE OF WORK

- The Contractor shall construct the project per:
- Georgia Department of Transportation (GDOT) Specifications, Standards, and Details;
- The Contract Documents including but not limited to the scope of work and specifications;
- Purchase Order;
- Approved Schedule;
- City of Johns Creek ordinances and regulations;
- OSHA standards and guidelines;
- Any other applicable codes, laws and regulations including but not limited to Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated, Title VI of the Civil Rights Act, Drug-Free Workplace Act, and all applicable requirements of the Americans with Disabilities Act of 1990.

In case of discrepancy between the unit price and the total price on the completed Bid Schedule, the unit price will prevail and the total price will be corrected.

The contractor will be responsible for providing all labor, materials, and equipment necessary to perform the work. The bid basis is for unit pricing. Payment will be made based on actual work completed.

The contractor is responsible for inspecting the jobsite prior to submitting a bid. No change orders will be issued for differing site conditions. In case of discrepancies between the plans and specifications, the most stringent prevails.

Materials must come from GDOT approved sources. The contractor will be required to submit in writing a list of proposed sources of materials. When required representative samples will be taken for examination and testing prior to approval. The materials used in the work shall meet all quality requirements of the contract. Materials will not be considered as finally accepted until all tests, including

any to be taken from the finished work have been completed and evaluated. Standard Specification 106 – Control of Materials will be used as a guide. All materials will be tested according to the GDOT Sampling, Testing, and Inspection Manual by an approved consultant/lab hired by the City.

The successful bidder must have verifiable experience at construction of similar projects in accordance with these specifications. **Bidder shall submit (3) references demonstrating experience completing projects of similar scope (please include contact email please).**

The City will inspect the work as it progresses.

Retainage in the amount of 10% of the total amount due on each monthly invoice will be held by the City until project completion and acceptance.

BID QUESTIONS:

All questions related to the project and documents must be asked electronically through BidNet. A response will be made within 72 hours electronically via BidNet. Contact with City staff during the solicitation period is forbidden. Offerors may contact the procurement officer for any clarification on schedule and bid submissions at purchasing@johnscreekga.gov.

PROCUREMENT SCHEDULE:

Bid Release	February 18, 2022
Deadline to Submit Questions	March 14, 2022 5:00 PM ET
<u>Deadline to Submit Bid</u>	<u>March 21, 2022 2:00 PM ET</u>
Anticipated Work Session	March 28, 2022
Anticipated Council Meeting	April 11, 2022
Anticipated NTP	April 18, 2022
Completion Date	September 2022

SPECIAL PROVISIONS

All materials and workmanship associated with this contract shall meet current GDOT Specifications and Standards for construction materials, methods and procedures. Please refer to the GDOT website for the most current versions of the Specifications and Special Provisions.

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

PROSECUTION AND PROGRESS

The Contractor will mobilize with sufficient forces such that all construction identified as part of this contract shall be substantially completed by September 30, 2022. Upon Notice of Award the Contractor will be required to submit a Progress Schedule. The Contractor shall be assessed liquidated damages in the amount of \$300.00 per calendar day for any work not completed by the deadline. Liquidated damages shall be deducted from the 10% retainage held by the City.

Normal workday for this project shall be 8:00 AM to 5:00 PM and the normal work week shall be Monday through Friday. The City will consider extended workdays or work weeks upon written request. No work will be allowed on City holidays (a complete list can be found on the City website).

The Contractor shall not install lane closures or perform work or move equipment or materials on the traveled way that interferes with traffic flow between the hours of 6:00 am to 9:00 am and 4:00 pm to 7:00 pm (Monday through Friday), and 9:00 am to 1:00 pm on Sundays.

The work will require bidder to provide all labor, administrative forces, equipment, materials and other incidental items to complete all required work. The City shall perform a Final Inspection upon notification from the contractor that all work is complete. A Punch List of found deficiencies will be submitted to the contractor upon completion of the Final Inspection. All repairs shall be completed by the Contractor at his expense prior to issuance of Final Acceptance. 10% retainage will be held from the total amount due the Contractor until Final Acceptance of work is issued by the City.

The City will retain 10% of the fee due the Contractor. The retainage will be paid as the final invoice after the project has been completed and accepted. All punch-list work must be complete before release of any retainage.

PERMITS AND LICENSES

The Contractor shall procure all permits and licenses, pay all charges, taxes and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

MATERIALS

The city will solicit a task order from a CEI consultant for quality control testing of materials and workmanship incorporated into the project. All materials will meet appropriate GDOT specifications. Materials quality control test types will meet GDOT specifications at a frequency equal to or exceeding that set by those specifications.

Contractor will be responsible for replacing any work performed with material from rejected sample lot at no cost to the City.

PUBLIC NOTIFICATION

The contractor shall be responsible for installing notification signs at all entrances to subdivisions that are to be resurfaced. The notifications are to be installed one day prior to commencement of work. The signs will be furnished by the city. Signs shall be installed on temporary metal stakes driven in the ground or on tripods. Signs are to remain in place until contracted work (except punch-list) has been completed and accepted. No separate payment will be made for this work. The contractor is responsible for returning the signs to the City when the project is complete.

INVOICING

The Contractor shall invoice monthly for work satisfactorily completed. Invoices need to be sent to the City's Project Manager for approval.

EXISTING CONDITIONS / DEVIATION OF QUANTITIES

The City reserves the right to add, modify, or delete quantities. Contractor will be paid for actual in-place quantities completed and accepted for pay items listed in the Bid Schedule. Contractor will not be entitled to an adjustment of unit price on an item which increased or decreased from the original plan quantity.

All other work required by this ITB, plans, specs, standards, etc. but not specifically listed in the Bid Schedule shall be considered "incidental work". The bidder shall include the cost for all incidental work in the "Grading Complete" bid item. Contractor will notify the City in writing if quantities of contract items will exceed plan. At no time will contractor proceed with work outside the prescribed scope of services for which additional payment will be requested without the written authorization of the City.

All information given concerning existing conditions is for information purposes only. It is the Contractors responsibility to inspect the project site to verify existing conditions prior to submitting their bid.

No adjustment will be made to the bid based on missing or inaccurate information on the plans.

UTILITIES

Contractor shall be responsible for protecting all utilities and for coordinating any utility relocation necessary for the completion of the work.

Contractor shall be responsible for the adjusting to grade of existing utility structures that are incorporated into the work including but not limited to water valves and sewer cleanouts.

All manholes are to be adjusted to grade prior to placement of asphalt per specifications provided by Fulton County. The contractor shall be held responsible for property damage due to unsafe adjusted manholes. Payment for this work will be for each unit. The contractor will also be responsible for the adjustment of all water valves at no additional cost to the city.

Manholes risers will be furnished by Fulton County at no additional cost to the contractor. Pricing for this work is for installation of the manhole risers only.

TRAFFIC CONTROL

The Contractor shall, at all times, conduct his work as to assure the least possible obstruction to the citizens. Work staging and operations shall be conducted in a manner to minimize interference with traffic flow thru existing parking areas. The safety and convenience of the general public and the protection of persons and property shall be provided for by the Contractor as specified in the State of Georgia, Department of Transportation Standard Specifications Sections 104.05, 107.09 and 150.

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

All existing signs, markers and other traffic control devices removed or damaged during construction operations will be reinstalled or replaced at the Contractors expense. At no time will Contractor remove regulatory signing which may cause a hazard to the public. The Contractor shall, within 24 hours place temporary pavement markings (paint or removable tape) to match existing pavement markings. No additional payment will be made for this work.

The ingress and egress includes entrances and exits via driveways at various properties, and access to the intersecting roads and streets. The Contractor shall maintain sufficient personnel and equipment (including

flaggers and traffic control signing) on the project at all times, particularly during inclement weather, to insure that ingress and egress are safely provided when and where needed.

Two way traffic shall be maintained at all times, utilizing certified flaggers as necessary, unless otherwise specified or approved by the City. In the event of an emergency situation, the Contractor shall provide access to emergency vehicles and/or emergency personnel through or around the construction area.

All personnel, equipment, and materials required for installing and maintaining traffic control shall be the responsibility of the contractor.

Mandatory: Contractor shall furnish copies of traffic control certifications and a headshot photo of all personnel providing traffic control services during project. This requirement shall be furnished to the City at the project kick-off meeting.

PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

The Contractor shall be responsible for the preservation of all public and private property, crops, fish ponds, trees, monuments, highway signs and markers, fences, grassed and sodded areas, etc. along and adjacent to the highway, road or street, and shall use every precaution necessary to prevent damage or injury thereto, unless the removal, alteration, or destruction of such property is provided for under the contract.

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

RIGHTS AND USE OF MATERIAL

Materials excavated within the project limits become the property of the Contractor. The Contractor, at his/her discretion, may elect to incorporate any of the excavated material into his/her work provided and that it is suitable for the intended use. Materials identified to be removed and are unsuitable for the project will be removed from the site by the Contractor. All excavation, placement, hauling and grading of on-site material will be the Contractors responsibility.

ASPHALT CONCRETE PAVING

Surface course shall be 9.5mm Superpave, Type I, GP 2 only, including bitum material & H lime. (Corrected Optimum Asphalt Content)

The subdivisions shall be topped with 1.25" (138 lbs. /sy.) of topping.

The contract does not include paving of any recreational areas within the subdivisions (i.e. parking lots, asphalt trails etc.)

The plant mix materials from which the asphaltic pavement is manufactured and the plant at which it is manufactured shall meet the requirements of the State of Georgia Department of Transportation (GDOT), Standard specifications, Articles 820; 802; 883; 831; 828; and 882.

Load tickets that meet Georgia Department of Transportation Specifications must accompany all delivered

materials. The Contractor must supply copies of all asphalt tickets to the City.

COORDINATION

The Contractor shall keep the City updated on the construction schedule, daily work plans and any challenges, setbacks in a timely manner.

THERMOPLASTIC/PREFORMED PLASTIC PAVEMENT MARKINGS

This work shall consist of placement of Thermoplastic Pavement Markings on the asphalt pavement sections and Preformed Plastic Markings with black contrast on the bridge. Final (thermoplastic and preformed plastic) pavement markings shall be placed at least 20 calendar days but no more than 60 calendar days after placement of final asphalt lift. Final pedestrian crosswalk markings shall adhere to the latest standards. Pavement marking materials shall meet GDOT standard specifications and be on the qualified products list.

The 20-day wait period for installing final thermoplastic striping will not count against the available calendar days as long as all other work is complete, including temporary centerline striping, and the road has been re-opened.

SOLID TRAFFIC STRIPE, 24 IN, WHITE

24in. white permanent solid stripe is to be installed as a stop bar at each stop sign where previously existed, or as directed.

SOLID TRAFFIC STRIPE, 5 IN, YELLOW

5in double yellow permanent traffic paint is to be installed at each stop sign of each subdivision entrance approaching main roads for a total length of 120 LF each stripe, at each location.

SAFETY

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

CLEANUP

All restoration and clean-up work shall be performed daily. Operations shall be suspended if the Contractor fails to accomplish restoration and clean-up within an acceptable period of time. Failure to perform clean-up activities may result in suspension of the work.

REQUIRED BONDS

- 5% Bid Bond (Contract value).
- 100% Payment Bond (Contract value).
- 100% Performance Bond (Contract value)

INSURANCE REQUIREMENTS

The Contractor shall, at its own cost and expense, obtain and maintain worker's compensation and commercial general liability insurance coverage covering the period of this Agreement, such insurance to be obtained from a responsible insurance company legally licensed and authorized to transact business in

the State of Georgia. The minimum limit for Worker's Compensation Insurance shall be the statutory limit for such insurance. The minimum limits for commercial general liability insurance, which must include personal liability coverage will be \$1,000,000 per person and \$2,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage

EXHIBIT B
COST PROPOSAL

ITB 22-080-2**2022 Neighborhood Roads Resurfacing**

BidNet Opened 3/21/22 2:30pm

***Revised Quantities (3/25/2022)**

Construction Cost Proposal				Allied Paving Contractors	
NEIGHBORHOOD ROADWAY ITEMS (1)				NEIGHBORHOOD ROADWAY	
Code	Description	UOM	*QTY	Price	Total Cost
402-4506	RECYCLED ASPH CONC 9.5 MM SUPERPAVE, TYPE II, GP 2 ONLY, INCL BITUM MATL & H LIME	TN	11605	\$135.00	\$1,566,675.00
432-5010	MILLING ASPH CONC PVM T VARIABLE DEPTH	SY	88645	\$2.25	\$199,451.25
653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN ,YELLOW	LF	450	\$6.25	\$2,812.50
653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN , WHITE	LF	47	\$18.75	\$881.25
				\$1,769,820.00	
				Project Total : \$ 1,769,820.00	

Neil Trust-Purchasing Manager

EXHIBIT C

REQUIRED FORMS & DOCUMENTS

CITY OF JOHNS CREEK

PROPOSAL LETTER

We propose to furnish and deliver any and all of the deliverables and services named in the attached Invitation to Bid (ITB) for which prices have been set. The price or prices offered herein shall apply for the period of time stated in the ITB.

It is understood and agreed that this proposal constitutes an offer, which when accepted in writing by Purchasing Office, City of Johns Creek, and subject to the terms and conditions of such acceptance, will constitute a valid and binding contract between the undersigned and the City of Johns Creek.

It is understood and agreed that we have read the City's specifications shown or referenced in the ITB and that this proposal is made in accordance with the provisions of such specifications. By our written signature on this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such City specifications. We further agree, if awarded a contract, to deliver goods and services which meet or exceed the specifications. The City of Johns Creek reserves the right to reject any or all submittals, waive technicalities, and informalities, and to make an award in the best interest of the city.

It is understood and agreed that this proposal shall be valid and held open for a period of Seventy Five (75) days from proposal opening date.

PROPOSAL SIGNATURE AND CERTIFICATION

(Offeror to sign and return with proposal)

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

Authorized Signature  Date 3-21-2022

Print/Type Name Bryan Jones ~ Vice President

Print/Type Company Name Here Allied Paving Contractors, Inc.

Purchasing Division

CITY OF JOHNS CREEK

DISCLOSURE FORM

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

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

Name of Offeror Allied Paving Contractors, Inc.

Name and the official position of the Johns Creek Official to whom the campaign contribution was made (Please use a separate form for each official to whom a contribution has been made in the past two (2) years.) *Offeror(s) will list N/A-Not Applicable to the fields below, if applies:*

N/A

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

Amount/Value	Description
<u>N/A</u>	<u></u>
<u></u>	<u></u>
<u></u>	<u></u>

Please list any family member that is currently (or has been employed within the last 12 months) by the City of Johns Creek and your relation:

<u>N/A</u>	<u></u>
<u></u>	<u></u>

Purchasing Division

IMMIGRATION AND SECURITY FORM

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The [Contractor] further certifies that at the time of the execution of this contract, the [Contractor] employs 125 employees.

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

58870

EEV / Basic Pilot Program* User Identification Number

[Signature]
BY: Authorized Officer or Agent

(Contractor Name) Allied Paving Contractors, Inc.

Vice President

Title of Authorized Officer or Agent of Contractor

Bryan Jones

Printed Name of Authorized Officer or Agent

3-21-2022

Date

SUBSCRIBED AND SWORN BEFORE ME ON

THIS 21st DAY OF March

[Signature]

Notary Public

My Commission Expires: _____



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

Purchasing Division



O.C.G.A. § 50-36-1(e)(2) Affidavit
Verifying Lawful Presence in the United States
(Individual submitting proposal on behalf of firm or individual)

By executing this affidavit under oath, as an applicant for a(n) _____, as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☒ I am a United States citizen.
- ☐ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

Georgia Driver's License

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in Pendergrass (city), GA (state).

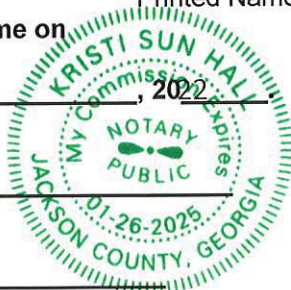

Signature of Applicant

Bryan Jones ~ Vice President
Printed Name of Applicant and Title

Subscribed and sworn to before me on

this the 21st day of March, 2022


(Clerk/Notary Public)



My commission expires: _____

Purchasing Division

CERTIFICATION ON SPONSER

DRUG-FREE WORKPLACE

I hereby certify I am a principle and duly authorized representative of
Allied Paving Contractors, Inc., ("Contractor"), whose address is
P. O. Box 509, Pendergrass, GA 30567
_____, and I further certify that:

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

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

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

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

CONTRACTOR

Date: 3-21-2022

Signature: _____



Print Name: Bryan Jones

Title: Vice President

Purchasing Division

LIST OF SUBCONTRACTORS

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

SUBCONTRACTOR	WORK TO BE PERFORMED	% OF THE WORK
Peek Pavement Markings	Pavement Markings	0.22 %

Company Name: Allied Paving Contractors, Inc.

- City of Johns Creek requires 51% participation by the Prime Contractor on all projects.
- Prime Contractor required to submit E-verify affidavit's for each Subcontractor performing services. Subcontractor Affidavit OCGA 13-10-91 form.

Request for Taxpayer Identification Number and Certification

► Go to www.irs.gov/FormW9 for instructions and the latest information.

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

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
ALLIED PAVING CONTRACTORS, INC.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☒ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
P. O. BOX 509 / 132 BECK ROAD

6 City, state, and ZIP code
PENDERGRASS, GA 30567

7 List account number(s) here (optional)

8 Requester's name and address (optional)
City of Johns Creek

Part I Taxpayer Identification Number (TIN)

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

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-				
--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

2	0	-	0	7	1	2	7	2	0
---	---	---	---	---	---	---	---	---	---

Part II Certification

Under penalties of perjury, I certify that:

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

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

Sign Here **Signature of U.S. person ►**  **Date ►** 3-21-2022

General Instructions

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

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

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

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

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

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

BID BOND

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(Name of Contractor) Allied Paving Contractors, Inc.

(Address of Contractor) at P. O. Box 509, Pendergrass, GA 30567

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

Western Surety Company

(Name of Surety)

151 N. Franklin St, Chicago, IL 60606

(Address of Surety)

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

City of Johns Creek Georgia

(Name of Obligee)

10700 Abbotts Bridge Rd., Suite 190, Johns Creek, Georgia 30097

(Address of Obligee)

Hereinafter referred to as Obligee, in the penal sum of Five Percent of Amount Bid Dollars (\$ 5%) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

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

**Bid No. 22-080-2; 2022 Neighborhood Road Resurfacing
TITLE**

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

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

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant, to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. SS 13-10-1, et. Seg. And SS 36-86-101, et. Seg. And is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

Signed, sealed, and dated this 21st day of March A.D., 20 22

ATTEST:

Kristi Sun Hall
(Principal Secretary)

(SEAL)

Mary C. Eades
(Witness to Principal)

P. O. Box 509, Pendergrass, GA 30567

(Address)

(Surety)

ATTEST

BY:

David C. Eades
(Attorney-in-Fact) and Resident Agent

David C. Eades, Attorney-In-Fact & Resident Agent

(Attorney-in-Fact)

(Seal)

(Address)

Avery C. Kenimer
(Witness as to Surety) Avery C. Kenimer, Witness as to Surety

(Address)

1870 The Exchange SE, Suite 100
Atlanta, GA 30339

Allied Paving Contractors, Inc.

(Principal)

BY:

BRENNAN JONES - V.P.

P. O. Box 509, Pendergrass, GA 30567

(Address)

Western Surety Company

1870 The Exchange SE, Suite 100
Atlanta, GA 30339



POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Carrie J Key, Emmett H Hall, David C Eades, Avery C Kenimer, Bradley B Lastinger, Individually

of Atlanta, GA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 8th day of December, 2021.



