



**PURCHASING DEPARTMENT
INVITATION TO BID NO. 06ITB51268C-BL**

**ANDOVER DRIVE SEWER EXTENSION
FOR
DEPARTMENT OF PUBLIC WORKS**

BID DUE: 11:00 AM, Local Time, July 26, 2006

PRE-BID MEETING: 10:00 AM, Local Time, July 13, 2006 in the Bid Conference Room in the Purchasing Department

PURCHASING CONTACT: William Long (404) 730.7660
E-MAIL: william.long@co.fulton.ga.us

LOCATION: FULTON COUNTY PURCHASING DEPARTMENT
130 PEACHTREE STREET SW SUITE 1168,
ATLANTA, GA 30303

**GEORGIA UTILITY CONTRACTOR LICENSE REQUIRED FOR BIDDING
BID BOND REQUIRED**

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SECTION 1 - INVITATION TO BID
ANDOVER DRIVE SEWER EXTENSION

1.1 PURPOSE

The Fulton County Purchasing Department solicits Bids from qualified and experienced vendors to provide construction services for the installation of approximately 4,550 linear feet of gravity sewer and appurtenances along Andover Drive, North Trace and Oakmere Drive in North Fulton County.

1.2 DESCRIPTION OF PROJECT

The work to be done consists of furnishing all materials and equipment and performing all labor necessary for the construction of the Andover Drive Sewer Extension. The work will consist of the installation of approximately 4,550 linear feet of eight (8) inch Ductile Iron Pipe gravity sewer, including all pipes, laterals, clean-outs, manholes, appurtenances, testing and other related work necessary to complete the sewer system improvements as shown on the drawings and specified in the specifications. The work shall be in conformance with the contract documents, general conditions, supplemental conditions, any accompanying plans and Fulton County Construction Standards and Specifications.

1.3 TERM OF CONTRACT

The term of this Contract shall be one hundred and twenty (120) consecutive calendar days from the issuance of a Notice to Proceed.

1.4 PURCHASING OF BID DOCUMENTS

Applications for documents, along with a non-refundable **\$50.00** payment must be filed with the **Fulton County Department of Public Works, 141 Pryor Street SW Suite 6001 (6th floor), Atlanta, GA 30303**. Payment must be in the form of a certified check, treasurer's check, cash, or cashier's check, issued by a bank or trust company, payable to Fulton County. This amount includes all fees for printing and distribution and will be used to defray a portion of the printing cost that may have been incurred for the tendering of the project. Partial sets of bid documents will not be issued. **To Purchase a bid package (ITB, Drawings and Sewer Construction Specifications) contact Brandon Ward (404) 730.7467 or Simeon Solomero (404) 730.7418, Technical Services Group at the Fulton County Government Center, 141 Pryor St., 6th floor, Atlanta GA 30303.**

For any other information regarding this bid, technical or procedural, contact William Long, Chief Assistant Purchasing at 404.730.7660.

1.5 NO CONTACT PROVISION

It is the policy of Fulton County that the evaluation and award process for County contracts shall be free from both actual and perceived impropriety, and that contacts between potential vendors and County officials, elected officials and staff regarding pending awards of County contracts shall be prohibited.

- A. No person, firm, or business entity, however situated or composed, obtaining a copy of or responding to this solicitation, shall initiate or continue any verbal or written communication regarding this solicitation with any County officer, elected official, employee, or designated County representative, between the date of the issuance of this solicitation and the date of the County Manager's recommendation to the Board of Commissioners for award of the subject contract, except as may otherwise be specifically authorized and permitted by the terms and conditions of this solicitation.
- B. All verbal and written communications initiated by such person, firm, or entity regarding this solicitation, if same are authorized and permitted by the terms and conditions of this solicitation, shall be directed to the Purchasing Agent.
- C. Any violation of this prohibition of the initiation or continuation of verbal or written communications with County officers, elected officials, employees, or designated County representatives shall result in a written finding by the Purchasing Agent that the submitted Bid or proposal of the person, firm, or entity in violation is "non-responsive", and same shall not be considered for award.