WESTERN SURETY COMPANY

Paul T. Bruflat

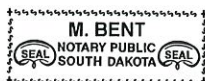
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 8th day of December, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent

M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 21st day of March, 2022



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Law**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/31/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Sterling Seacrest Pritchard P O Box 724137 Atlanta GA 31139	CONTACT NAME: Samuel Bennett PHONE (A/C, No, Ext): (678) 424-6500 FAX (A/C, No): (678) 424-6527 E-MAIL ADDRESS: sbennett@sspins.com
INSURED Sol Construction, LLC 4120 Presidential Pkwy Suite 115 Atlanta GA 30340	INSURER(S) AFFORDING COVERAGE INSURER A: National Trust Insurance Co. INSURER B: FCCI Insurance Company INSURER C: Indian Harbor Insurance Co INSURER D: INSURER E: INSURER F:
	NAIC # 20141 10178 36940

COVERAGES**CERTIFICATE NUMBER:** 21-22**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:	Y		CPP 100060298 01	09/01/2021	09/01/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY	Y		CA 100060299 01	09/01/2021	09/01/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	☒ UMBRELLA LIAB ☒ EXCESS LIAB DED ☒ RETENTION \$ 10,000			UMB 100060301 01	09/01/2021	09/01/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WC0 100060300 01	09/01/2021	09/01/2022	☒ PER STATUTE E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional & Pollution Liability			PEC005051104	09/01/2021	09/01/2022	Each Occurrence \$5,000,000 Aggregate \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Johns Creek, GA is included as an additional insured as respects to Auto and General Liability, when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**City of Johns Creek, GA
11360 Lakefield Dr

Johns Creek

GA 30097

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Please review all documents and specifications related to this solicitation.

Addendum Description

Answer to questions up until 2/25/22

Notice Modifications

Notice Information	From Value	To Value
No entries		

Category Modifications

Added Categories
No Categories Added

Removed Categories
No Categories Removed

Added Documents[A]

Document	Size	Uploaded Date	Language
Q&A Document 1.pdf [pdf]	2 Kb	02/28/2022 03:09 PM EST	English

Firm: Allied Paving Contractors, Inc. _____ Acknowledge Addendum #1 Date: 3-21-2022

Questions & Answers - 1

Project 22-080-2 - 2022 Neighborhood Roads Resurfacing
Buying Organization The City of Johns Creek

No	Question/Answer	Question Date
Q1	Question: Mix Type Required What Type of 9.5mm do you want to use for the final surface on this project? The Bid Package says 9.5mm Type I but the Bid Form calls for 9.5mm Type II. Answer: Type II is the preferred based upon the GDOT layer thickness table.	02/23/2022

Firm: Allied Paving Contractors, Inc. _____ Acknowledge Addendum #1 Date: 3-21-2022



Questions & Answers - 1

Project 22-080-2 - 2022 Neighborhood Roads Resurfacing
Buying Organization The City of Johns Creek

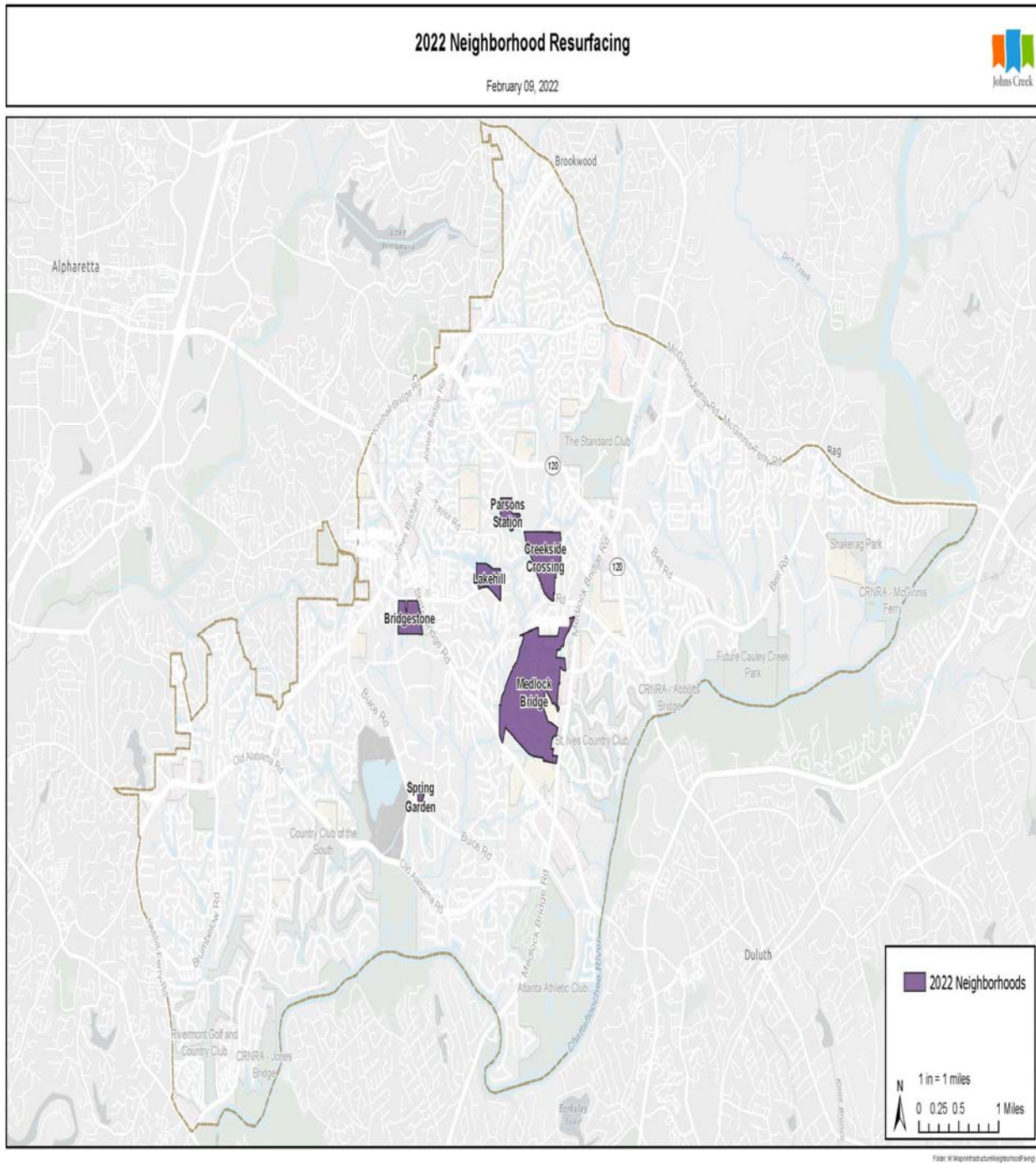
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Q1	Question: Mix Type Required What Type of 9.5mm do you want to use for the final surface on this project? The Bid Package says 9.5mm Type I but the Bid Form calls for 9.5mm Type II. Answer: Type II is the preferred based upon the GDOT layer thickness table.	02/23/2022
Q2	Question: Completion Date Due to work on the books filling up fast, would the City consider extending the completion date 30 days? Answer: The September 30 end date marks the end of the fiscal year. The project must be substantially complete by that time.	03/10/2022
Q3	Question: Patching Line Item Since there is no patching line item, how does the City intend to handle areas that need patching if any such areas arise? Answer: Preconstruction inspection showed minor deficiencies not requiring patching.	03/10/2022

We acknowledge receiving the above addendum.

Firm: Allied Paving Contractors, Inc. Signature:  Date: 3-21-2022

EXHIBIT D.

MAP



AGENDA REPORT

To: Honorable Mayor and City Council

From: Mark J. Mitchell, Chief of Police

Agenda: April 11, 2022 - Work Session

Item: Renewal of the Police Department South Substation Lease

Item Summary

Staff recommends the renewal of the lease for the Police Department South Substation. Although the rental increase is higher than budgeted, the overall annual increase of change of \$6,911 is partially offset by the \$2,400 anticipated increase, a \$2,000 tenant improvement allowance, and the balance can be covered by transferring funds within the Police Department operating budget without significant impacts.

Background

The Johns Creek Police Department South Substation was opened inside the shopping center at 3005 Old Alabama Road in 2012. The lease was extended in 2017 to cover the period through March 2022. The purpose for the South Substation is to provide more of a presence in the south end of the City since headquarters is located at the northern end of the City. Although the South Substation is not staffed full time, a call box is located at the door that rings directly into the 911 center so that residents can easily get assistance when necessary. Additionally, the South Substation serves as a vital office/meeting space for our officers that are working the southernmost beats in Johns Creek.

The South Substation is anticipated to remain an important and integral part of the Police Department's operations but leasing is not an ideal long-term scenario. Staff has previously explored building a more permanent facility. As part of the FY2021 Budget, Council considered but did not fund a request from staff to construct a new building at Newtown Park behind the Mark Burkhalter Amphitheater. The facility would have been constructed to serve both the Police Department and provide space that could be utilized by the Recreation and Parks Division. As part of the FY2022 Budget, Council considered but did not fund a request from staff to transform/renovate the existing Newtown Community Clubhouse to meet the needs of the Police Department as a JCPD South Substation.

As part of the FY2022 Budget process, Council determined the ideal long-term scenario was to include a more permanent South Substation as part of the rebuild of Fire Station #63. In the meantime, as the demand for retail space in that area has not diminished, as part of the FY2023 Budget process, staff will budget for an estimated rental rate increase.

Update

With the current lease of the South Substation coming to term on March 31, 2022, in January, staff proactively reached out to the leasing company in an effort to negotiate terms for the renewal. The terms were finalized

on March 30, 2022. The proposed Second Amendment covers a three year period beginning April 1, 2022 through March 31, 2025. Discussed below in the Financial Section, the proposed rental rate increase is reflective of current market conditions. In both the current and proposed amendment to the lease, the City will continue to pay common area maintenance (CAM), taxes for the space, and utilities for the space.

Financial Impacts

Currently the City is paying \$3,201 per month for the lease of the South Substation. The proposed new monthly rate is \$3,777. Although the rental increase is higher than staff had budgeted, the overall annual increase of change of \$6,911 is partially offset by the \$2,400 anticipated increase and the balance can be covered by transferring funds within the Police Department operating budget without significant impacts. Additionally, the negotiated Second Amendment includes a \$2,000 tenant improvement allowance for improvements to the facilities the City would otherwise have to directly fund.

Recommendation

Staff recommends renewal of the lease to continue to best serve Johns Creek residents by maintaining a South Substation for the Police Department. Staff will return to Council regarding this item with discussions of Fire Station #63.

Attachments

1. Current Lease
2. First Amendment to Current Lease
3. Proposed Second Amendment to Current Lease

Lease Agreement Summary

LANDLORD: Old Alabama, LLC

LANDLORD'S ADDRESS for Rental Payments & Correspondence: 3700 Airport Road, Suite 401, Boca Raton, FL 33431

LANDLORD'S ADDRESS for copy of Correspondence:

TENANT: City of Johns Creek, Georgia d/b/a/ Johns Creek Police Department

GUARANTOR(S):

TENANT'S TELEPHONE:

STORE ADDRESS: 3005 Old Alabama Road, Suite #120, Johns Creek, Georgia 30022

SQUARE FEET: 1,402 sqft

SECURITY DEPOSIT: None

ADVANCE DEPOSIT: \$3,010.80

LEASE TERM: 5 years

OPENING DATE: TBD

RENT COMMENCEMENT DATE: April 1, 2012, provided that Landlord delivers possession of the Premises to Tenant on or before January 19, 2012, and further provided that Tenant does not cause any delays in such delivery of the Premises.

DATE OF POSSESSION: January 19, 2012

LEASE EXPIRATION: March 31, 2017

RENEWAL OPTION: None

OPTION NOTICE: Not Applicable

RENT:

Lease Term	Annual Minimum Rental	Monthly Minimum Rental	Per Square Foot
Year 1	\$28,040.00	\$2,336.67	\$20.00
Year 2	\$28,040.00	\$2,336.67	\$20.00
Year 3	\$30,844.00	\$2,570.33	\$22.00
Year 4	\$30,844.00	\$2,570.33	\$22.00
Year 5 until the remainder of term	\$30,844.00	\$2,570.33	\$22.00

Subject to Paragraph 1 of Exhibit "H".

ITEMS INCLUDED IN CAM:

Trash: yes	Promo: No	Parking Lot Repairs: yes	Water/Sewer: yes
Admin: yes	Electric: yes	Mgt Fees: yes	Landscaping: yes
Paving: yes	Insurance: yes	Sweeping: yes	Striping: yes
Painting: yes	HVAC: No	Parking Lighting repl/repair: Yes	

CAM: \$3.00 psft; 350.50\$/month; \$4,206.00 /year

TAXES: \$2.77 psft; \$323.63/month; \$3,883.54/year

INSURANCE: Included in CAM; LL additional insured to \$1,000,000

LATE FEES: Fifteen percent (15%) late fee on any rents paid after the 5th of the calendar month.

TENANT'S PRIMARY USE: The Premises shall be used solely for the operation of a police precinct for the City of Johns Creek, and for no other purpose whatsoever.

NOTICES TO: TENANT:

City of Johns Creek
12000 Findley Rd., Suite 400

Johns Creek, GA 30097
Attn: City Manager

With a copy to:

City of Johns Creek
12000 Findley Rd., Suite 400
Johns Creek, GA 30097
Attn: City Attorney

LEASE AGREEMENT

SHOPPING CENTER: OLD ALABAMA SQUARE

LANDLORD: OLD ALABAMA, LLC

TENANT: CITY OF JOHNS CREEK GEORGIA

DBA: JOHNS CREEK POLICE DEPARTMENT

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LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is entered into this 9th day of January, 2012 (the "Effective Date") by and between **OLD ALABAMA, LLC**, a Delaware limited liability company authorized to do business in the State of Georgia, ("Landlord"), and **CITY OF JOHNS CREEK, GEORGIA**, a municipal corporation of the State of Georgia ("Tenant").

WITNESSETH:

In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord leases to Tenant and Tenant takes from Landlord, the Premises (as defined below) for the Lease Term (as defined below), on and subject to the terms and conditions hereof.

ARTICLE I

DEFINITIONS AND EXHIBITS

1.1 **Definitions.** The following terms, as defined below, are used in this Lease, in addition to other terms defined herein:

(a) **SHOPPING CENTER:** (i) The shopping center in Fulton County, State of Georgia, located at 3005 Old Alabama Road, Johns Creek, GA 30022, on the property described in Exhibit "A" attached hereto and the buildings and improvements located thereon, which Shopping Center is commonly known as "Old Alabama Square." The Shopping Center is generally depicted on the drawing attached hereto as Exhibit "B".

(b) **THE PREMISES:** Approximately 1,402 square feet of space, Suite #120 being that portion of the Shopping Center which is cross-hatched on Exhibit "B".

(c) **READY FOR OCCUPANCY:** The date upon which Landlord's Work (as defined in Exhibit "C"), if any, on the Premises has been substantially completed (except for minor finishing operations or items necessarily awaiting performance of Tenant's Work, as defined in Exhibit "C"), as certified in writing by Landlord to Tenant. If the Premises are being leased to Tenant "as-is" in accordance with the provisions of this Lease (i.e., without any Landlord's Work to be performed) and are unleased and vacant on the date of complete execution of this Lease, Tenant shall be deemed to have been given notification that the Premises are Ready for Occupancy by Landlord's execution of this Lease. Furthermore, "as is" condition shall not include any personal property items which may be in the premises upon delivery which are not owned by Landlord such as furniture, trade fixtures, and/or equipment.

(d) **RENT COMMENCEMENT DATE:** Subject to the provisions of Section 2.1(b), the Rent Commencement Date shall be the latest to occur of (a) the date which is one hundred twenty (120) days after the Effective Date of the Lease; or (b) April 1, 2012. Tenant shall promptly upon Landlord's request execute the statement shown on Exhibit "J" confirming the Rent Commencement Date.

(e) **LEASE TERM OR TERM:** This Lease shall be for a term beginning with the date of Lease execution by both parties and ending March 31, 2017, unless earlier terminated as provided for herein below and as further provided for in accordance with O.C.G.A. § 36-60-13. Pursuant to O.C.G.A. § 36-60-13, this Lease is effective upon its execution by both parties hereto, and terminates on December 31, 2012 (the "Initial Term") without further obligation on the part of either party other than outstanding obligations incurred prior to the expiration of such term. Thereafter, in accordance with O.C.G.A. § 36-60-13 and subject to the further conditions provided in this Section, this Lease shall be automatically renewed for up to four (4) successive one (1) year terms and an additional term of three (3) months commencing January 1, 2017 and terminating March 31, 2017 (each subsequent term following the Initial Term referred to as a "renewal term"), unless Tenant furnishes Landlord with written notice of its intent not to renew this Lease not less than one hundred twenty (120) calendar days prior to the expiration of the Initial Term. At the termination of each renewal term, this Agreement shall be automatically renewed for an additional renewal term, unless Tenant furnishes Landlord with written notice of its intent not to renew this Lease not less than one hundred twenty (120) calendar days prior to the expiration of such renewal term, in which case this Lease will be terminated without further obligation on the part of either party other than outstanding obligations incurred prior to the expiration of such term.

(f) **MINIMUM RENTAL:** The rental per annum payable during each Lease Year of the Lease Term as provided in Special Stipulation 1 attached hereto and by this reference made a part hereof, which Minimum Rental is payable monthly in advance in equal installments as provided by Article III hereof.

(g) **PERCENTAGE RENT RATE:** N/A

(h) **ADVANCE DEPOSIT:** \$3,010.80, applied as first month's Minimum Rental, CAM, tax and insurance, payable and due upon execution of the within Lease Agreement.

(i) **SECURITY DEPOSIT:** Intentionally deleted.

(j) **TENANT'S NAME IN USE OF PREMISES:** "City of Johns Creek" or "Johns Creek Police Department"

(k) **LANDLORD'S MAILING ADDRESS:**

Old Alabama, LLC
3700 Airport Road, Suite 401
Boca Raton, FL 33431

With a copy of all correspondence to:

Merchants Property Group, Inc.
P.O. Box 3040
Duluth, Georgia 30096
Attn: Ms. Kay M. Brown, CPM

or such other address as may from time to time be designated by Landlord in a written notice to Tenant.

(l) **TENANT'S MAILING ADDRESS:**

City of Johns Creek
12000 Findley Rd., Suite 400
Johns Creek, GA 30097
Phone:(678) 512-3200
Attn: City Manager

With a copy of all correspondence to:

City Attorney
City of Johns Creek
12000 Findley Rd., Suite 400
Johns Creek, GA 30097

or such other address as may from time to time be designated by Tenant in a written notice to Landlord.

(m) **USE OF PREMISES:**

The Premises may be used only for the following purposes:

The Premises shall be used solely for the operation of a police precinct for the City of Johns Creek, and for no other purpose whatsoever.

(n) **GROSS RENTABLE AREA:** Floor area designed for tenant occupancy and exclusive use, measured from the exterior of outside walls and store fronts and from the center of party walls. The parties agree that, on the date hereof, the Gross Rentable Area of the Premises is 1,402 square feet.

(o) **LEASE YEAR:** Each successive period of twelve (12) calendar months during the Lease Term; provided that, if the Rent Commencement Date is other than the first day of a calendar month, the first Lease Year shall be the period of time from the Rent Commencement Date to the end of the calendar month in which such date shall fall, plus the following twelve (12) calendar months. The last Lease Year shall terminate on the date of expiration of this Lease.

(p) **LIABILITY INSURANCE LIMITS:** \$1,000,000 with respect to a combined single limit to include injuries to or death of any one person, any one occurrence and property damage.

1.2 **Exhibits.** The exhibits enumerated on the attached Exhibit index (which is by this reference made a part hereof) are, if used in this Lease, attached to this Lease, incorporated in this Lease by this reference and to be construed as a part of this Lease.

ARTICLE II

CONSTRUCTION AND ACCEPTANCE OF PREMISES

2.1 **Condition of Premises; Construction.** (a) Any and all construction in the Premises to prepare same for Tenant's occupancy shall be governed by and performed in accordance with Exhibit "C" attached hereto and by this reference made a part hereof. Except for any "Landlord's Work" described in Exhibit "C" and Exhibit "H", Special Stipulations, Tenant acknowledges that it has inspected the Premises, that Landlord has made no representations or warranties whatsoever respecting the condition thereof or otherwise, that Landlord has no obligation or duty to make any alterations, improvements or repairs whatsoever in and to the Premises to make same ready for Tenant's use and occupancy and that Tenant takes and accepts the Premises in their present "as is" condition.

(b) In case of delay in delivery of the Premises Ready for Occupancy which is caused by delay due to omission, delay or default by Tenant or anyone acting under or for Tenant ("Tenant Delay"), the Commencement Date shall in any case occur not later than the date which would have been, but for the Tenant Delay, the Commencement Date determined in accordance herewith.

2.2 **Acceptance of Premises.** When the Premises are Ready for Occupancy, Tenant agrees to accept possession thereof and to proceed with due diligence to perform Tenant's Work (once approved), and to install its fixtures, furniture, and equipment in the Premises. By occupying the Premises, Tenant shall be deemed to have acknowledged that the Landlord has complied with all of its covenants and obligations with respect to construction within the Premises. In the event of any dispute concerning work performed or required to be performed in the Premises by Landlord or Tenant, the matter in dispute shall be submitted to a neutral architect selected by both parties for determination and such architect's reasonable determination with respect thereto shall be binding on Landlord and Tenant, except for the work outlined in Exhibits "C" and "H".

2.3 **Covenant to Open.** N/A.

2.4 **Lease Valid and Binding.** Upon complete execution by the parties hereto this Lease shall be and is effective, in full force and effect and valid and binding against the parties in accordance with (but always on and subject to) its terms and conditions.

ARTICLE III

RENT

3.1 **Payment of Rentals.** Rental and other charges due and payable hereunder shall accrue hereunder from the Rent Commencement Date, subject to the rental abatement set forth in the Special Stipulations, and shall be payable at Landlord's Mailing Address unless otherwise directed by Landlord in writing. Rent and all other charges due shall be paid and in the Landlord's possession no later than the first (1st) day of the month. Any rent or other charges and balances due as provided herein received after the fifth (5th) day of the month shall be subject to a fifteen (15%) percent late fee. Landlord reserves the right, at any time after any Event of Default hereunder or following return of any check of Tenant for insufficient funds, to require any payments to be made by Tenant by virtue of this Lease to be made by cashier's check or similar mode of payment. Minimum Rental, and each and every other charge, fee, cost or expense which Tenant is obligated or liable to pay to, refund to or reimburse Landlord (sometimes referred to as "Additional Rent") shall, for the purposes of the default provisions of this Lease, be deemed additional rental due from Tenant, and Tenant's failure to so pay, refund or reimburse when due shall entitle Landlord to all the remedies provided for herein and at law or in equity on account of failure to pay rent.

3.2 **Minimum Rental.** Tenant covenants and agrees to pay to Landlord the Minimum Rental monthly in advance in equal monthly installments as provided in Special Stipulation 1 above without notice on the first day of each calendar month during the Lease Term, except that the first such monthly installment shall be due and payable in accordance with the Special Stipulations and if the first monthly payment falls on a day other than the first day of a calendar month, the payment for such the calendar month shall be a prorated amount based upon the total number of days in such month (and shall be in addition to the annual Minimum Rental payable for the balance of the first Lease Year as set forth in Special Stipulation 1). The covenant of Tenant to pay all rents hereunder is and shall be deemed a separate and independent covenant and Tenant shall have no right of deduction or set-off whatsoever.

3.3 **Percentage Rent.** N/A

3.4 **Gross Sales Definition.** N/A

ARTICLE IV

SALES REPORTS AND RECORDS

4.1 **Monthly and Annual Sales Reports.** N/A.

4.2 **Records of Gross Sales.** N/A.

4.3 **Audit Rights.** N/A.

ARTICLE V

COMMON AREAS

5.1 **Use of Common Areas.** Tenant and its licensees, concessionaires, employees and customers shall have the non-exclusive right to use those areas of the Shopping Center which are from time to time designated by Landlord as open for joint use by the tenants of the Shopping Center or by the public, including (without limitation) parking areas, access roads, driveways, delivery passages, walkways, concourses, malls, landscaped areas, public restrooms and common loading and receiving areas which are not leased to or reserved for individual tenants (collectively, "Common Areas"),

such use to be in common with Landlord and other tenants of the Shopping Center (and their respective licenses, concessionaires, employees and customers) and other persons entitled to use the Common Areas, subject to such reasonable rules and regulations as Landlord may from time to time prescribe. Landlord may require that automobiles owned by Tenant, its licensees, concessionaires and employees be parked in specific portions of the Common Areas, as long as such request does not materially and adversely interfere with Tenant's operations or use of the Premises. Tenant shall not interfere with the rights of other persons to use the Common Areas. Landlord may temporarily close any part of the parking facilities or other portions of the Common Areas for such periods of time as may be necessary for (i) temporary use as a work area in connection with the construction of buildings or other improvements within the Shopping Center or contiguous property, (ii) repairs or alterations in or to the Common Areas or to any sewers, utility facilities or distribution lines located with the Common Areas, (iii) preventing the dedication of same to the public, (iv) security reasons or (v) doing and performing such other acts (whether similar or dissimilar to the foregoing) in, to and with respect to, the Common Areas as in the use of good business judgment the Landlord shall determine to be appropriate for the Shopping Center; provided, however, that Landlord shall use reasonable efforts not to materially and adversely interfere with or disrupt Tenant's business, and shall ensure that Tenant's customers have access to the Shopping Center. Landlord further reserves the right, from time to time, to utilize portions of the Common Areas (including common mall area, if applicable) for carnival type shows, rides and entertainment, outdoor shows, seasonal displays, display, automobile and other product shows, and business promotions, the leasing of kiosks (provided such kiosks are not located within ten (10) feet of Tenant's storefront) or sales space, or such other uses which in Landlord's judgment tend to attract the public, provided such use does not materially and adversely interfere with Tenant's operations or use of the Premises. Further, Landlord reserves the right to utilize the lighting standards and other areas in the parking lot (and common mall area, if applicable) for advertising purposes.

5.2 Taxes and CAM Expenses. (a) Tenant agrees to pay as additional rent, as hereinafter provided, Tenant's Proportionate Share (as hereafter defined) of Taxes (as hereafter defined) with regard to the Shopping Center for each calendar year (or portion thereof) during the Term and of expenses incurred by Landlord for each calendar year (or portion thereof) during the Term, at Landlord's discretion, for the operation and maintenance of the Shopping Center and Common Areas thereof ("collectively, "Taxes and CAM Expenses"); provided however, Taxes and CAM Expenses shall not begin to accrue until after the Rental Commencement Date.

(b) Taxes and CAM Expenses shall include (without limitation) Taxes (as hereafter defined), and costs incurred in operating, managing, administering, maintaining, repairing, replacing or improving the Shopping Center and its Common Areas, including (without limitation) costs of lighting, painting, cleaning, central trash disposal (if Landlord elects to provide such), traffic control, policing, security, inspecting, landscaping and repairing and replacing the Common Areas, or any part thereof, depreciation of maintenance equipment, public liability, hazard or casualty and property damage and other insurance with respect to the Shopping Center, utility costs not separately metered to tenants (single or multiple), and capital expenditures required due to applicable governmental or other regulations that were not in effect when the Shopping Center was built, but excluding depreciation of Landlord's original investment in the Shopping Center. Taxes and CAM Expenses shall also include an allowance of fifteen percent (15%) of all the foregoing for Landlord's overhead and administrative expenses. For purposes of this Lease, "Taxes" shall mean, for each calendar year beginning with the Rental Commencement Date and during the Lease Term and any renewals or extensions thereof, prorated as appropriate for the first and last years of the Lease Term if such years are less than full calendar years, all real estate taxes, assessments (special or otherwise, and including, without limitation, any assessments, special or otherwise, imposed upon the Shopping Center, or any portion thereof, or any other charge payable by Landlord by virtue of the Shopping Center, or any portion thereof, being located within and/or benefited by a special improvement district or subject to tax increment financing), ad valorem charges, water and sewer rents, rates and charges (other than rents or charges which are based on consumption and are paid directly by tenants or otherwise included in Taxes and CAM Expenses), city and county taxes, minor privilege permits and any other governmental liens, impositions or charges of a similar or dissimilar nature, whether general, special, ordinary, extraordinary, foreseen or unforeseen, current or future, and any payments in lieu of such charges, which may be levied, assessed or imposed on or with respect to all or any part of the Shopping Center by any taxing authority, whether or not the same constitutes one or more tax lots, as well as any fees and expenses charged by Landlord's tax consultants and/or fees and expenses (including, without limitation, attorneys' fees and accountants' fees) incurred by Landlord in connection with pursuit of any reduction, refund or appeal of Taxes. If at any time during the Term the methods of taxation prevailing at the date hereof shall be altered so that in lieu of or as an addition to or as a substitute for the whole or any part of the Taxes now levied, assessed or imposed on all or any part of the Shopping Center, there shall be levied, assessed or imposed (i) a tax, assessment, levy, imposition or charge based on the rents received therefrom whether or not wholly or partially as a capital levy or otherwise, or (ii) a tax, assessment, levy, imposition, or charge measured by or based in whole or in part upon all or any part of the Shopping Center and imposed on Landlord, or (iii) a license fee measured by the rent payable by Tenant to Landlord, or (iv) any other tax, levy, imposition, charge or license fee however described or imposed, then all such taxes, assessments, levies, impositions, charges or license fees or the part thereof so measured or based, shall be deemed to be Taxes, unless otherwise paid directly by Tenant or other tenants of the Shopping Center. In no event, however, shall Taxes include any income, inheritance, estate, succession, profit, capital levy, documentary stamp tax, recording fees, transfer, gift or franchise tax of Landlord, unless such tax is in lieu of or in partial substitution for other items that are included as part of Taxes. For purposes of this Lease, "Tenant's Proportionate Share" shall be a fraction, expressed as a percentage, having the Gross Rentable Area of the Premises as its numerator and the Gross Rentable Area of the Shopping Center as its denominator.

(c) Landlord may require monthly payments from Tenant based upon estimates from time to time of Taxes and CAM Expenses for any calendar year, which shall be payable in advance but subject to adjustment after the end of such calendar year on the basis of the actual costs for such year. After the close of each calendar year, Landlord will furnish to

Tenant a final reconciliation and statement of Taxes and CAM Expenses for such year, such statement to show Tenant's Proportionate Share of the Taxes and CAM Expenses computed as herein provided. If such statement shows an amount owing by Tenant for Taxes and CAM Expenses during a calendar year that is less than the sum of the monthly estimated payments of same made by Tenant for such calendar year, the excess paid shall be credited against the next succeeding estimated payments of Taxes and CAM Expenses becoming due hereunder; provided, however, that if the Lease Term shall expire or this Lease shall terminate prior to full application of such credit, any balance due Tenant shall be refunded to Tenant by Landlord if Tenant is not in default under this Lease (and, if Tenant is in default hereunder, such balance shall be held as additional security for Tenant's performance, may be applied by Landlord toward the cure of any such default and shall not be refunded until any such default is completely cured by Tenant). If such statement shows an amount owing by Tenant which is more than the sum of the monthly estimated payments made by Tenant for such calendar year, Tenant shall pay such deficiency to Landlord within thirty (30) days after receipt of such statement. Estimated payments toward Tenant's Proportionate Share of Taxes and CAM Expenses shall initially be in the amount set out on Exhibit "D" attached hereto, subject to revision hereafter based upon revised estimates by Landlord.

5.3 **Alteration of Common Areas.** Landlord shall have the right at all times, in its sole discretion, to change the size, location, elevation, nature or use of any portion or all of the Common Areas, the Shopping Center, or any part thereof, as Landlord may from time to time determine, including the right to change the size thereof, to erect buildings thereon, to sell or lease part or parts thereof, to change the location and size of the landscaping and buildings or Common Areas, and to make additions to, subtractions from, or rearrangement of, said buildings and Common Areas, so long as such changes comply with all applicable zoning, development and building codes and guidelines established by all governing authorities and do not materially and adversely interfere with Tenant's operations or use of the Premises.

ARTICLE VI

USE AND CARE OF PREMISES

6.1 **Use and Operation of Premises.** Tenant shall in good faith continuously throughout the Term of this Lease conduct and carry on in the entire Premises the type of operations described in Section 1.1(m) and the Premises shall not be used for any other purpose. Tenant shall use either "City of Johns Creek" or "Johns Creek Police Department" in the transaction of business in the Premises and Tenant shall not change such name without the written consent of Landlord. Tenant shall not use or permit the use of any vending machines or public telephones on, at or about the Premises without the prior written consent of Landlord and Tenant shall under no circumstances use the Premises or any portion thereof for lodging or residence purposes. Tenant shall not commit waste, perform any acts or carry on any practices which may injure the Shopping Center or be a nuisance or menace to other tenants in the Shopping Center. Tenant shall operate its business in a dignified manner, and shall, at all times when the Premises are open for business with the public, if any, keep the Premises equipped with fixtures and attended by adequate personnel. Tenant agrees not to violate any exclusive use provisions which may exist in other tenants' leases within the shopping center throughout the term of this Lease Agreement and any extensions thereof provided that Tenant has notice of the same. This Lease is expressly subject and subordinate to all matters of record recorded before the date of this Lease, including but not limited to that certain Declaration of Easements, Covenants and Restrictions for Old Alabama Square dated October 8, 1999, and recorded in Deed Book 27820, Page 101 of the Real Estate Records of Fulton County, Georgia, as amended by that certain First Amendment to Declaration of Easements, Covenants and Restrictions dated August 8, 2000, and recorded in Deed Book 29404, Page 466 of the aforesaid Records, and any other declarations, reciprocal easement agreements, covenants, conditions and restrictions or similar documents recorded in the aforesaid records (collectively, the "Declaration"). The Declaration and any other present or future instrument or document of public record now or hereafter affecting the Shopping Center are collectively referred to in this Lease as the "Restrictions". Tenant agrees to comply with the Restrictions; provided however, that to the extent any declarations, reciprocal easement agreements, covenants, conditions or restrictions affecting the Shopping Center are recorded after the date of this Lease, Tenant shall not be required to comply with such specific portion of the Restrictions if same unreasonably and adversely interferes with Tenant's use of the Premises. Furthermore, Tenant acknowledges and agrees that a violation of any term or condition of the Restrictions by any tenant or occupant that is subject to the provisions of said Restrictions (including, without limitation, any residential tract, office tract, or outparcel user) shall not constitute a violation or default by Landlord hereunder. While the subordination to the Restrictions is intended to be self-operative, Tenant agrees to execute such instruments confirming such subordination as may be requested by Landlord. In the event of a conflict between this Article (6.1) and Article (1.1 m) of this Lease Agreement, then this Article (6.1) shall control.

6.2 **Compliance with Laws.** In the use and occupancy of the Premises, Tenant shall, at its cost, obtain all necessary licenses and permits to conduct its business within the Premises and otherwise comply with all laws and ordinances and all valid rules and regulations of any applicable federal, state or local government or agency thereof and all requirements of any public or private agency having authority over insurance rates, with respect to Tenant's specific manner of use of the Premises. Without limitation, Tenant shall be responsible at its expense (and with Landlord's approval of any needed alterations) to comply in all respects with the Americans with Disabilities Act of 1990, as amended, but only as Tenant's work, where the need for such compliance results from Tenant's specific manner of use of the Premises or alterations or improvements to the Premises made by Tenant or on Tenant's behalf.

6.3 **Hazardous Materials.** Tenant shall not generate, store, treat, dispose of, install or otherwise cause or permit any Hazardous Material to be brought upon, kept or used in or about the Premises or the Shopping Center by Tenant, its agents, employees, contractors or invitees. Tenant shall indemnify, defend and hold Landlord harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value

of the Premises, damages for the loss or restriction on use of rentable or useable space or of any amenity of the Premises, damages arising from any adverse impact or marketing of space as a result of any change in Tenant's use of the Premises which results in a violation of this provision, sums paid in settlement of claims, reasonable attorneys' fees inclusive of such fees incurred in enforcement of this indemnity and including fees on appeal, consultant fees and expert fees) which arise during or after the Lease Term as a result of Tenant's failure to comply fully with this Section 6.3, the provisions hereof to survive expiration or termination of this Lease. This indemnification of Landlord by Tenant includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises; (except that nothing herein contained shall obligate Tenant to indemnify Landlord for conditions existing prior to the date hereof or caused by Landlord). Without limiting the foregoing, if the presence of any Hazardous Material on the Premises solely caused or permitted by Tenant results in any contamination of the Premises, Tenant shall promptly take all actions at its sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that Landlord's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Premises. For purposes hereof, "Hazardous Material" means any substance, material, element or compound affected by any federal, state or local statute, law, ordinance, code, rule, regulation, order or decree now or at any time hereafter in effect, regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, dangerous, restricted or otherwise regulated waste, substance or material.

ARTICLE VII

TENANT'S COVENANTS

7.1 **Prohibited Activities.** Tenant shall not, nor shall Tenant at any time permit any occupant of the Premises to (i) conduct or permit any fire, bankruptcy or auction sale (whether real or fictitious) unless directed by order of a court of bankruptcy or of competent jurisdiction, or conduct or permit any fictitious "Going Out of Business" sale; (ii) use the Premises for any unlawful purpose or for or conduct therein activities, the purpose for which is excluded from or inconsistent with or not included within the purpose for which the Premises may be used according to Section 1.1(m) of this Lease; (iii) use, operate or maintain the Premises in such manner that any of the rates for any insurance carried by Landlord, or the occupant of any premises within the Shopping Center, shall thereby be increased; (iv) install, operate or maintain in the Premises any electrical equipment which will overload the electrical system therein, or any part thereof, beyond its reasonable capacity for proper and safe operation as determined by Landlord in light of the over-all system and requirements therefore in the Shopping Center, or which does not bear Underwriter's Laboratories approval; or (v) sell or offer for sale Georgia lottery tickets, regardless of how the same may be denominated.

7.2 **Cleaning of Premises.** Without limiting the provisions of Section 8.2 hereof, Tenant (i) will keep clean the inside and outside of all glass in the doors and windows of the Premises; (ii) will maintain the Premises in a safe, clean, sightly, orderly, sanitary and serviceable condition, free of insects, rodents, vermin and other pests; (iii) will not permit undue accumulation of garbage, trash, rubbish or other refuse in the Premises; and (iv) will keep such refuse in proper containers inside the Premises until such time as same is called for to be removed.

7.3 **Business Hours.** N/A.

7.4 **Abandonment.** In the event that at any time during the Term, or any extension or renewal thereof, Tenant should vacate, abandon, or desert the Premises, then, in any such event, Tenant shall be in default hereunder and Landlord shall have, in addition to all rights and remedies provided under Section 17.2 hereof, the right to collect the Minimum Rental; provided, however, that such rental shall not accrue during any period when the Premises are rendered untenable by reason of fire, casualty, or cause beyond Tenant's control (and not resulting from the intentional or negligent acts or omissions of Tenant, its assignees, sublessees, servants, agents, employees, invitees, licensees, or concessionaires, or the servants, agents, employees, invitees, licensees or concessionaires of Tenant's assignees or sublessees) and the failure to operate Tenant's store during any such period shall not be deemed a default hereunder.

7.5 **Rules and Regulations.** The rules and regulations shown on Exhibit "E" are hereby made a part of this Lease, and Tenant agrees to comply with and observe the same. Landlord reserves the right from time to time to amend or supplement said rules and regulations and to adopt and promulgate additional rules and regulations applicable to the Premises and the Shopping Center, and Tenant agrees to comply with and observe all such amended, supplemental and additional rules and regulations after Tenant has received notice of same.

7.6 **Radius Restriction.** N/A.

ARTICLE VIII

**MAINTENANCE AND REPAIR OF PREMISES,
ALTERATIONS AND LANDLORD'S RIGHT OF ACCESS**

8.1 **Landlord Repair Obligations.** Landlord shall keep the foundation, the roof and the exterior walls of the Premises (except plate glass, doors, door closures, door frames, store fronts, windows and window frames located in

exterior building walls) in good repair, except that Landlord shall not be required to make any repairs occasioned by the act or neglect of Tenant or its assignees and sublessees, or their respective servants, agents, employees, invitees, licensees or contractors. In the event that the Premises should become in need of repairs required to be made by Landlord hereunder, Tenant shall give immediate written notice thereof to Landlord; and Landlord shall not be responsible in any way for failure to make any such repairs until fifteen (15) days following receipt of written notice from Tenant, unless any such repair is of a nature that can not reasonably be cured within said fifteen (15) day period and Landlord has initiated and diligently pursues completion of any such repair.