1.6 BID CONTACT

Information regarding the Bid, either procedural or technical, may be obtained by contacting William Long, Chief Assistant Purchasing Agent at (404) 730.7660, Fulton County Department of Purchasing. Information regarding the Bid requirements may be obtained by using the following procedure. Inquiries must be submitted in writing to:

Fulton County Purchasing Department
Attn: William Long, Chief Assistant Purchasing Agent
130 Peachtree Street S.W., Suite 1168
Atlanta, GA 30303
Phone: (404) 730-7660
Fax: (404) 893.6268
Reference ITB# 06ITB51268C-BL

1.7 BASIS OF AWARD

The Contract, if awarded, will be awarded on a lump sum basis to the lowest responsive and responsible bidder. Payment shall be based on the actual work performed and unit prices submitted in the Bid Schedule. No bid may be withdrawn for a period of Ninety (90) days after the date of bid opening except as permitted by O.C.G.A., §36-91-41 et seq., as amended. Each Bid must be accompanied by a **Bid Bond** in accordance with the Bid Bond Requirements provided in the Contract Documents, on a Surety Company's Standard Bid

Bond Form acceptable to the County in an amount no less than **5%** of the amount bid. The successful bidder will be required to furnish a Performance Bond and Payment Bond, **on or before** the issuance of Notice to Proceed, each in the amount of 100% of the Contract Amount. All other required Contract Documents must be fully completed and executed by the Contractor and his/her Surety, and submitted to the Owner **on or before** the issuance of the Notice to Proceed.

1.8 PRE-BID CONFERENCE

Date: Wednesday, July 13, 2006

Time: 10:00 AM

**Location: Fulton County Purchasing Department Bid Room
Public Safety Building
130 Peachtree St., S.W. Suite 1168
Atlanta, Georgia, 30303**

A non-mandatory Pre-Bid conference will be held in the Fulton County Purchasing Department Conference Room, located at **130 Peachtree St., SW, Suite 1168, Atlanta, Georgia, 30303**. *Inquiries regarding this solicitation, either technical or otherwise must be submitted in writing.* Any questions and responses provided will not be the official responses from Fulton County. To receive Fulton County's official responses to questions, questions must be submitted in written form to Fulton County by the deadline date established in this Invitation to Bid. Fulton County will provide its official response to questions in the form of an addendum that will be posted to Fulton County's website.

The Pre-Bid conference will be conducted for the purpose of explaining the County's bid process, the specification/technical documents, and to provide an initial verbal, non-binding verbal response to questions concerning these Bid specifications and to discuss issues from the Bidder's perspective. However, no verbal response provided at the pre-Bid conference binds the County.

-END OF SECTION 1-

SECTION 2 - INSTRUCTIONS TO BIDDERS

2.1 CONTRACT DOCUMENTS

The Contract Documents include the Invitation to Bid, Instructions to Bidders, Contractor's Bid (including all documentation accompanying the Bid and any post-Bid documentation required by the County prior to the Notice of Award), Bonds, all Special Conditions, General Conditions, Bid Forms, Supplementary Conditions, Fulton County Construction Standards and Specifications, Drawings, Addenda, Exhibits, Purchasing Forms, Contract Compliance Forms and any Change Orders. Shop drawing submittals reviewed in accordance with the General Conditions, geotechnical investigations and soils report and drawings of physical conditions in or relating to existing surface structures at or contiguous to the site are not Contract Documents. The Contract Documents shall define and describe the complete work to which they relate.

2.2 **Definitions:** Where the following words or the pronouns used in their stead occur herein, they shall have the following meaning. If a conflict exists as to the meaning of a word, the definition existing in the General Conditions, if present, shall govern.