8.2 Tenant Repair Obligations. Tenant shall, at its sole cost and expense, make and perform all maintenance, repairs and replacements of or to the Premises except for the specific repair obligations of Landlord set forth in Section 8.1 above. Without limitation, Tenant shall make and perform all maintenance, repairs and replacements to (i) the heating, ventilating and air conditioning systems specifically serving the Premises; (ii) the exterior and interior portion of all doors, windows, window frames, plate or window glass, door closures and hardware, door frames and store fronts; (iii) all plumbing and sewage facilities within the Premises, including free flow up to the connection to the main sewer line; (iv) all fixtures within the Premises; (v) all electrical systems serving the Premises (whether or not located within the Premises); (vi) all sprinkler systems serving the Premises; (vii) all interior walls, floors and ceilings; (viii) any of Tenant's Work; (ix) all repairs, replacements or alterations required by any governmental authority at any time during the Term with respect to Tenant's specific manner of the premises; and (x) all necessary repairs and replacements of Tenant's trade fixtures required for the proper conduct and operation of Tenant's business. Tenant shall, at its expense, keep in force a standard maintenance agreement on all heating, ventilating, and air conditioning systems (the "HVAC System") specifically serving the Premises with a reputable contractor and shall provide a copy of said maintenance agreement to Landlord. Provided Tenant fails to maintain a HVAC maintenance agreement, Tenant further agrees that Landlord may, from time to time during the Term of this Lease, employ a contractor to inspect the HVAC System to insure that Tenant is complying with and performing its maintenance and repair obligations with respect thereto required hereby. Tenant shall reimburse Landlord within thirty (30) days following invoice for the costs of such inspector and costs incurred by Landlord in connection with such inspections. Tenant shall also be responsible, at its sole cost and expense (and subject to the further requirements of Section 8.3 below), promptly to perform any repairs or maintenance determined to be necessary as a result of such inspection. Tenant shall, at its own cost and expense, make or cause to be made all such alterations to the Premises (including without limiting the generality of the foregoing, removing barriers and providing alternative services) as shall be required for compliance with the Americans with Disabilities Act of 1990, as now or hereafter amended, but only as to Tenant's specific manner of use of the Premises and/or Tenant's work, and the rules and regulations from time to time promulgated thereunder, or any other governmental or insurance underwriter's laws, rules or regulations.

8.3 Alterations. Tenant shall not make any alterations, additions or replacements to the Premises (other than the Tenant's Work) without the prior written consent of Landlord, except for installation of unattached moveable fixtures which may be installed without drilling, cutting or otherwise defacing the Premises or items not exceeding \$1,500.00 during any one Lease year. All alterations, additions and improvements made in and to the Premises and all fixtures (other than trade fixtures) which are installed in the Premises shall remain in and be surrendered with the Premises and shall become the property of Landlord at the expiration or sooner termination of this Lease. Tenant shall have the right to remove its trade fixtures from the Premises prior to expiration or termination, provided that Tenant shall repair and restore any damage to the Premises caused or occasioned by such removal. Provisions of this Section 8.3 shall survive expiration or any termination of this Lease.

8.4 Legal Compliance; Plan Approval. All Tenant's Work and all repairs, alterations, additions and improvements performed by Tenant within the Premises shall be performed in a good and workmanlike manner, in compliance with all governmental requirements, and at such times and in such manner as will cause a minimum of interference with other construction in progress and with the transaction of business in the Shopping Center. In no event shall any construction work be commenced within the Premises without Landlord's written approval of plans and specifications therefor, which shall not be unreasonably withheld, delayed or conditioned. All plans and specifications submitted to Landlord for alterations to the Premises shall be in compliance with all applicable laws and governmental and quasi-governmental rules and regulations. Further, all work to be performed within the Premises will be performed by licensed and insured contractors and subcontractors which have been approved by Landlord, such approval not to be unreasonably withheld, delayed or conditioned.

8.5 Entry by Landlord. Landlord shall have the right, but not the duty, to reasonably enter upon the Premises at any time and upon reasonable advance written notice for the purpose of inspecting the same, making repairs to the Premises, making repairs, alterations or additions to adjacent property or showing the Premises to lenders or to prospective purchasers, or during the last six (6) months of the term show the Premises to prospective replacement tenants. Without limitation, Landlord shall have the right to run utility lines, pipes, roof drainage pipes, conduit, wire, ductwork, or sprinkler systems, where necessary, through, in, or beneath, the Premises, and maintain same in a manner which does not unduly interfere with Tenant's use thereof. If Tenant or Tenant's agents or employees shall not be present or permit entry into the Premises at any time and for any reason when entry therein shall be necessary or permissible under this Lease, Landlord or Landlord's agents or employees may enter same by whatever lawful means necessary without liability therefor and without in any manner affecting the obligations, covenants, terms, or conditions of this Lease. Notwithstanding the foregoing, any entry by Landlord onto the Premises shall not result in the interference with the conduct of business to the public.

8.6 **No Liens.** Tenant shall not suffer or permit any materialmen's, mechanics' or other liens to be filed or placed or exist against the Shopping Center and/or Premises, or Tenant's interest in the Premises, by reason of work, services or materials supplied or claimed to have been supplied to Tenant or anyone holding the Premises or any part thereof through or under Tenant, and nothing contained in this Lease shall be deemed or construed in any way as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of a materialmen's, mechanics' or other lien against the Shopping Center or the Premises. If any such lien should, at any time, be filed, Tenant shall cause the same to be discharged of record within fifteen (15) days after the date of filing thereof.

8.7 **No Liability.** Landlord shall not be liable to Tenant for any minimal interruption of Tenant's business or inconvenience caused Tenant or Tenant's assigns, sublessees, customers, invitees, employees, licensees or concessionaires in the Premises or for any other loss or damage, whether to Tenant's personal property or otherwise, on account of Landlord's performance, following five (5) days written notice to Tenant, of any repair, maintenance or replacement in the Premises or any other work or entry therein pursuant to Landlord's rights or obligations under this Lease, so long as such work or entry is being conducted without negligence or disregard for Tenant's business operations, which shall be fully coordinated with Tenant and performed after business hours, when possible, and none of same shall constitute an eviction of Tenant, actual or constructive, in whole or in part, and the rents herein reserved shall in no wise abate by virtue of any of same.

ARTICLE IX

SIGNS, STORE FRONTS AND ROOF

9.1 **Signs, Etc.** Tenant shall not, without the prior written consent of Landlord (i) make any changes to the store front or other exterior walls of the Premises; (ii) install any exterior lighting, awning or protrusions or any exterior signs, (iii) install any coverings on exterior windows and doors or (iv) erect or install any signs, window or door lettering, placards, decorations or advertising media of any type on any window or door glass or which can be viewed from the exterior of the Premises. Tenant shall, if requested by Landlord, install at Tenant's expense an exterior sign conforming to the general appearance of other signs in the Shopping Center and the Sign Criteria set forth in Exhibit "F" (if used). Tenant shall at all times keep all signs in good condition, in proper operating order and in accordance with all applicable government regulations. Use of the roof of the Premises and Shopping Center is reserved to Landlord (and Tenant shall have no right to use any part of the roof of the Premises or Shopping Center) and Landlord may install upon the roof equipment, signs, antennae, displays and other objects and may construct additional stories above the Premises, provided any such use does not unreasonably interfere with Tenant's occupancy of the Premises. Landlord agrees and acknowledges that Tenant's signage shall be similar to Tenant's signage for Tenant's other lease premises in the Shopping Center. Landlord shall not install signage of any other tenant over, on or directly outside the Premises.

If Landlord should undertake any remodeling or renovation of the Shopping Center which requires modification of Tenant's signs, then Tenant shall, if required by Landlord, conform to the standard Sign Criteria used for such remodeling or renovation, at Tenant's sole cost and expense. Tenant shall have no right to place a sign on any Shopping Center monument, pylon or reader board sign.

ARTICLE X

UTILITIES

10.1 **Utilities.** Tenant shall contract for and register all utilities to the Premises in Tenant's name and Tenant shall promptly pay all charges for electricity, water, sewer, telephone, gas (where applicable), chilled water service (where applicable) and other utilities furnished to the Premises. Notwithstanding the foregoing, Landlord may, if it so elects with Tenant's consent, which such consent shall not be unreasonably withheld, conditioned or delayed, furnish one or more of such services to Tenant, and, in such event, Tenant shall purchase such services as are tendered by Landlord and shall pay for such services, as additional rent, at the rates established therefore by Landlord, provided that such rates shall not exceed the rate which would be charged for the same service if furnished directly by the applicable public utility then furnishing such service. In the event that Landlord furnishes any of such services and same are provided to Tenant jointly with any other tenants, the bill for same rendered by Landlord shall be based upon Tenant's prorated share of such services as reasonably determined by Landlord.

10.2 **Interruptions in Services.** In no event shall Landlord be required to provide electric energy or other utility service to the Premises in quantities beyond the capacity of the conductors, conduits or equipment presently installed by Landlord in the Shopping Center for such utility service. Further, Landlord shall not be liable for the interruption, curtailment or reduction in or of any utility or service for any reason whatsoever. In the event of any interruption of utility services caused by Landlord's negligence and continuing for more than three (3) business days, Tenant shall receive abatement of Minimum Rent and all Additional Rent under the Lease, on a day-per-day basis, until any such interruption is restored. Tenant agrees that it will not install any equipment which will exceed or overload the capacity of any utility facilities serving the Premises and that if any equipment installed by Tenant shall require additional utility facilities, the same shall be installed and maintained at Tenant's expense in accordance with plans and specifications approved in writing by Landlord.

ARTICLE XI

INDEMNITY AND NON-LIABILITY

11.1 Indemnification.

11.1.1 To the extent allowed by law and without waiving Tenant's sovereign immunity, Tenant agrees to defend, indemnify and save and hold Landlord harmless from and against any and all liability for any injury to or death of any person or persons or any damage to property in any way arising out of or connected with the condition, use or occupancy of the Premises, or in any way arising out of Tenant's breach of any of the covenants and obligations of Tenant set forth in this Lease, or in any way arising out of the activities in the Premises, Common Areas or other portions of the Shopping Center, of the Tenant, its assignees or sublessees or of the respective agents, employees, licensees, concessionaires or invitees of Tenant, its assignees or sublessees, and from all costs, expenses and liabilities, including, but not limited to, court costs and reasonable attorneys' fees (inclusive of fees through any and all appeals), incurred by Landlord in connection with any of the foregoing; provided that the foregoing shall in no way obligate Tenant to indemnify Landlord against Landlord's negligence or willful misconduct or for any breach of this Lease by Landlord.

11.1.2 Landlord agrees to defend, indemnify and save and hold Tenant, including its public officials, officers, employees and agents, harmless from and against any and all liability for any injury to or death of any person or persons or any damage to property arising out of or caused by the negligence or willful misconduct of Landlord or its agents, or arising out of Landlord's material breach of any of the covenants and obligations of Landlord set forth in this Lease, and from all costs, expenses and liabilities, including, but not limited to, court costs and reasonable attorneys' fees (inclusive of fees through any and all appeals), actually incurred by Tenant in connection with any of the foregoing; provided that the foregoing shall in no way obligate Landlord to indemnify Tenant against Tenant's negligence or willful misconduct or for any breach of this Lease by Tenant.

11.1.3 The provisions of this Section 11.1 shall survive the expiration or other termination of this Lease.

11.2 Non-Liability. Tenant covenants and agrees, to the maximum extent permitted by law and except for (but subject to the waiver of subrogation and release provisions hereof) damage caused by Landlord's negligence or material breach of this Lease, that Landlord shall not be liable to Tenant for any injury to or death of any person or persons or for damage to any property of Tenant, or any person claiming through Tenant, arising out of any accident or occurrence on the Premises or any other portion of the Shopping Center by any cause whatsoever, including, without limiting the generality of the foregoing, injury, death or damage caused by the Premises or other portions of the Shopping Center becoming out of repair or caused by any defect in or failure of equipment, pipes, or wiring, or caused by broken glass, or caused by the backing up of drains, or caused by gas, water, steam, electricity, or oil leaking, escaping or flowing into the Premises and of which there was no negligence or willful misconduct on the part of Landlord, or caused by fire or smoke, or caused by the acts or omissions of other tenants of the Shopping Center.

ARTICLE XII

INSURANCE

12.1 Casualty Insurance.

12.1.1 Tenant agrees that it shall throughout the Lease Term carry fire and extended coverage insurance insuring all leasehold improvements and betterments to the Premises and any and all trade fixtures, furniture, equipment, inventory, supplies and other property owned, leased, held or possessed by it and contained therein, in an amount equal to the full insurable values thereof (it being understood that no lack or inadequacy of insurance by Tenant shall in any event make Landlord subject to any claim by virtue of any theft of or loss of damage to any uninsured or inadequately insured property).

12.1.2 Landlord agrees to carry and maintain fire and extended coverage insurance covering the Shopping Center and Common Area in amounts per lender's requirements.

12.2 Liability Insurance, Etc.

12.2.1 Tenant shall also procure and maintain throughout the Lease Term a policy or policies of insurance, insuring Tenant, and naming as additional insureds, Landlord, Manager and any other affiliates of Landlord designated by Landlord, upon written notice of the name and address of such other affiliates of Landlord, against any and all liability for injury to or death of a person or persons and for damage to property occasioned by or arising out of any construction work being done on the Premises, or arising out of the condition, use or occupancy of the Premises, or in any way occasioned by or arising out of the activities of Tenant, its agents, employees or licensees in the Premises, or other portions of the Shopping Center, in amounts not less than the Liability Insurance Limits provided in Section 1.1(p) hereof or such higher limits as Landlord may reasonably require from time to time during the Lease Term.

12.2.2 Landlord shall also procure and maintain throughout the Lease Term commercial general liability insurance in amounts not less than the Liability Insurance Limits provided in Section 1.1(p) hereof or, if Landlord requires Tenant to procure insurance with higher limits as set forth in Section 12.2.1, in an amount not less than such higher

amount. Provided such policy permits, such policy of insurance shall name the City of Johns Creek, Georgia as an additional insured.

12.3 **Insurance Requirements.** All insurance policies that are required to be procured and maintained pursuant to this Lease shall be carried with companies licensed to do business in the State in which the Shopping Center is located, and with a rating acceptable to the other party and shall be noncancellable except after five (5) days' written notice to the other party and any designees thereof. Such policies or duly executed certificates of insurance with respect thereto shall be delivered to the other party prior to the date that Tenant takes possession of the Premises, and renewals thereof as required shall be delivered to the other party at least thirty (30) days prior to the expiration of each respective policy term, and must name the other party, as additional named insureds under the policies. Tenant shall name the Landlord, its Manager, and any others affiliates of Landlord as designated by the Landlord as additional insureds.

12.4 **Mutual Waiver of Subrogation; etc.** Landlord and Tenant (for themselves and for their insurers) each hereby waive any and all rights to recover against the other, or against the officers, directors, shareholders, partners, joint venturers, employees and agents of such other party, and agree to release same from liability, for any loss or damage to such waiving party arising from any cause covered by any public liability insurance, casualty insurance or business interruption insurance maintained or required to be maintained by such party under the terms and provisions of this Lease. In furtherance of the foregoing, Landlord and Tenant will each cause their respective insurers to issue appropriate waiver of subrogation rights endorsements (to the extent that such rights are not waived in the policies themselves) to such policies of insurance. Evidence of the existence of such waiver will be furnished by either party to the other party on request and each party will indemnify the other party from and against any loss or damage sustained as a result of the indemnifying party's failure to comply with the provisions of this Section 12.4.

ARTICLE XIII

DAMAGE BY CASUALTY

13.1 **Casualty.** Tenant shall give immediate written notice to Landlord of any damage to the Premises caused by fire or other casualty, and if Landlord does not elect to terminate this Lease as hereinafter provided, Landlord shall proceed with reasonable diligence and at its sole cost and expense to rebuild and repair the Premises within one-hundred and eighty (180) days following the date of any such casualty. Notwithstanding the foregoing, in the event that (i) the insurance proceeds payable in connection with such damage and destruction shall be insufficient to make such restoration, (ii) the building in which the Premises are located shall be destroyed or substantially damaged by casualty not covered by standard fire or extended coverage insurance, (iii) said building shall be destroyed or rendered untenable by any casualty to the extent of at least fifty percent (50%) of the Gross Rentable Area of said building, (iv) Landlord shall not have actual and unconditional receipt of the insurance proceeds payable in connection with such damage and destruction, (v) the holder of any mortgage, deed to secure debt, deed of trust, or other instrument in the nature thereof which encumbers Landlord's interest hereunder or in the Premises shall require that such proceeds shall be applied against any indebtedness owed to such holder, or (vi) there shall be less than two (2) years remaining in the Term, or any extension or renewal thereof, then, in any of such events, Landlord may elect either to terminate this Lease or to proceed to rebuild and repair the Premises in accordance herewith. Landlord shall give written notice to Tenant of such election within thirty (30) days after the occurrence of such casualty. Notwithstanding the foregoing, Tenant shall have the right to terminate this Lease if any casualty to the Premises occurs during the final six (6) months of this Lease.

13.2 **Extent of Renovation, Etc.** Landlord's obligation to rebuild and repair the Premises under this Article XIII shall in any event be limited to restoring the base building structure and systems of the building in which the Premises are located (exclusive of tenant finish and other tenant improvements), all to substantially the condition in which the same existed prior to the casualty, and Tenant agrees that promptly after the completion of such work by Landlord, Tenant will proceed with reasonable diligence and at its sole cost and expense to restore Tenant's Work and all other tenant finish and other tenant improvements to substantially the condition in which the same existed prior to the casualty.

13.3 **Rental Abatement, Etc.** Tenant agrees that during any period of reconstruction or repair of the Premises, it will continue the operation of its business within the Premises to the extent practicable. During the period from the occurrence of a casualty until Landlord's repairs are completed, the Minimum Rental shall be reduced and abated in proportion to the amount of Gross Rentable Area of the Premises which is rendered untenable as a result of such casualty; provided, however, that if such damage or destruction is caused by the intentional or grossly negligent acts or omissions of Tenant, its assignees or sublessees or their respective servants, agents, employees, invitees, licensees or concessionaires, then, and in that event, the Minimum Rental shall not abate. Tenant shall not be entitled to and hereby waives, releases and relinquishes any and all claims against Landlord for any compensation or damage for loss of use of all or any part of the Premises or for any inconvenience or annoyance occasioned by any such damage, destruction, repair, or restoration of the Premises, except any such claims arising out of the negligence or intentional acts or omissions of Landlord.

13.4 **Damage to Shopping Center.** In the event that fifty percent (50%) or more of the Gross Rentable Area of the Shopping Center shall be destroyed or substantially damaged by any casualty, notwithstanding that the Premises may be unaffected by such casualty, Landlord may terminate this Lease by giving to Tenant thirty (30) days' prior written notice of Landlord's election to do so, which notice shall be given, if at all, within ninety (90) days following the date of said occurrence. Rent shall be adjusted as of the date of such termination.

ARTICLE XIV

EMINENT DOMAIN

14.1 **Taking of Premises.** Should the Premises or any part thereof be taken by eminent domain or condemnation or by agreement between Landlord and those authorized to exercise said rights (all such procedures being herein collectively called "Condemnation"), Landlord shall have the following options:

(a) If the part remaining, if any, after such Condemnation is, in Landlord's opinion, not reasonably suitable for the use specified in Section 1.1(m) for which the Premises were leased, this Lease shall terminate upon possession of the Premises (or affected portion) by the condemning authority and Minimum Rental and any other monies shall be accounted for between the parties as of the date of said possession.

(b) If the part remaining, if any, after such Condemnation is, in Landlord's opinion, reasonably suitable for the use specified in Section 1.1(m), then Landlord, at its own expense shall, upon receipt of the Condemnation award, restore the remaining portion of the Premises and the Minimum Rental shall be proportionately adjusted if the area of the Premises is changed. Said restoration shall be (i) subject to the written consent of Landlord's first Mortgagee who has a prior right to such award; (ii) limited to the condition originally provided by Landlord when the Premises are delivered Ready for Occupancy; and (iii) limited in cost to the net proceeds of the Condemnation award received and retained by Landlord for the Premises.

(c) If the part remaining, if any, after such Condemnation is, in Landlord's opinion, reasonably suited for the use specified in Section 1.1(m), but such event occurs during the last year of the Term, Landlord may, at Landlord's sole option, elect to follow the provisions of either (a) or (b) above.

14.2 **Taking of Shopping Center.** In addition to the foregoing, if in Landlord's judgment a material portion of the Shopping Center shall be taken by Condemnation (regardless of whether the Premises are affected), Landlord may terminate this Lease by giving Tenant written notice of its election and if Landlord does so this Lease and the Term shall terminate ninety (90) days after the date of said notice and thereupon each party will be relieved of all obligation and liability accruing under this Lease subsequent to the effective termination date. Through the effective termination date all terms and conditions of this Lease will be and remain in full force and effect.

14.3 **Termination Rights.** Notwithstanding anything in this Lease to the contrary (i) if all or any portion of the Shopping Center shall be taken by Condemnation and the award to Landlord is insufficient to pay Landlord for the costs of repairing or restoring the Shopping Center or any part thereof (including the Premises), or (ii) if any Mortgagee of the Shopping Center, or anyone else entitled to all or any part of Landlord's award, does not consent to the payment thereof to Landlord for such purpose; then, and in any such event, Landlord, at its election, may terminate this Lease on thirty (30) days' prior written notice to Tenant and if Landlord does so this Lease and the Term shall terminate thirty (30) days after the date of said notice and thereupon each party will be relieved of all obligation and liability accruing under this Lease subsequent to the effective termination date. Through the effective termination date all terms and conditions of this Lease will be and remain in full force and effect.

14.4 **Allocation of Award.** All compensation paid for any Condemnation, or paid as the purchase price for the sale and conveyance in lieu of formal condemnation proceedings, shall belong to and be the property of Landlord; provided however, Tenant shall have the sole right to reclaim and recover from the condemning authority, but not from the Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all costs or losses that Tenant might incur, including any loss of its property interest, business loss or costs in removing Tenant's furniture, fixtures, improvements, and equipment to a new location, so long as any such separate award does not diminish or adversely affect Landlord's award or that of any Mortgagees or underlying ground lessors; provided however, in the event only one (1) award is made by the condemning authority and such award is received by Landlord, then to the extent any portion of Landlord's award is intended to pay any of Tenant's expenses or losses as set forth above, then the Landlord agrees to forthwith remit such sums to Tenant.

ARTICLE XV

ASSIGNMENT AND SUBLETTING

15.1 **Restrictions on Assignment and Subletting.** Tenant shall not assign or transfer all or any portion of its interest in this Lease or in the Premises, or sublet all or any portion of the Premises, whether voluntarily, by operation of law or otherwise, without the prior written consent of Landlord which shall not be unreasonably withheld. Consent by Landlord to one or more assignments or sublettings shall not operate as a waiver of Landlord's rights with respect to any subsequent assignment or subletting, and Tenant shall remain liable hereunder following any such assignment or sublease, regardless of Landlord's consent thereto. If Tenant is a corporation, then any transfer of this Lease from Tenant by merger, consolidation or liquidation, sale of substantially all of the assets of the corporation, or any change in ownership or power to vote the majority of its outstanding voting stock, shall constitute an assignment for the purposes of this Lease. If Tenant is a partnership, then any dispositions(s) of the majority of the interests therein, or any change in ownership or the power to vote the majority of the interests therein, shall also constitute an assignment for the purposes of this Lease. The term "sublet" shall be deemed to include the granting of licenses, concessions, and any other rights of occupancy of

any portion of the Premises, excepting only customary leased department arrangements under which such leased department is not operated under a separate name and is held out to the public as an integral part of the Premises.

15.2 **No Waiver or Release.** Any assignment or sublease in violation of this Article shall be deemed void ab initio. No occupancy by any party other than Tenant or collection of rent by Landlord will be deemed (i) a waiver of provisions of this Article, or (ii) the acceptance of the assignee, subtenant, or occupant as tenant, or (iii) a release of Tenant from the further performance by Tenant of covenants on the part of Tenant contained in this Lease. No permitted subtenant shall have the right to assign or encumber its sublease or further sublease all or any portion of its subleased space or otherwise permit the subleased space or any part of its subleased space to be used or occupied by others.

15.3 **Sales by Landlord.** The term "Landlord" as used in this Lease means only the owner or entity from time to time owning the building containing the Premises, so that in the event of any sale or sales thereof, the Landlord who is a grantor in any such sale shall be and hereby is, without further agreement, entirely freed and relieved of all the obligations of Landlord hereunder. Any such sale or sales of the Premises, unless pursuant to a foreclosure sale or deed in lieu of such foreclosure, shall be subject to this Lease and it shall be deemed and construed without further agreement that the purchaser at any such sale has assumed and agreed to carry out any and all obligations of Landlord under this Lease from and after the date of such sale so long as such purchaser shall be the owner of the building containing the Premises.

15.4 **No Encumbrance; Usufruct.** Tenant shall not mortgage, pledge, or otherwise encumber its interest under this Lease. Tenant has only a usufruct, not subject to levy, sale or other transfer except in accordance with this Article XV.

15.5 **Options Personal.** In no case may Tenant assign any options granted to Tenant hereunder, all such options being deemed personal to Tenant and exercisable by Tenant only.

15.6 **Processing Fee.** Any request by Tenant for approval to sublet the Premises or any portion thereof or to transfer or assign Tenant's interest in this Lease or any interest therein, shall be accompanied by a non-refundable processing charge in the amount of Five Hundred Dollars and No/100 (\$500.00), to be paid prior to Landlord's review of Assignment or Sublease.

ARTICLE XVI

TAXES

16.1 **Tenant's Taxes.** To the extent applicable, Tenant shall be liable for and shall pay all taxes levied against personal property, fixtures, and Tenant's Work in the Premises; if such taxes for which Tenant is liable are levied against Landlord or Landlord's property and if Landlord elects to pay the same or if the assessed value of Landlord's property is increased by inclusion of any such items and Landlord elects to pay the taxes based on such increase, Tenant shall pay to Landlord upon demand that part of such taxes for which Tenant is liable hereunder.

16.2 **Rent Taxes.** Tenant agrees to pay as additional rent any rent tax or other tax imposed upon rent payments or imposed upon Landlord based upon rent payments by Tenant to Landlord; however, Tenant shall not be required to pay any income tax of Landlord.

ARTICLE XVII

DEFAULTS AND REMEDIES

17.1 **Events of Default.** The happening of any one or more of the following shall be deemed to be events of default under this Lease:

17.1.1 Tenant's Default.

(a) Failure of Tenant to pay any installment of rent or other charge or money obligation herein required to be paid by Tenant within five (5) days following written notice that, such payment is due and payable; or

(b) Failure of Tenant to comply with any covenant or provision of this Lease (except payment of any installment of rent or other charge or money obligation herein required to be paid by Tenant) within twenty (20) business-days after written notice of such failure to comply is given by Landlord, or if it is not feasible to cure such failure within such period, to begin performance of such covenant within such period and to diligently pursue performance to completion in a reasonable time thereafter, not to exceed sixty (60) days.

17.1.2 Landlord's Default.

(a) Failure of Landlord to comply with any covenant or provision of this Lease within twenty (20) business-days after written notice of such failure to comply is given by Tenant, or if it is not feasible to cure such failure within such period, to begin performance of such covenant within such period and to diligently pursue performance to completion in a reasonable time thereafter.

In the event of a Landlord default that is not cured within the above-described period of time (as that time period may be extended so long as Landlord is diligently pursuing a cure), then Tenant shall have the right to terminate this Lease, without penalty, such termination to be effective as of the termination date designated on Tenant's termination notice.

17.2 **Remedies of Landlord.** Upon the occurrence of any of such events of Tenant's default, Landlord shall have the option to pursue any one or more of the following remedies upon written notice or demand whatsoever:

(a) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. Landlord may, without prejudice to any other remedy which it may have, enter upon and take possession of the Premises and expel or remove Tenant and any other person who may be occupying the Premises or any part thereof, by force, if necessary, without being liable for prosecution or any claim of damages therefor;

(b) Not terminate this Lease but rather enter upon and take possession of the Premises and, if Landlord so elects, make such alterations and repairs as may be necessary to relet the Premises, and relet the Premises or any part thereof for the account of Tenant, at such rent and for such term and subject to such terms and conditions as Landlord may deem advisable and receive the rent therefor. Upon each such reletting all rentals received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to Landlord; second, to the payment of any loss and expenses of such reletting, including brokerage fees and reasonable attorneys' fees and costs of such alterations and repairs; third to the payment of rent due and unpaid hereunder, and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder, and Tenant agrees to pay to Landlord on demand any deficiency that may arise by reason of such reletting. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach; Landlord shall be obligated to use good faith efforts to relet the Premises.

(c) Should Landlord at any time terminate this Lease for any breach, in addition to any other remedies it may have, it may recover from Tenant all damages it may incur by reason of such breach, including the cost of recovering the Premises, reasonable attorneys' fees, and the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this Lease for the remainder of the Term over the then reasonable rental value of the Premises for the remaining portion of the Term all of which amounts shall be immediately due and payable from Tenant to Landlord, the foregoing liability to survive any termination of this Lease; or

(d) Cure or prosecute the curing of the failure or violation, the expense of which shall be deemed to be additional rental hereunder and shall be paid to Landlord by Tenant on demand. Landlord shall not be liable for any loss or damage suffered by Tenant resulting from the exercise of rights granted under this Section.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law or in equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Landlord hereunder or of any damages accruing to Landlord by reason of the violation of any of the covenants and provisions herein contained. Forbearance by Landlord to enforce one or more of the remedies herein provided upon an event of default shall not be deemed or construed to constitute a waiver of such default.

17.3 **Attorneys' Fees; Interest.** If, because of any breach or default by Tenant in Tenant's obligations hereunder, it shall become necessary for Landlord to employ an attorney to enforce or defend any of the Landlord's rights or remedies hereunder, Tenant agrees to pay reasonable attorneys' fees incurred by Landlord in connection therewith (including, without limitation, costs on appeal). If, because of any breach or default by Landlord in Landlord's obligations hereunder beyond the applicable notice and cure period, it shall become necessary for Tenant to employ an outside attorney to enforce or defend any of the Tenant's rights or remedies hereunder, in the event that Tenant is the prevailing party then Landlord agrees to pay reasonable attorneys' fees actually incurred by Tenant in connection therewith (including, without limitation, reasonable costs on appeal). Further, any installment of rent or any other charge or money obligation herein required to be paid by Tenant which is not paid when due shall bear interest at the rate of ten percent (10%) per annum or at the maximum rate allowed by law, whichever is less, from the due date until paid and Landlord may treat any such charge or money obligation as additional rent hereunder. Tenant shall, in addition, pay a service charge of Ten and No/100 Dollars (\$10.00) per day on amounts not so paid when due and Landlord may treat such charge as additional rent hereunder.

17.4 **Advance Deposit; Security Deposit.** Landlord hereby acknowledges receipt from Tenant of the Advance Deposit set forth in Section 1.1(h), which shall be applied to the first accruing installments of Minimum Rental or as otherwise provided in such Section.

ARTICLE XVIII

HOLDING OVER

18.1 **Holding Over.** If Tenant remains in possession of the Premises after the termination of this Lease and without the execution of a new lease, Tenant shall be deemed to be occupying the Premises as a tenant at sufferance at a rent equal to the rents (including any Percentage Rent) herein provided plus fifty (50%) percent of such amounts and otherwise subject to all the covenants and provisions of this Lease insofar as the same are applicable to a tenant at sufferance and in no event shall there be any renewal of this Lease by operation of law. Nothing herein contained shall be construed as

constituting Landlord's consent or approval to of any such holdover, nor operate to preclude or inhibit the exercise by Landlord of all rights and remedies hereunder or available under applicable law to dispossess or evict Tenant.

ARTICLE XIX

SUBORDINATION

19.1 **Subordination.** This Lease and all rights of Tenant hereunder are and shall be subject and subordinate to the lien of any first priority mortgage, deed to secure debt, deed of trust, or other instrument in the nature thereof (a "Mortgage"; the holder thereof being sometimes referred to herein as a "Mortgagee") which may now or hereafter affect Landlord's title to the Premises or Shopping Center and to any modifications, renewals, consolidations, extensions, or replacements of any of the foregoing. This clause shall be self-operative and no further instrument of subordination shall be necessary. In confirmation of such subordination, however, Tenant shall, upon demand at any time or times, execute, seal and deliver to Landlord, without expense to Landlord, any and all instruments in recordable form that may be requested by Landlord to evidence the subordination of this Lease and all rights hereunder to the lien and security title of any such Mortgage and each renewal, modification, consolidation, replacement and extension thereof. Landlord agrees that, following execution of this Lease Agreement by the parties, Landlord shall request and use its best efforts to obtain, on lender's form, a Subordination and Non-Disturbance Agreement on behalf of Tenant.

19.2 **Agreement to Make Superior.** Tenant shall, however, upon Landlord's request, at any time or times, execute, seal and deliver to Landlord without expense to Landlord, any and all instruments that may be necessary to make this Lease superior to the lien of any Mortgage.

19.3 **Attornment.** If the holder of any Mortgage or any successor thereto through foreclosure or similar procedure shall hereafter succeed to the rights of Landlord under this Lease, whether through possession or foreclosure action or otherwise, then, at the option of such holder, Tenant shall attorn to and recognize such successor as Tenant's landlord under this Lease, and shall promptly execute and deliver any instrument that may be necessary to evidence such attornment. Upon the attornment provided for in this Section 19.3, this Lease shall continue in full force and effect as a direct lease between such successor Landlord and Tenant, subject to all the terms, covenants, and conditions of this Lease; provided, however, that such holder, as successor landlord, shall not be bound by, liable for returning to Tenant, nor crediting against any rent due hereunder, any advance rentals previously paid by Tenant to Landlord, nor shall such holder be (i) liable for any act or omission of any prior Landlord under the Lease, (ii) subject to any offsets or defenses which Tenant might have against any prior Landlord under the Lease, or (iii) bound by any amendment or modification of the Lease made after the date of the foreclosed Mortgage without the prior written consent of the holder of such Mortgage. The provisions of this Section 19.3 shall survive any termination of this Lease resulting from foreclosure of a Mortgage.

ARTICLE XX

MISCELLANEOUS

20.1 **Notices.** Whenever any notice is required or permitted hereunder, such notice shall be in writing. Any notice or document required or permitted to be given hereunder shall be delivered in person, by recognized overnight air courier or delivery service or deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the address for Landlord and Tenant, as the case may be, specified in Section 1.1 (k) or Section 1.1(l), respectively.

20.2 **Notices to Mortgagees.** Tenant agrees that, upon the request of either Landlord or any Mortgagee, Tenant shall send to such Mortgagee copies of all notices sent to Landlord, such copies to be forwarded to such Mortgagee as and when such notices are sent to Landlord and at the mailing address from time to time provided to Tenant by either Landlord or such Mortgagee. In addition, Tenant agrees that it may not exercise any remedies on account of a default by Landlord under this Lease unless and until such Mortgagee shall have received written notice of such default from Tenant and the opportunity of such notice for curing such default within the same periods afforded Tenant hereunder.

20.3 **Captions.** The captions and the table of contents used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof. Whenever the singular number is used the same shall include the plural, and words of any gender shall include each other gender.

20.4 **Waivers.** One or more waivers of any covenant, term or condition of this Lease by either party shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

20.5 **Quiet Enjoyment.** Landlord hereby covenants and agrees that if Tenant shall perform all of the covenants and agreements herein required to be performed on the part of Tenant, Tenant shall, subject to the terms of this Lease, at all times during the continuance of this Lease have the peaceable and quiet enjoyment and possession of the Premises against Landlord and all persons or entities claiming by, through or under Landlord. Anything herein to the contrary notwithstanding, except as set forth in Section 5.3, Landlord expressly reserves the right at any time(s) to change the name and/or address of the Shopping Center and to make changes, additions, deletions, removals, replacements, alterations and improvements in and to all or any part of the Shopping Center as previously set forth herein.

20.6 **Entire Agreement.** This Lease contains the entire agreement between the parties and no agreement, representation or inducement shall be effective to change, modify or terminate this Lease in whole or in part unless in writing and signed by the parties.

20.7 **Brokers.** Tenant warrants that it has had no dealings with any broker other than Westplan Investors representing Landlord and no other broker (collectively, the "Broker(s)"), in connection with the negotiation or execution of this Lease, and Tenant agrees to indemnify Landlord and hold Landlord harmless from and against any and all cost, expense or liability for commissions or other compensation or charges claimed by any broker or agent other than Broker(s) in regard to representation of Tenant with respect to this Lease. Tenant shall not be liable for any brokerage fees due or owing to Westplan Investors.

20.8 **Estoppel Certificates.** At any time and from time to time, Tenant, on or before the date specified in a request made by Landlord, which date shall not be earlier than ten (10) days from the making of such request, shall execute, acknowledge and deliver to Landlord a certificate evidencing whether or not (i) this Lease is in full force and effect; (ii) this Lease has been amended in any way; (iii) there are any existing defaults hereunder to the knowledge of Tenant and specifying the nature of such default, if any; and (iv) the date to which rent, has been paid. Each certificate delivered pursuant to this Section 20.8 may be relied on by any prospective purchaser or transferee of the Shopping Center or of Landlord's interest hereunder or by any Mortgagee of Landlord or by any assignee of any such Mortgagee.

20.9 **Successors and Assigns.** The terms, provisions and covenants contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto and their respective heirs, assigns, successors-in-interest and legal representatives, except as otherwise herein expressly provided.

20.10 **Limitation of Liability.** LANDLORD'S OBLIGATIONS AND LIABILITY TO TENANT WITH RESPECT TO THIS LEASE SHALL BE LIMITED SOLELY TO LANDLORD'S LEGAL AND EQUITABLE INTEREST IN THE SHOPPING CENTER, AND TENANT SHALL LOOK SOLELY TO LANDLORD'S LEGAL AND EQUITABLE INTEREST IN THE SHOPPING CENTER FOR SATISFACTION OF TENANT'S REMEDIES AND IN NO EVENT SHALL TENANT SUE FOR CONSEQUENTIAL, SPECIAL, PUNITIVE OR TREBLE DAMAGES. WITHOUT EXPANDING BY IMPLICATION ANY LIMITATIONS ON LIABILITY OTHERWISE PROVIDED BY LAW, IT IS AGREED BY TENANT THAT NEITHER LANDLORD NOR ANY PERSON OR ENTITY COMPRISING LANDLORD NOR ANY PARTNER, OFFICER, DIRECTOR OR SHAREHOLDER OF LANDLORD OR OF ANY PARTNER OF LANDLORD SHALL HAVE ANY PERSONAL LIABILITY WHATSOEVER WITH RESPECT TO THIS LEASE.

20.11 **Time of the Essence.** Time is of the essence of this Lease.

20.12 **Governing Law.** The laws of the State of Georgia shall govern the interpretation, validity, performance, and enforcement of this Lease.

20.13 **Surrender of Possession.** Tenant shall, on or before the last day of the Term hereof, or on the sooner termination hereof, peaceably and quietly leave, surrender and yield to Landlord the Premises, together with all alterations, additions, improvements, fixtures and equipment (including air-conditioning equipment, but excluding trade fixtures and other personal property of Tenant, any lessee, sublessee, licensee or concessionaire of Tenant, or any other occupant of the Premises) in good order and repair, ordinary wear and tear and damage by fire or other casualty or condemnation only excepted. All such trade fixtures and other personal property, including any Tenant signage, shall be removed by Tenant (with repair of any damage to the Premises or Shopping Center caused thereby made by Tenant at its expense) on or before the last day of the Term hereof. In the event any such trade fixtures or personal property are not removed, Landlord shall give notice to Tenant to remove all or any part hereof, in which event Tenant shall promptly at its expense remove same, or Landlord may do so at Tenant's expense. The foregoing shall survive expiration or termination of this Lease.

20.14 **Severability.** If any term, covenant, or condition of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law. Without limiting the generality of the foregoing, it is the express intent of Landlord and Tenant that no provision set forth in this Lease shall in any way obligate either Landlord or Tenant to indemnify or hold harmless the other party against liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of such other party or its agents or employees in violation of the provisions of Section 13-8-2 of the Official Code of Georgia Annotated.

20.15 **No Partnership.** Nothing herein contained shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of rent, nor any other provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of landlord and tenant.

20.16 **Counterparts, Etc.** This Lease may be executed in multiple counterparts, each of which shall be deemed an original and any of which shall be deemed to be complete of itself and may be introduced into evidence or used for any purpose without the production of any other copy. This Lease is the product of the joint efforts of Landlord and Tenant, and, accordingly, no provision of this Lease shall be interpreted or otherwise construed in favor of Landlord or Tenant by virtue of the authorship of such provision by either Landlord or Tenant.

20.17 **No Offer.** The submission of this Lease by Landlord to Tenant is not an offer to lease the Premises or an agreement by Landlord to reserve the Premises for Tenant. Landlord shall not be bound to Tenant until Tenant has duly executed and delivered original counterparts of this Lease to Landlord, and Landlord has duly executed and delivered one of such original counterparts of this Lease to Tenant.

20.18 **No Recording.** This Lease shall not be recorded by either party.

20.19 **Force Majeure.** In the event that either party shall be delayed or hindered in, or prevented from, the performance of any work, service, or other act required under this Lease to be performed by the party and such delay or hinderance is due to strikes, lockouts, acts of God, governmental restrictions, enemy act, civil commotion, unavoidable fire or other casualty, or other causes of a like nature beyond the control of the party so delayed or hindered, then performance of such work, service, or other act shall be excused for the period of such delay and the period for the performance of such work, service, or other act shall be extended for a period equivalent to the period of such delay. In no event shall such delay constitute a termination or extension of this Lease. Likewise, no delay occasioned by financial inability of a party shall be considered an event of force majeure.

20.20 **Property Management.** Landlord shall have the right to delegate any and all of its obligations under this Lease to an entity engaged in the operation and management of shopping centers (any such entity herein referred to as "Manager"). Such delegation shall not, however, relieve Landlord of any such obligations. The initial Manager is Westplan Investors and such Manager's address is set out in Section 1.1(k) above. Landlord may designate a replacement Manager at any time and from time to time by notice to Tenant.

20.21 **Transfer of Tenants.** Intentionally Omitted.

20.22 **No Representations or Warranties.** Without limiting Section 20.6 above, Tenant hereby acknowledges and agrees that the leasing and field personnel of Landlord and/or Manager are only authorized to show the Premises and negotiate terms and conditions for leases subject to Landlord's final approval, and are not authorized to make any agreements, representations, understandings or obligations binding upon Landlord respecting the present or future condition of the Premises or Shopping Center, suitability of the same for Tenant's business, or any other matter, and no such agreements, representations, understandings or obligations not expressly contained herein shall be of any force or effect. Tenant further acknowledges and agrees that Manager has made no representations or warranties to Tenant with respect to the Premises or this Lease.

20.23 **Multiple Tenants.** If Tenant is composed of more than one individual or entity, then all are jointly and severally liable for the due and proper performance of Tenant's duties and obligations arising under or in connection with this Lease.

20.24 **Guaranty.** To the extent that the obligations of Tenant under and with respect to this Lease are to be guaranteed by a guarantor, Tenant shall cause such guarantor to execute and deliver to Landlord on or before Tenant's execution and delivery of this Lease, a guaranty of this Lease substantially in the form of Exhibit "G" attached hereto and by this reference made a part hereof. If there is no such guarantor, Exhibit "G" shall be of no relevance hereto and shall be deemed omitted from this Lease.

20.25 **Special Stipulations.** To the extent that the Special Stipulations set forth in Exhibit "H" conflict with any of the printed provisions of this Lease, such Special Stipulations shall control.

IN WITNESS WHEREOF, the parties have caused this Lease to be executed under seal by their duly authorized representatives as of the day, month and year first above written.

LANDLORD:

OLD ALABAMA, LLC, a Delaware limited liability company
authorized to do business in the State of Georgia

Date: 1/14/12

Witness: [Signature]

BY: AEgitto

Print: ANTHONY EGITTO

Its: AGENT

TENANT:

CITY OF JOHNS CREEK, GEORGIA, a municipal
corporation of the State of Georgia

Date: 1/12/2012

Witness: Jean Jones City Clerk

BY: [Signature]

Print: Michael E. Bodker

Its: Mayor, City of Johns Creek

EXHIBIT "A"

SHOPPING CENTER LEGAL DESCRIPTION

All that tract or parcel of land lying in and being in Land Lots 840, 841, 868, and 869 of the 1st District, 2nd Section of Fulton County, Georgia and being more particularly described as follows:

Beginning at a ½" rebar set at the intersection of the southerly right-of-way of Old Alabama Road (having a variable right-of-way), and the westerly right-of-way of Rod Road (having a variable right-of-way), said point being 55 feet from the centerline of Old Alabama Road and being THE POINT OF BEGINNING;

THENCE leaving the southerly right-of-way of Old Alabama Road and along the westerly right-of-way of Rod Road the following courses and distances;

THENCE South 08 degrees 19 minutes 13 seconds West for a distance of 29.78 feet to a ½" rebar set;

THENCE along a curve to the left having a radius of 250.00 feet and an arc length of 115.35 feet, being subtended by a chord of South 04 degrees 53 minutes 51 seconds East for a distance of 114.33 feet to a point;

THENCE along a curve to the left having a radius of 250.00 feet and an arc length of 22.11 feet, being subtended by a chord of South 20 degrees 32 minutes 55 seconds East for a distance of 22.10 feet to a point;

THENCE South 23 degrees 10 minutes 54 seconds East for a distance of 9.22 feet to a ½" rebar set;

THENCE South 09 degrees 04 minutes 21 seconds West for a distance of 130.04 feet to a ½" rebar set;

THENCE South 86 degrees 53 minutes 39 seconds West for a distance of 150.00 feet to a point in the centerline of a ditch;

THENCE along the centerline of said ditch, the following courses and distances:

THENCE South 72 degrees 02 minutes 02 seconds West for a distance of 18.10 feet to a point;

THENCE South 37 degrees 56 minutes 52 seconds West for a distance of 22.35 feet to a point;

THENCE South 66 degrees 58 minutes 14 seconds West for a distance of 15.83 feet to a point;

THENCE South 41 degrees 55 minutes 53 seconds West for a distance of 20.31 feet to a point;

THENCE North 85 degrees 25 minutes 14 seconds West for a distance of 9.30 feet to a point;

THENCE South 48 degrees 34 minutes 12 seconds West for a distance of 19.27 feet to a point;

THENCE South 20 degrees 05 minutes 54 seconds West for a distance of 16.42 feet to a point;

THENCE South 84 degrees 20 minutes 02 seconds West for a distance of 10.11 feet to a point;

THENCE South 69 degrees 17 minutes 35 seconds West for a distance of 36.60 feet to a point;

THENCE South 42 degrees 38 minutes 07 seconds West for a distance of 29.30 feet to a point;

THENCE South 17 degrees 32 minutes 41 seconds West for a distance of 36.35 feet to a point;

THENCE South 06 degrees 39 minutes 17 seconds East for a distance of 9.18 feet to a point;

THENCE South 51 degrees 27 minutes 35 seconds West for a distance of 8.70 feet to a point;

THENCE South 21 degrees 49 minutes 55 seconds West for a distance of 33.30 feet to a point;
THENCE South 44 degrees 41 minutes 45 seconds East for a distance of 12.63 feet to a point;
THENCE South 47 degrees 04 minutes 55 seconds West for a distance of 18.18 feet to a point;
THENCE South 37 degrees 08 minutes 28 seconds West for a distance of 17.97 feet to a point;
THENCE South 82 degrees 39 minutes 08 seconds West for a distance of 139.80 feet leaving said ditch to a ½" rebar set;

THENCE North 87 degrees 46 minutes 50 seconds West for a distance of 798.16 feet to a point in the centerline of a creek;

THENCE along said creek centerline the following courses and distances:

THENCE North 51 degrees 01 minutes 23 seconds East for a distance of 11.29 feet to a point;
THENCE North 27 degrees 17 minutes 18 seconds East for a distance of 33.31 feet to a point;
THENCE North 39 degrees 33 minutes 45 seconds East for a distance of 14.65 feet to a point;
THENCE North 26 degrees 05 minutes 38 seconds East for a distance of 59.76 feet to a point;
THENCE North 07 degrees 05 minutes 58 seconds East for a distance of 41.68 feet to a point;
THENCE North 46 degrees 41 minutes 59 seconds East for a distance of 59.10 feet to a point;
THENCE North 31 degrees 53 minutes 46 seconds East for a distance of 69.60 feet to a point;
THENCE North 59 degrees 47 minutes 24 seconds East for a distance of 27.94 feet to a point;
THENCE North 45 degrees 06 minutes 38 seconds East for a distance of 18.84 feet to a point;
THENCE North 64 degrees 52 minutes 58 seconds East for a distance of 21.13 feet to a point;
THENCE North 02 degrees 29 minutes 18 seconds East for a distance of 27.14 feet to a point;
THENCE North 59 degrees 19 minutes 38 seconds East for a distance of 23.16 feet to a point;
THENCE North 44 degrees 09 minutes 05 seconds West for a distance of 221.65 feet leaving the centerline of said creek to a ½" rebar set on the southerly right-of-way of Old Alabama Road, said point being 55 feet from centerline of said road;

THENCE along the southerly right-of-way of Old Alabama Road the following courses and distances:

THENCE North 55 degrees 39 minutes 48 seconds East for a distance of 91.70 feet to ½" rebar set;
THENCE North 59 degrees 11 minutes 03 seconds East for a distance of 93.98 feet to a ½" rebar set;
THENCE North 65 degrees 21 minutes 08 seconds East for a distance of 89.03 feet to ½" rebar set;
THENCE North 72 degrees 48 minutes 45 seconds East for a distance of 91.53 feet to a ½" rebar set;
THENCE North 80 degrees 41 minutes 26 seconds East for a distance of 99.89 feet to a ½" rebar set;
THENCE North 85 degrees 27 minutes 28 seconds East for a distance of 109.71 feet to a ½" rebar set;
THENCE South 88 degrees 29 minutes 09 seconds East for a distance of 94.27 feet to a ½" rebar set;
THENCE South 83 degrees 13 minutes 46 seconds East for a distance of 94.87 feet to a ½" rebar set;
THENCE South 77 degrees 22 minutes 19 seconds East for a distance of 93.02 feet to a ½" rebar set;

THENCE South 74 degrees 43 minutes 29 seconds East for a distance of 113.36 feet to a ½" rebar set;

THENCE South 73 degrees 55 minutes 08 seconds East for a distance of 38.07 feet to a ½" rebar set;

THENCE South 74 degrees 32 minutes 37 seconds East for a distance of 270.61 feet to THE POINT OF THE BEGINNING.

EXHIBIT "B"

SHOPPING CENTER LAYOUT AND LOCATION OF PREMISES
(subject to those areas shown as excluded)

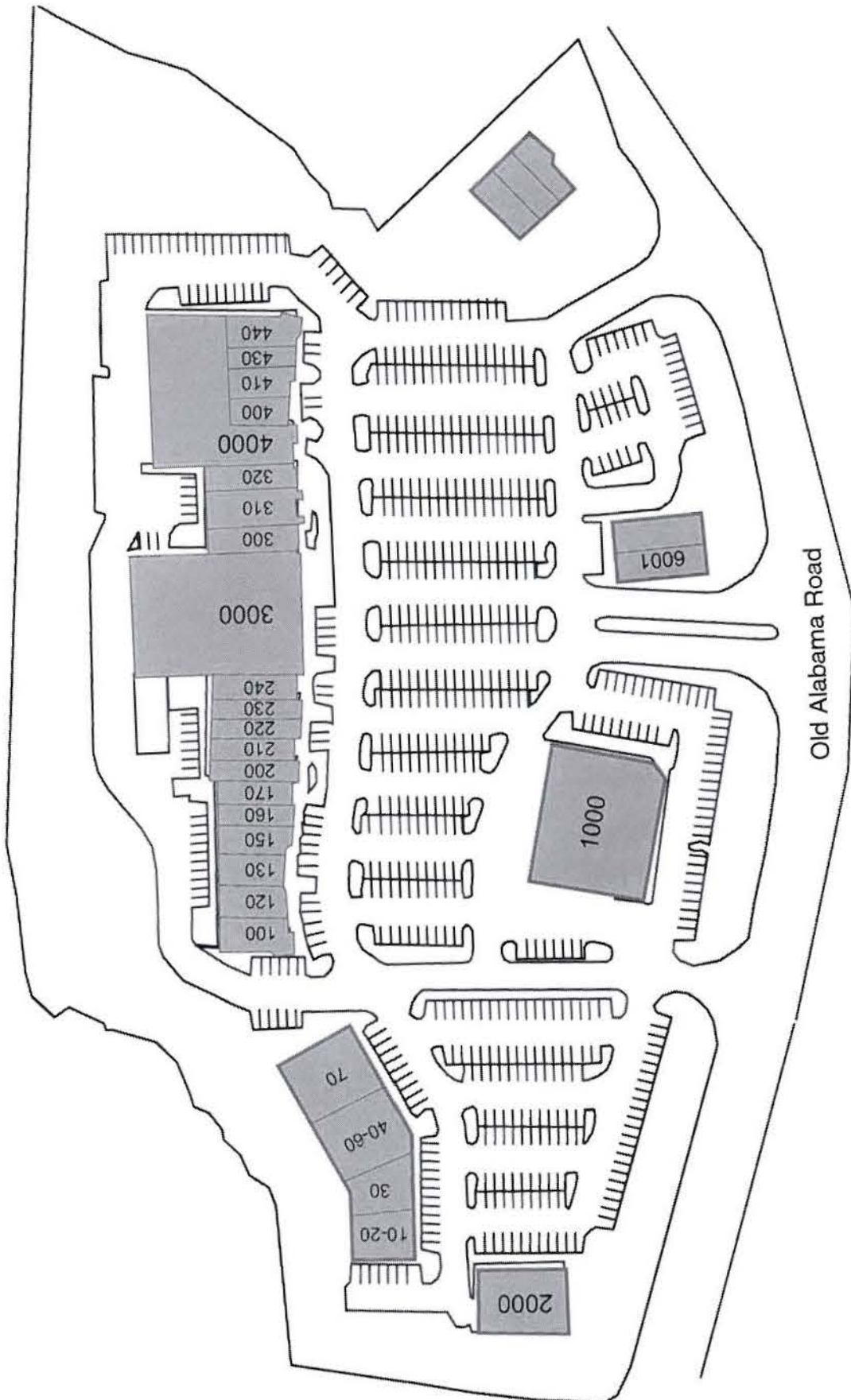


EXHIBIT "C"

DESCRIPTION OF LANDLORD'S WORK AND TENANT'S WORK

Tenant accepts Premises in "AS IS" condition.

ARTICLE I. CONDITION OF BUILDING AND OTHER IMPROVEMENTS

- A. Landlord has constructed a shell structure of the Shopping Center in which the Demised Premises will be located. Certain building improvements have been previously constructed by former tenants of the Demised Premises.
- B. Tenant represents and agrees that Tenant has made a complete and total inspection and is fully and completely satisfied as to the condition of the Demised Premises.
- C. Landlord disclaims any warranty of habitability or suitability for a particular purpose which may otherwise have arisen by operation of law. Landlord does not warrant that the Demised Premises are habitable and fit for the purposes to which Tenant will utilize same and Landlord does not warrant that there are no latent defects in the facilities that will render the Demised Premises unsafe, unsanitary or otherwise fit for utilization in the Demised Premises. Tenant expressly agrees to lease the property "as is" whether habitable or not, and expressly waives the implied warrant of habitability and suitability for a particular purpose.

ARTICLE II. GENERAL SPECIFICATIONS

- A. All plans, diagrams, schedules, specifications and other data required to be furnished by Tenant (at Tenant's sole expense) under this exhibit must be submitted to Landlord complete, sufficient to obtain a building permit, and ready for Landlord's consideration and final approval within ten (10) days of Tenant notifying Landlord of its intention to improve its space. Upon review, Landlord shall, in writing, accept or notify Tenant of its objections to said plans and specifications and general contractor within ten (10) days after receipt. Landlord shall respond within five (5) business days of any revised plans submitted by Tenant.
- B. Tenant shall secure Landlord's written approval of all designs, plans, specifications, contracts and contractor for work to be performed by Tenant before beginning the work (including compliance with Tenant Construction Specifications which Landlord may deliver to Tenant), and shall secure all necessary licenses and permits to be used in performing the work. Three (3) sets of the plans and specifications shall be signed and dated by both parties, with two (2) sets retained by Landlord and one (1) set retained by Tenant. Changes to said plans and specifications shall be made only by written change order describing scope of work and exact cost of same signed by both parties. Tenant's finished work shall be subject to Landlord's reasonable approval and acceptance, which shall be a condition to any reimbursement hereinafter provided.
- C. As soon as said plans and specifications have been approved by Landlord, Tenant shall commence construction (and shall be required to diligently pursue said construction) no later than thirty-five (35) calendar days after the date upon which Landlord approved Tenant's plans and specifications. If Tenant has not commenced construction within said time period, Landlord shall have the option to declare this lease null and void; or, if Tenant has not completed construction of such improvements within seventy-five (75) calendar days after the date upon which Tenant's plans and specifications have been approved by Landlord, then Landlord shall have the option to declare this lease null and void and in either such event, Tenant shall forfeit all prepaid rent and any security deposits made under this lease.

ARTICLE III. DESCRIPTION OF TENANT'S WORK

- A. Signs: Tenant shall pay for all signs and the installation thereof.
- B. Utilities: All meters or other measuring devices in connection with utility services shall be provided by Tenant. All service deposits shall be made at Tenant's expense. Additionally, Tenant may locate a conduit on the exterior of the building, connected at the AT&T box on the exterior and running to the Premises in order to provide service therein.
- C. Storefront: Tenant shall be responsible for the storefront, exterior doors and weatherproofing. Upon Landlord's proper written consent, which shall not be unreasonably withheld, Tenant may install a 911 call box, security cameras, and a swipe card access system in locations to be mutually approved by Landlord and Tenant.
- D. Interior Work: The work to be done by Tenant shall include, but not be limited to, the purchase and/or installation and/or performance of the following:
 - 1. Electrical panel, wiring, and fixtures.
 - 2. Tenant is responsible for providing a complete party wall(s) dividing Tenant's space from that of adjacent lease space. Said wall(s) shall include fill sound insulation, "R-11", and shall be constructed with 3-5/8" metal studs at 16" O.C. with 5/8" fire rated sheetrock on both sides, taped and bedded Tenant's side only, and shall extend from floor slab up to roof deck.
 - 3. Interior partitions including finishing, electrical wiring, and connections within the Demised Premises.
 - 4. Light covers and special hung and furred ceilings.

5. Interior painting.
 6. Store fixtures and furnishings.
 7. Display window enclosure.
 8. Plumbing fixtures within the Demised Premises.
 9. Ceiling to include insulation R-19 installed no lower than the storefront glass.
 10. Heating, air conditioning and ventilating equipment, including electrical and gas hookup, duct work and roof penetrations.
 11. Floor Covering.
- E. All work undertaken by Tenant shall be at Tenant's expense and shall not damage the building or any part thereof. Any roof penetration shall be sealed by Landlord's approved roofer and shall be performed only after Landlord has given consent, which consent shall in part be conditioned upon Tenant's plans to include materials acceptable to Landlord and to include roof top curbs to spread the weight of the equipment being installed in order to prevent damage to the roof. Tenant shall also be responsible for obtaining, and paying for, professional inspections of any structural work and/or mechanical work (including, without limitation, any roof work or concrete work) as required by Landlord.
- F. All of Tenant's Work to the Demised Premises made by Tenant shall be in good and workmanlike manner and shall be in conformity with the applicable building code or other applicable governmental requirements of the city in which the Shopping Center was built.
- G. Upon completion of the improvements to the Demised Premises, Tenant shall furnish Landlord:
1. A Certificate of Occupancy issued by the municipality in which the Demised Premises are located or other evidence satisfactory to Landlord that the improvements have been approved by such municipality;
 2. A notarized affidavit executed by Tenant or its authorized representative, stating that all work and materials performed or used in connection with the improvements to the Demised Premises have been paid for by Tenant, along with INVOICES detailing the work done in the premises; Lien releases for all contractors, subcontractors and material suppliers; and Proof of payment for all improvements to the premises;
 3. True and correct original releases or waivers of lien from general contractor;
 4. Evidence of all costs of construction of the improvements to the Demised Premises;
 5. Certificate from Landlord's roofing contractor for all roofwork performed (if applicable);
 6. Copy of HVAC warranties (if applicable);
 7. Tenant's executed Estoppel Letter (if applicable, please coordinate with Property Manager);
 8. Tenant's Certificate of Insurance for term of Occupancy (please coordinate with Property Manager).

Upon receipt and approval of all documentation set forth in subsections 1, 2, 3, 4, 5, 6, 7 and 8 above, completion of all improvements to Landlord's satisfaction, and commencement of business in the Demised Premises, Landlord shall reimburse Tenant within thirty (30) working days after Landlord's approval of said documentation in the amount of the lesser of (i) \$0 per square foot of the Demised Premises as stated in Basic Lease Information, Item P. of this Lease for Tenant's improvements to the interior of the building, or (ii) N/A.

- H. Although no variations are permitted, upon completion of Tenant's Work, the amount of square footage in the Demised Premises as set forth in Basic Lease Information Item N may be adjusted in order to conform to any minor variations in actual square footage. A corresponding adjustment to such variation shall also be made in the amount of Minimum Guaranteed Rental, Common Area Maintenance charge, Insurance Escrow payment, Tax Escrow Payment and all other charges based on the square footage of the Demised Premises. If adjustments are necessary, such will be shown as an amendment to this lease, which Tenant agrees to execute within ten (10) days after presentation by Landlord.

Tenant shall be deemed to have been given notification that the Premises are Ready for Occupancy by Landlord's and Tenant's execution of this Lease. Furthermore, "as is" condition shall not include any personal property items which may be in the premises upon delivery which are not owned by Landlord such as furniture, trade fixtures, and/or equipment.

EXHIBIT "D"

ESTIMATED CHARGES FOR
SECTION 5.2

CAM Expenses (includes Insurance):	\$350.50 per month, \$4,206.00 per annum, (\$3.00 per sqft = \$2.75/sqft for CAM & \$0.25 /sqft for Ins.)
Property Tax Expenses:	\$323.63 per month, \$3883.54 per annum, (\$2.77 per square foot)
TOTAL CAM & Tax Expense:	\$674.13 per month, \$8,089.54 per annum, (\$5.77 per square foot)

Based upon the foregoing and the square footage of the Premises, monthly charges for Taxes and CAM Expenses for the Premises initially are estimated to be \$674.13 per month.

EXHIBIT "E"

RULES AND REGULATIONS

1. All deliveries or shipments of any kind to and from the Premises including loading of goods shall be made only by way of the rear of the Premises or at any other location designated by Landlord, and only at such time designated for such purpose by Landlord.
2. Tenant shall not use the public or Common Areas in the Shopping Center for business purposes or special events unless prior approval in writing has been granted by the Landlord.
3. Plumbing facilities shall not be used for any other purpose than for which they are constructed, and no foreign substance of any kind shall be thrown therein.
4. Tenant shall use, at Tenant's cost, a pest extermination contractor at such intervals as Landlord may require, but no less often than once annually.
5. Tenant shall not place, or permit
 - (a) displays, decorations, or shopping carts on the sidewalk in front of the Premises or upon any of the Common Areas of the Shopping Center.
 - (b) anything to be displayed, stacked, hung from the ceiling, racked, stored, etc. on the sidewalks outside the shops unless the Tenant
 - (1) obtains the Landlord's prior written approval; and
 - (2) acquires adequate insurance coverage; and
 - (3) accepts all liability for the sidewalk outside the shops
 - (c) any bicycles, motorized and non-motorized vehicles to park on the sidewalks and only in designated places in Common Areas.
6. Prior to installations, the Landlord must approve in writing all signs of any type which are to be installed or displayed in the Common Areas. Unauthorized signs will be removed by Landlord without notice.
7. Soliciting for any reason in the Common Areas requires prior written approval from the Landlord.
8. Distribution of sales flyers, pamphlets, or any type of advertising literature in the Common Areas, on parked cars, etc. is only permitted with the prior written approval of the Landlord. Distribution of sales flyers, pamphlets, or any type of advertising literature by anyone other than the tenants in the Shopping Center is strictly prohibited.
9. Landlord reserves the right to change Landlord's sign criteria so long as the new sign criteria is uniformly enforced by Landlord.
10. Tenant agrees to participate in trash pick-up as directed by Landlord to the proportionate extent such trash arises out of Tenant's use of the Premises and Common Areas.
11. [INTENTIONALLY DELETED].
12. Tenant shall not walk upon the roof of the Shopping Center, nor make any installations upon or through the roof or walls of the Shopping Center, without the written consent of Landlord.
13. Upon request by Landlord, Tenant shall furnish to Landlord a complete list of the license numbers of all automobiles operated by Tenant, its licensees, concessionaires and employees. If Tenant, its licensees, concessionaires and employees fail to park their cars in the designated Common Areas, Landlord shall have the right in its sole discretion to (i) charge Tenant Ten and No/100 Dollars (\$10.00) per day per car parked in any Common Area other than those designated, and/or (ii) have such car(s) physically removed from the Shopping Center at Tenant's expense without any liability whatsoever to Landlord.
14. Tenant (i) will not represent or advertise that it regularly or customarily sells merchandise at "manufacturers", "distributors", "wholesale", "warehouse", "fire sale", "bankruptcy sale" or similar prices or other than at retail prices; (ii) will keep all mechanical apparatus free of vibration or noise which may be transmitted beyond the confines of the Premises; (iii) will not cause or permit odors to emanate from the Premises; (iv) will not load or unload or permit the loading or unloading of merchandise, supplies or other property except within the area designated by Landlord from time to time; and (v) will not permit the parking or standing, outside of such designated area, of trucks, trailers or other vehicles or equipment engaged in such loading or unloading.
15. If Tenant is engaged in retail sales, then Tenant shall install and maintain at all times displays of merchandise in display windows in the Premises. Tenant will light any electric signs and keep the display windows in the Premises well lighted during such times as the level of light outside the Premises is less than ten (10') foot candles of natural

light, except that Tenant shall not be required to keep its electric signs and windows lighted more than one (1) hour following the store closing hour.

16. Tenant shall not (i) use, or permit to be used, the Common Areas for sale, solicitation of sale or display of any merchandise or for any other business, occupation or undertaking, or for outdoor public meetings, circus or other entertainment (except for promotional activities in cooperation with the management of the Shopping Center or an association of merchants within the Shopping Center); or (ii) use or permit to be used any sound broadcasting or amplifying device which can be heard outside of the Premises.

EXHIBIT "F"

SIGN CRITERIA

As provided by the Lease, the Landlord must approve in writing all signs of any type the Tenant wishes to install or display in the Common Areas or on the building. Any sign displayed in the Common Areas or on the building is subject to the Landlord's written approval. Unauthorized signs will be removed by the Landlord without notice. Any charge or expense incurred due to removal and/or to repair any damage occasioned by that removal will be paid by Tenant and collected as additional rent under this Lease.

NOTICE: Written approval and conformance with these specifications does not imply conformances with local City and County sign ordinances. Please have your sign company check with local authorities to avoid non-compliance with local codes.

TENANT SIGN BAND CRITERIA

TYPE OF SIGN

Tenant shall be requested to identify its premises by erecting one (1) sign and only one (1) sign (regardless of the number of suites Tenant may occupy), which shall be attached directly to the building façade.

Tenant shall not be allowed to open for business without approved required signs in place. Failure to open for this reason shall not excuse Tenant from the performance of its obligations under this Lease.

SIZE OF SIGN

TYPE A: Tenants of Suites 100, 110, 120, 150, 160, 200, 220, 230, 420, 430, and 440

Primary building sign is to be 3'-8" x 10'-0" Sandblasted Sign Foam 11 (Brand).

All Tenant copy and border to be raised ½" from secondary etched wood grain surface.

All Color Specifications to be finalized by Landlord and Tenant.

Overall length is based on 80% of frontage measurement.

Size must conform to Local City/County requirements.

TYPE B: Tenants of Suites 130, 140, 170, 210, 240, 400, and 410

Primary building sign is to be 4'-0" x 10'-0" Sandblasted Sign Foam.

All Tenant copy and border to be raised ½" from secondary etched wood grain surface.

All Color Specifications to be finalized by Landlord and Tenant.

Overall length is based on 80% of frontage measurement.

Size must conform to Local City/County requirements.

TYPE C:

Primary building sign for Fresh Market is to be 1" reverse channel letters.

The reverse channel letters are to have base primer coat, PPG system paint top coat with an UV protective overcoat.

All Color Specifications to be finalized by Landlord and Tenant.

Size must conform to Local City/County requirements.

TYPE D:

Primary building sign is to be Sandblasted Sign Foam.

All Tenant logo, copy, and border to be raised ½" from secondary etched wood grain surface.

All Color Specifications to be finalized by Landlord and Tenant.

Size must conform to Local City/County requirements.

STOREFRONT ENTRANCE WAY IDENTIFICATION SIGNAGE

Tenant is allowed one (1) Storefront Entrance Way Vinyl Graphics in window pane directly above door.

TYPE A:

Exterior 3M Dusted Crystal (7725-314) vinyl graphics, reverse applied on glass window surface.

Tenant is allowed a maximum of 2' square feet of space, not in any way to detract from existing suite identification numbers.

Landlord shall supply suite identification numbers for each shop location; both front entrance and rear service entrance.

MONUMENT SIGNAGE

Copy color and layout at Tenant's discretion with written approval of Landlord.

TYPE A:

4'-6" x 16'-6" internally illuminated cabinet sign. Cabinet to be an aluminum extrusion fabricated system with aluminum H-Bar divider system for eight (8) individual tenant panels per side. Panels are to be 3/16" fiberglass panels with translucent tenant copy.

PLACEMENT & INSTALLATION

Sign to be centered horizontally and vertically on fascia of building provided for sign. All fasteners to be used are to be non-corrosive. Tenant will be responsible for all damage to the building incurred during sign installation or removal.

NUMBER OF SIGNS

One sign per store frontage.

If lease space fronts on more than one side, another sign may be allowed on other wall, and size of sign will be determined by that wall on which it is mounted, subject to Landlord approval.

IMPORTANT NOTE

Three (3) sets of drawings are to be submitted and approved by Landlord prior to fabrication. Drawing shall indicate the following specifications: Type, color, type of materials, and mounting method. Any variations of the above specifications must be approved by Landlord. Drawings must include cross section.

All City permits and approvals from Landlord are required prior to sign fabrication.
Trailer Signs or Temporary Signs will not be permitted. No Window signs are permitted.
Landlord must approve all signage in writing prior to fabrication or installation.

EXHIBIT "G"

LEASE GUARANTY

[INTENTIONALLY DELETED]

EXHIBIT "H"

SPECIAL STIPULATIONS

To the extent that the following Special Stipulations conflict with any of the printed provisions of this Lease, the Special Stipulations shall control.

1. Minimum Rental. Minimum Rental payable by Tenant during the Lease Term shall be as follows and shall be paid by Tenant subject to and in accordance with the provisions of Article III of the Lease:

Lease Term	Annual Minimum Rental	Monthly Minimum Rental	Per Square Foot
Year 1	\$28,040.00	\$2,336.67	\$20.00
Year 2	\$28,040.00	\$2,336.67	\$20.00
Year 3	\$30,844.00	\$2,570.33	\$22.00
Year 4	\$30,844.00	\$2,570.33	\$22.00
Year 5 until the remainder of term	\$30,844.00	\$2,570.33	\$22.00

Annual Minimum Rental as set forth above shall be adjusted as appropriate if a Lease Year is less than or more than twelve (12) calendar months. Monthly Minimum Rental likewise shall be prorated for partial months.

2. Tenant agrees to accept the premises in an "as-is, where-is" condition. Landlord or Landlord's agents have made no representations, warranties or promises with respect to the Demised Premises or the building in which they are a part except as herein expressly set forth. It is agreed that this Lease contains no restrictive covenants or exclusives in favor of Tenant. Nothing contained in this Lease or any exhibit or rider attached hereto shall be construed, deemed or interpreted to be a warranty, representation or agreement on the part of Landlord that any local, regional or national chain store or any other merchant shall open or remain open for or operate a business, or occupy or continue to occupy any premises in or adjoining the Shopping Center during the Lease term or any renewal or extensions thereof.
3. In the event Tenant has multiple monetary defaults during the Lease term, Landlord shall have the right to pull a credit report on Tenant. Tenant must pay all delinquent rent, back rent, and any and all late fees as due immediately to Landlord or Landlord shall refer the delinquent account to Landlord's attorney.
4. Tenant Allowance. Provided Tenant is not then in default of any of its obligations under this Lease, Landlord will provide the Tenant with an allowance (the "Tenant Allowance") in the amount of Seven Thousand Ten and No/100 Dollars (\$7,010.00), based upon \$5.00 per square foot of Premises area, to be paid to Tenant within thirty (30) days after Tenant opens for business and Landlord has received the first (1st) month's Rent from Tenant, and (i) Tenant requests said Tenant Allowance in writing; and (ii) Tenant has completed all work required by the Lease and has submitted to Landlord copies of all receipts that evidence payment to contractors for materials and work performed in the Premises for an amount at least equal to the Tenant Allowance; and (iii) all punch list work (for damage to the Landlord's property or common areas caused by Tenant while doing its work) is completed; and (iv) Tenant has provided Landlord with final releases of lien from all materialmen and/or laborers, and (v) Tenant has provided Landlord with copy of Tenant's certificate of occupancy. In the event of a termination of the Lease either: (i) prior to the expiration of the Third (3rd) Lease Year, or (ii) due to Tenant default hereunder; Tenant shall, upon ten (10) days' written notice from Landlord, refund to Landlord the unamortized portion of the Tenant Allowance previously paid to Tenant. All amortizations in this Section shall be on a straight-line basis, over a period of five (5) years commencing from the Rental Commencement Date.

EXHIBIT “I-A”

DISCLOSURE STATEMENT

Intentionally deleted

EXHIBIT “I-B”

**POLICY STATEMENT REGARDING
BROKERAGE MATTERS**

Intentionally deleted

EXHIBIT “I-C”

BROKER EXPERTISE

Intentionally deleted

EXHIBIT "J"

**STATEMENT OF RENT COMMENCEMENT DATE
AND EXPIRATION DATE**

THE RENT COMMENCEMENT DATE of that certain Lease dated 1/9/12 by and between Old Alabama, LLC, Landlord, and City of Johns Creek, Georgia, Tenant, for Premises located at 3005 Old Alabama Road, Suite #120 Johns Creek, Georgia 30022 shall be April 1, 2012 and the Term of said Lease shall expire on March 31, 2017, as provided in Section 1.1(e) of the Lease.

Signed the 18 day of JANUARY, 2012.

"LANDLORD"

Old Alabama, LLC

By: 

Print: ANTHONY EGITTO

Title: AGENT

Date: 1/18/12

"TENANT"

By: 

Print: Michael E. Badker

Title: Mayor

Date: 1/12/2012

EXHIBIT "K"

DELIVERY OF POSSESSION DATE CERTIFICATE

LANDLORD: Old Alabama, LLC

TENANT: City of Johns Creek, Georgia d/b/a/ Johns Creek Police Department

LEASE DATE: January 9, 2012

CENTER: Old Alabama Square

STORE NUMBER: Suite # 120

Landlord and Tenant confirm that the Delivery of Possession Date with respect to the above Lease and Premises is the 19 day of January, 2012.

"LANDLORD"

Old Alabama, LLC

By: AEgitto

Print: ANTHONY EGITTO

Title: AGENT

Date: 1/18/12

"TENANT"

City of Johns Creek, Georgia

By: Michael E. Bodker

Print: Michael E. Bodker

Title: Mayor

Date: 1-12-2012

LANDLORD'S CERTIFICATION

In addition, Landlord certifies that the leasable area of the Premises is 1,402 square feet. As set forth in the Lease, such amount shall be used for all purposes of the Lease unless Landlord shall later conclude that re-measurement of the Premises is necessary in order to accurately determine the actual square footage of the Premises, in which event such later measurement shall control.



City of Johns Creek
12000 Findley Road, Suite 400
Johns Creek, Georgia 30097
(678) 512-3200
www.johnscreekga.gov

**O.C.G.A. § 50-36-1(e)(2) Affidavit
Verifying Lawful Presence in the United States**

By executing this affidavit under oath, as an applicant for a(n) contract, as referenced in O.C.G.A. § 50-36-1, from the City of Johns Creek, a municipal corporation of the State of Georgia, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- ☒ I am a United States citizen.
- ☐ I am a legal permanent resident of the United States.
- ☐ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: _____.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

driver's license

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 this affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

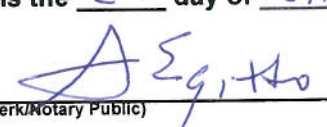
Executed in BOCA RATON (city), FLORIDA (state).


Signature of Applicant

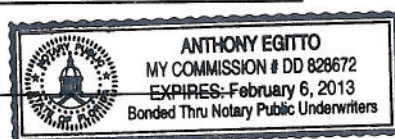
KENNETH L. SHIMM, MANAGING PARTNER
Printed Name of Applicant and Title

Subscribed and sworn to before me on

this the 24 day of JANUARY, 2012.


(Clerk/Notary Public)

My commission expires: _____



FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement ("Amendment") is made this 10th day of May, 2017 by and between Old Alabama Square Station LLC, a Delaware limited liability company ("Landlord") and City Of Johns Creek, Georgia, a municipal corporation of the State of Georgia ("Tenant") doing business as City of Johns Creek Police Department.

RECITALS:

WHEREAS, Landlord and Tenant, or their predecessors in interest, have entered into a certain lease agreement dated January 9, 2012 ("Lease") under which Tenant leases from Landlord approximately 1,402 rentable square feet known as Unit 120 ("Premises") of the Old Alabama Square in Alpharetta, Georgia ("Shopping Center"); and

WHEREAS, Landlord and Tenant desire to further amend, modify and alter certain terms and conditions of the Lease;

NOW, THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Tenant and Landlord hereby agree that, notwithstanding anything to the contrary in the Lease, the Premises consists of approximately 1,402 rentable square feet, which shall be divided by the total leased square footage of the Shopping Center to determine Tenant's Proportionate Share.
2. Landlord and Tenant hereby extend the term of the Lease for a period of five (5) years ("Extension Term"). Said Extension Term shall commence on April 1, 2017 and terminate on March 31, 2022.
3. Tenant hereby agrees to pay to Landlord as Minimum Rental during the Extension Term payable as follows:

April 1, 2017 to March 31, 2018	\$35,470.56 per annum	\$2,955.88 per month
April 1, 2018 to March 31, 2019	\$36,185.64 per annum	\$3,015.47 per month
April 1, 2019 to March 31, 2020	\$36,914.64 per annum	\$3,076.22 per month
April 1, 2020 to March 31, 2021	\$37,657.68 per annum	\$3,138.14 per month
April 1, 2021 to March 31, 2022	\$38,414.76 per annum	\$3,201.23 per month

In addition to the foregoing, Tenant shall continue to pay all Additional Rent and other charges described in the Lease throughout the Extension Term.

4. Rent Payment Address: Old Alabama Square Station LLC, 33196 Collection Center Drive, Chicago IL 60693-0331.
5. This Amendment may be executed in counterparts (each of which shall be deemed an original but all of which together shall constitute one and the same Lease) and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by e mail delivery of a ".pdf" format data file, or by electronic signature pursuant to ESIGN or UETA, or similar laws such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such were an original thereof. The delivery of an executed copy hereof by Tenant shall be deemed an offer only, open for acceptance by Landlord solely upon execution and delivery of this Lease Agreement by Landlord and an agreement binding on Landlord shall not be deemed formed until such execution and delivery not withstanding any reliance by Tenant on any oral or written or other statements from Landlord or any of its agents delivered via e-mail or otherwise. Tenant hereby acknowledges that it disclaims any such reliance.
6. All capitalized terms not defined herein are defined in the Lease.
7. Tenant represents that Landlord is not in default of any terms, conditions, or covenants of the Lease.
8. Except as amended hereby, the Lease is hereby restated, reaffirmed and incorporated herein by reference in its entirety.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Amendment as of the day and year first above written.

TENANT WITNESSES:

[Signature]
WITNESS #1

[Signature]
WITNESS #2

COUNTY OF Fulton)
STATE OF Georgia)SS:

TENANT:

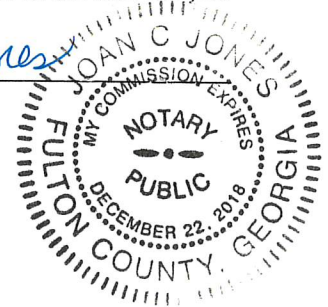
City Of Johns Creek, Georgia, a municipal corporation of the State of Georgia

By(Signature): WA. H
Name: Warren Hutmacher
Its: City manager

BE IT REMEMBERED that on this 11th day of May 2017, before me, a Notary Public in and for the said county and state, personally appeared Min Cha, the Jon Moses of the City Of Johns Creek, Georgia, a municipal corporation of the State of Georgia, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Joan Jones
Notary Public



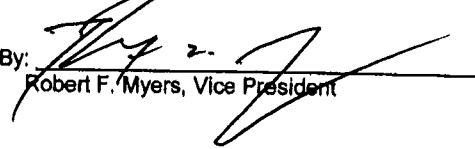
WITNESSES:

LANDLORD:

OLD ALABAMA SQUARE STATION LLC,
a Delaware limited liability company

By: Phillips Edison Grocery Center Operating
Partnership II, L.P.
A Delaware limited partnership,
its sole member

By: PE Grocery Center OP GP II LLC,
A Delaware limited liability company,
its General Partner

By: 
Robert F. Myers, Vice President

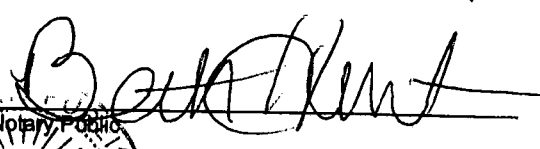

COUNTY OF HAMILTON

)
SS:

STATE OF OHIO

BE IT REMEMBERED that on this 15 day of May, 2017, before me, a Notary Public in and for the said county and state, personally appeared Robert F. Myers, the Vice President of PE Grocery Center OP GP II LLC, who is personally known to me and who acknowledged that he did sign the foregoing instrument and that the same is his free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.



BETH HUNT
Notary Public, State of Ohio
My Commission Expires
February 21, 2018

SECOND AMENDMENT TO LEASE AGREEMENT

This **Second Amendment to Lease Agreement** ("Amendment") is made this ____ day of _____, 2022 by and between Old Alabama Square Station LLC, a Delaware limited liability company ("Landlord") and City of Johns Creek, Georgia, a municipal corporation of the State of Georgia ("Tenant") doing business as City of Johns Creek Police Department.

RECITALS:

WHEREAS, Landlord and Tenant, or their predecessors in interest, have entered into a certain lease agreement dated January 9, 2012, as same may have been amended ("Lease") under which Tenant leases from Landlord approximately 1,402 rentable square feet known as Unit 120 ("Premises") of the shopping center development known as Old Alabama Square in Alpharetta, Georgia ("Shopping Center"); and

WHEREAS, Landlord and Tenant desire to further amend, modify and alter certain terms and conditions of the Lease;

NOW, THEREFORE, in consideration of the promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. **TERM.** Landlord and Tenant hereby extend the term of the Lease for a period of three (3) years ("Extension Term"). Said Extension Term shall commence on April 1, 2022 and terminate on March 31, 2025.

2. **RENT.** Tenant hereby agrees to pay to Landlord as Minimum Rental during the Extension Term payable as follows:

April 1, 2022 to March 31, 2023	\$45,326.64 per annum	\$3,777.22 per month
April 1, 2023 to March 31, 2024	\$47,149.32 per annum	\$3,929.11 per month
April 1, 2024 to March 31, 2025	\$49,041.96 per annum	\$4,086.83 per month

In addition to the foregoing, Tenant shall continue to pay all Additional Rent and other charges described in the Lease throughout the Extension Term.

3. **PAYMENT.** Rent Payment Address: Old Alabama Square Station LLC, 33340 Collection Center Drive Chicago IL 60693-0333

4. **TENANT IMPROVEMENT ALLOWANCE.** In consideration of the Extension Term, and so long as Landlord receives the documentation (as described in the Tenant Improvement Allowance Exhibit) **no later than ninety (90) days** after the full execution of this Amendment, Landlord shall pay to Tenant a cash allowance, in an amount not to exceed **\$2,000.00**, as set forth in attached Tenant Improvement Allowance Exhibit including the following: (i) TIA Request Form; (ii) Final Waiver of Liens; and (iii) Estoppel.

5. **TERMINATION RIGHTS.** In the event Tenant terminates the Lease, prior to March 31, 2025, pursuant to Section 1.1e of the Lease, Tenant shall be responsible for repayment of the unamortized amount of any Tenant Improvement Allowance paid by Landlord in connection with this Amendment.

6. The Lease is hereby amended to add the following:

- a. **AIR SPACE.** Notwithstanding anything in the Lease to the contrary, the rights granted to Tenant under this Lease expressly exclude any right to use the air space outside the Premises (including the right to operate any aerial vehicle or drone), or the façade or other common areas of the Shopping Center for any virtual or augmented reality or similar technology; it being acknowledged that all such rights belong exclusively to Landlord.
- b. **TENANT INSURANCE.** In the event Tenant fails to maintain, and provide proof to Landlord, the requisite insurance as required in the Lease at any time during the Lease term, Landlord shall have the right, without notice to Tenant, to take such action as Landlord deems necessary to protect its interest in the Premises and Shopping Center, including, without limitation, obtaining such insurance coverage on behalf of Tenant, and all expenses incurred by Landlord in connection with such action and/or in obtaining such insurance and keeping it in effect shall be paid by Tenant to Landlord upon demand, plus a 15% administrative fee. Landlord shall have the right, at any time during the term, to demand Tenant to provide proof of such required insurance.
- c. **HVAC MAINTENANCE.** Notwithstanding anything in the Lease to the contrary, as part of Tenant's maintenance and repair obligations, Tenant shall, at its sole cost and expense, enter into and maintain a contract with a certified third-party HVAC service contractor, providing for the periodic (at least quarterly) service, maintenance and repair of the HVAC system serving the Premises, which shall provide for a scope of work and periodic services, at a minimum, in accordance with manufacturer's specifications. Upon request by Landlord, Tenant shall furnish Landlord with a copy of the current service contract, which contract shall be in form and substance reasonably satisfactory to Landlord, a copy of any HVAC

maintenance reports, and a current certificate of insurance of the Tenant's service contractor naming Landlord as an additional insured and such certificate shall be in form and substance and contain such coverages satisfactory to Landlord. In the event Landlord obtains an assignable warranty for any HVAC system servicing the Premises, to the extent assignable, Landlord shall assign to Tenant any such assignable warranty on parts and labor for the HVAC system. If Tenant fails to perform any obligation and such failure continues for 15 days after written notice from Landlord (except in the case of an emergency when no prior notice shall be necessary), Landlord may, but shall not be obligated to, perform such obligation, and Tenant shall pay to Landlord, upon demand, as Additional Rent, the cost of such performance plus 15% of such cost for supervision and overhead.

- d. **ENERGY EFFICIENCY.** Notwithstanding anything in the Lease to the contrary, Tenant's share of common area maintenance expenses/operating expenses/additional rent shall include all Landlord costs and expenses related to reducing and/or managing the Shopping Center's carbon footprint, environmental impact, and/or greenhouse gas emissions, including, but not limited to, implementing and maintaining any: energy efficiency, environmental management plan(s); alternative/renewable energy system(s) including, without limitation, solar, wind, or other technology; LED lighting; recycling program(s); water management system(s); and related actions and/or improvements and the technological evolutions thereof.
 - e. **STATE STATUTES.** Pursuant to state statutes, as may be amended or replaced from time to time, the Landlord's interest as herein described shall not be subject to liens for improvements made by Tenant or any subtenant, and upon request of Landlord, Tenant shall join in as notice of non-responsibility attesting to such fact.
- 7. **BROKER.** Landlord and Tenant represent and warrant to each other that neither of them has consulted or negotiated with any broker or finder with regard to the Premises or the preparation of this Amendment and will respectively indemnify the other from all liabilities arising from any such claim.
 - 8. **COUNTERPARTS.** This Amendment may be executed in counterparts (each of which shall be deemed an original but all of which together shall constitute one and the same Amendment) and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. In the event that any signature is delivered by: (i) by electronic signature pursuant to Electronic Signatures In Global and National Commerce Act ("E-SIGN") or The Uniform Electronic Transactions Act ("UETA"), or similar laws, regulations, or orders of such signature (including, without limitation, through software programs such as DocuSign); (ii) by e-mail delivery of a ".pdf" format data file, "JPEG" file, or similar imaging format; (iii) by facsimile transmission; or (iv) through any other electronic transmission, then, in each case, each party acknowledges and agrees that such electronic signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such were an original thereof. Landlord, Tenant, and any other signatory party to this Amendment waives any right to claim that such respective electronic signature does not create a valid and binding contract memorializing the parties' intents through such Amendment's terms and conditions. The delivery of an executed copy hereof by Tenant shall be deemed an offer only, open for acceptance by Landlord solely upon execution and delivery of this Amendment by Landlord and an agreement binding on Landlord shall not be deemed formed until such execution and delivery notwithstanding any reliance by Tenant on any oral or written or other statements from Landlord or any of its agents delivered via e-mail or otherwise. Tenant hereby acknowledges that it disclaims any such reliance.
 - 9. **DEFINED TERMS.** All capitalized terms not defined herein are defined in the Lease.
 - 10. **REPRESENTATION.** Tenant represents that Landlord is not in default of any terms, conditions, or covenants of the Lease.
 - 11. **REAFFIRMATION.** Except as amended hereby, the Lease is hereby restated, reaffirmed and incorporated herein by reference in its entirety.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound hereby, have executed this Amendment as of the day and year first above written.

LANDLORD:
Old Alabama Square Station LLC,
a Delaware limited liability company

By: Phillips Edison Grocery Center Operating Partnership II L.P.
a Delaware limited partnership, its sole member

By: Phillips Edison Grocery Center OP GP II LLC,
a Delaware limited liability company, its General Partner

By: _____

Name: Robert F. Myers

Its: Executive Vice President

Date: _____

COUNTY OF HAMILTON)
)SS:
STATE OF OHIO)

BE IT REMEMBERED that on this ____ day of _____, 2022, before me, a Notary Public in and for the said county and state, personally appeared Robert F. Myers, the Executive Vice President of Phillips Edison Grocery Center OP GP II LLC, a Delaware limited liability company the General Partner of Phillips Edison Grocery Center Operating Partnership II L.P., a Delaware limited partnership the sole member of Old Alabama Square Station LLC, who acknowledged that he did sign the foregoing instrument and that the same is his free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Notary Public

TENANT:
City of Johns Creek, Georgia,
a municipal corporation of the State of Georgia

By: _____

Name: _____

Its (Title): _____

Date: _____

COUNTY OF _____)
STATE OF _____) SS:

BE IT REMEMBERED that on this _____ day of _____, 2022, before me, a Notary Public in and for the said county and state, personally appeared _____ the _____ of City of Johns Creek, Georgia a municipal corporation of the State of Georgia, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Notary Public

Tenant D/B/A: City of Johns Creek Police Department

TENANT IMPROVEMENT ALLOWANCE EXHIBIT

Landlord shall pay to Tenant a cash allowance ("Tenant Improvement Allowance") not to exceed **\$2,000.00** as Landlord's contribution toward the commercially reasonable cost of Permanent Improvements to the Premises, which have been completed in a first class manner and in compliance with all applicable codes by licensed contractors ("Tenant Work"). "Permanent Improvements" shall be defined as physical improvements, additions and modifications to the Premises that (i) will become a permanent part of the Premises or are permanently affixed to the Premises such that removal would cause damage to the Premises, and (ii) increase the value, utility or appearance of the Premises, and (iii) are not specific to Tenant's trade use of the Premises. Notwithstanding anything in the Lease or this Amendment to the contrary, Landlord may, in Landlord's sole discretion, apply any or all of the Tenant Improvement Allowance towards any overdue amounts owed by Tenant to Landlord under the Lease, and the Tenant Improvement Allowance shall be reduced, on a proportionate dollar for dollar basis, for any Tenant Improvement Allowance amount that Landlord applies to Tenant's arrears. The Tenant Improvement Allowance shall be issued after the fulfillment of each of the following requirements ("Requirements"):

- 1) Tenant is open for business in the Premises; and
- 2) Landlord receives Tenant's invoice (sample Request Form attached) which must include: Shopping Center name, Tenant name, contact information, and address (no P.O. Box) for mailing of payment, for payment of the Tenant Improvement Allowance with all of the following attached thereto:
 - i. copies of receipts/invoices showing the work or materials purchased or other evidence of the cost of reimbursable Permanent Improvements, the aggregate sum of which is at least the amount of the Tenant Improvement Allowance being requested by Tenant; and
 - ii. a list of all contractors, subcontractors and material suppliers (collectively "Contractors"), which must be executed by Tenant and notarized and contain all of the following information for each Contractor: (a) Business Name (b) business address (c) business phone number (d) contact name (e) proof of contractor's license (f) dollar amount for services rendered at the Premises; and
 - iii. notarized unconditional final lien waivers and/or notarized unconditional final lien releases (sample attached hereto) from all Contractors in excess of \$2,500.00; and
 - iv. copy of building permits for Tenant Work, if required to perform Tenant Work; and
 - v. drawings: an electronic copy (AutoCAD format) of all applicable drawings and specifications including but not limited to architectural, mechanical, electrical, plumbing, civil and shop drawings, to the extent and if required for Tenant Work and/or permitting; and
 - vi. HVAC information: A list detailing the model numbers, serial numbers, and tonnage for each installed HVAC unit as well as the balance report and all warranty information related thereto, if HVAC systems were installed, or repaired as part of Tenant Work; and
 - vii. warranties: one (1) year workmanship warranty from all Contractors performing any Tenant Work over \$2,500.00, and all warranties for any equipment installed as part of Tenant Work; and
 - viii. an estoppel certificate certifying that the Lease is in full force and effect; and
 - ix. Tenant's W-9; and
 - x. Tenant's e-mail address and ACH bank account information
- 3) Tenant's request (sample Request Form attached), along with all of the foregoing documentation is received by Landlord ***no later than ninety (90) days*** after the full execution of this Amendment by Tenant and Landlord, at the following address:

Vice President of Construction
ATTN: TIA PAYMENT REQUESTS
Phillips Edison & Company
11501 Northlake Drive
Cincinnati, OH 45249
- 4) Landlord, at Landlord's option, has conducted a lien search on the Premises which has revealed no liens filed in relationship to the work performed by or on behalf of Tenant; and
- 5) Tenant is in compliance with all obligations under the Lease.

Landlord may, at Landlord's option, retain a portion of the Tenant Improvement Allowance as Landlord deems necessary to insure Landlord against any liability for mechanics' or materialmen's liens and to ensure completion of the Permanent Improvements, each being held by Landlord until such time has passed under Governing Law that a mechanics' or materialmen's lien can no longer be filed against the Shopping Center. In the event: (i) Landlord has

not received and approved copies of Tenant's contractor's insurance pursuant to the terms of this Lease prior to start of Tenant Work, and/or (ii) Landlord has not received and approved copies of Tenant's Plans, if applicable, prior to the start of Tenant Work, Landlord shall reduce the Tenant Improvement Allowance by 2.5% in each event, for a total potential reduction in Tenant Improvement Allowance by 5%. In the event Tenant fails to request any portion of the Tenant Improvement Allowance within the aforementioned timeframe, or fails to satisfy the Requirements, any obligation of Landlord to pay the Tenant Improvement Allowance shall be deemed null and void. Landlord will issue payment of Tenant Improvement Allowance within 60 days of receipt of all of the Requirements for such request. If either party terminates this Lease for any reason prior to the expiration of the Initial Term or any renewal thereof, Tenant shall reimburse Landlord for the unamortized portion of the Tenant Improvement Allowance within 15 days of the termination of this Lease. Further, in addition to any remedies available to Landlord under this Lease, in the event Tenant commits an event of default, regardless of whether this Lease is terminated, Tenant shall reimburse Landlord for the unamortized portion of the cost of the Tenant Improvement Allowance within 15 days of such notice. For purposes of this Section, the Tenant Improvement Allowance shall be amortized on a straight-line basis over the life of this Lease, including any renewal terms. Landlord and Tenant agree that the monies to be paid by Landlord to Tenant pursuant to this Section are being paid to Tenant for the purpose of Tenant's constructing or improving qualified long-term real property as defined in Section 110(c)(1) of the Internal Revenue Code of 1986, as amended, for use in such Tenant's trade or business at the Premises, which Premises Landlord and Tenant acknowledge constitutes retail space. It is the intent of Landlord and Tenant that Landlord and Tenant shall consider any such payment as made in accordance with Section 110 of the Internal Revenue Code of 1986, as amended, and Landlord and Tenant shall provide the Internal Revenue Service any and all information concerning such payments as may be required by the Internal Revenue Service.

SAMPLE TIA REQUEST FORM

Date: _____, 20__

Shopping Center Name: _____

Tenant Name: _____

TIA Amount requested: \$ _____

Tenant contact name: _____

Tenant contact phone number: ____ (____) _____

Tenant E-mail Address: _____

Tenant ACH Information:

- Name on Account: _____
- Type of Account: _____
- Routing Number: _____
- Account Number: _____

Dear Landlord:

Please consider this Tenant's request for reimbursement of the commercially reasonable cost of Permanent Improvements to the space (Tenant Improvement Allowance) up to the limits defined in my Lease. By making such request, Tenant certifies that the Permanent Improvements for which reimbursement is sought have been completed in the Premises, according to all laws, regulations and code requirements, in a good and workmanlike manner, and that all Contractors have been paid in full for such work.

Tenant has enclosed the following (check if enclosed):

- ☐ copies of receipts/invoices showing the work or materials purchased or other evidence of the cost of reimbursable Permanent Improvements, the aggregate sum of which is at least the amount of the Tenant Improvement Allowance being requested by Tenant;
- ☐ a list of all contractors, subcontractors and material suppliers (collectively "Contractors"), which must be executed by Tenant and notarized and contain all of the following information for each Contractor: (a) Business Name, (b) business address, (c) business phone number, (d) contact name, (e) proof of contractor's license, and (f) dollar amount for services rendered at the Premises;
- ☐ notarized unconditional final lien waivers and notarized unconditional final lien releases (sample attached hereto) from all Contractors in excess of \$2,500.00;
- ☐ copy of building permits for Tenant Work, if required to perform Tenant Work;
- ☐ drawings: an electronic copy (AutoCAD format) of all applicable drawings and specifications including but not limited to architectural, mechanical, electrical, plumbing, civil and shop drawings, to the extent and if required for Tenant Work and/or permitting;
- ☐ HVAC information: A list detailing the model numbers and tonnage for each installed HVAC unit as well as the balance report and all warranty information related thereto, if HVAC systems were installed, or repaired as part of Tenant Work;
- ☐ warranties: one (1) year workmanship warranty from all Contractors performing any Tenant Work over \$2,500.00, and all warranties for any equipment installed as part of Tenant Work;
- ☐ an estoppel certificate certifying that the Lease is in full force and effect;
- ☐ Tenant's W-9

Tenant requests that the payment be mailed to the following address (cannot be a P.O Box):

Signed: _____

Date: _____

Printed name: _____

FINAL WAIVER OF LIENS

The undersigned, being a party in connection with the construction, repair, renovation and/or demolition of the improvements being made upon real estate owned by Old Alabama Square Station LLC, located in _____ County, State of Georgia, and generally described as Old Alabama Square.

Acknowledges that payment in the amount of \$_____ has been paid in full by _____ for the work completed and materials supplied to the above-described property. Contractor does hereby waive, release and quit claim all right to a lien upon the land and improvements above described, as a result of work done and/or materials furnished by the undersigned, any employees, materialmen and sub-contractors through the Pay Application date for which this payment was made.

Undersigned warrants that upon completion of any work or delivery of any materials, all laborers and sub-contractors employed in the performance of the work and all material men who have furnished materials and services will have been fully paid, that no laborers, sub-contractors or materialmen will assert a claim against or a lien upon the premises hereinabove described, that no claim has been assigned or will be assigned for payment or right to perfect a lien against said land and improvements, and that the undersigned is fully authorized and empowered to execute this waiver of lien.

Undersigned understands and agrees that the Owner, any lender and the title insurance company are entitled to rely upon this waiver.

WITNESS:

CONTRACTOR:

Printed Name: _____

Title: _____

COUNTY OF _____)
STATE OF _____) SS:

BE IT REMEMBERED that on this _____ day of _____, 20____, before me, a Notary Public in and for the said county and state, personally appeared _____, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free and voluntary act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

NOTARY PUBLIC

ESTOPPEL

_____, 20 ____

Old Alabama Square Station LLC
11501 Northlake Drive
Cincinnati, Ohio 45249
Attention: Construction

Re: Lease dated January 9, 2012 ("Lease"), between Old Alabama Square Station LLC ("Landlord") and City of Johns Creek, Georgia, a municipal corporation of the State of Georgia ("Tenant").

Ladies and Gentlemen:

The undersigned, as Tenant, warrants and represents to Landlord as follows:

Landlord is not in default under the terms and/or conditions of the Lease;

Landlord has satisfied its responsibilities in accordance with Landlord Work as set forth in the Lease;

The Lease is in full force and effect and has not been modified, altered, or amended;

The person signing this letter on behalf of Tenant, as applicable, is a duly authorized agent of the Tenant, as applicable.

TENANT:

By: _____

Printed Name: _____

Title: _____