Construction Manager - The Construction Manager is the person or entity identified as such in writing by the County. The Construction Manager may be a County employee or entity retained by the County for purposes of administering this contract. The term "Construction Manager" means the Construction Manager or the Construction Manager's authorized representative. The Construction Manager is the County's agent for purposes of administering this contract.

Contract Price - The sum specified in the Agreement to be paid to the Contractor in consideration of the Work.

County / Owner - FULTON County, Georgia, a political subdivision of the State of Georgia, acting by and through the Chairman of its Board of Commissioners.

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

Director - Director of the Department of Public Works of FULTON County, Georgia or the designee thereof.

Engineer – Shall be the Deputy Director, Technical Services Group, of Public Works or his duly authorized representative.

Notice To Proceed - A written communication issued by the County to the Contractor authorizing it to proceed with the work, establishing the date of commencement and completion of the work, and providing other direction to the Contractor.

Project Manual - The Contract Documents

Substantial Completion - The date certified by the Construction Manager when all or a part of the work, as established pursuant to General Condition 0500-81, is sufficiently completed in accordance with the requirements of the contract documents so that the identified portion of the work can be utilized for the purposes for which it is intended.

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

Owner – Shall mean the Fulton County, Georgia, party to the first part of the Contract Agreement, or its authorized and legal representatives.

Contract Time – Shall mean one hundred and twenty (120) consecutive calendar days for completion of the work, to be computed from the date of the Notice to Proceed.

Liquidated Damages – Shall mean the sum of one thousand dollars (\$1,000.00) a day, which amount shall be paid by the Contractor to the County for each act of non-compliance and/or non-performance by the Contractor in the execution of the Contract.

Products – Shall mean materials or equipment permanently incorporated into the work.

Provide – Shall mean to furnish and install.

Balanced Bid – Shall mean a bid in which each of the unit prices and total amount bid for each of the listed items reasonably reflects the value of that item with regard to the entire job considering the prevailing cost of labor, material and equipment in the relevant market. A bid is unbalanced when, in the opinion of the owner, any unit prices or total amounts bid on any of the listed items do not reasonably reflect such values.

2.3 Bidder’s Modification and Withdrawal of Bids: A Bidder may modify or withdraw its bid by written request, provided that the request is received by the County prior to the bid due date and time at the address to which bids are to be submitted. Provided further, that in case of an electronic request (i.e. facsimile, e-mail, etc.) a written confirmation thereof over the authorized signature of the Bidder must be received by the County at the address to which original Bids are to be submitted within three (3) calendar days after issue of the electronic message. Following withdrawal of its bid, the Bidder may submit a new, providing delivery is affected prior to the established bid opening date and time. **No bid may be withdrawn after bid due date for sixty (60) calendar days.**

2.4 Addenda and Interpretations: No interpretations of the meaning of the Drawings, Specifications or other Bid documents will be made to any Bidder orally. Bidders requiring clarification or interpretation of the Bidding Documents shall make a request to William

Long, **Chief Assistant Purchasing Agent** no later than **5:00 PM, July 18, 2006**. Written requests for clarification or interpretation may be mailed, hand delivered, e-mailed or faxed to the Assistant Purchasing Agent at the address below, e-mail address or fax number. Telephone inquiries will not be accepted.

William Long, Chief Assistant Purchasing Agent
Department of Purchasing
Fulton County Public Safety Building
130 Peachtree Street, S.W., 1168
Atlanta, GA 30303
Fax: (404) 893-6268
William.long@co.fulton.ga.us

Only communications from firms that are in writing and signed will be recognized by the County as duly authorized expressions on behalf of proposers/bidders. Any and all such interpretations and any supplemental instructions will be in the form of written Addenda to the Specifications which, and if any addenda are issued to this Invitation to Bid.

- 2.5 Site Examination:** There will be no site visit for this project. It will be the responsibility of the bidder to review the area and location of the work and take into account moving or replacing any obstacles.
- 2.6 Bid:** All Bids must be made on the Bid forms contained herein. The Bid shall be enclosed in a sealed envelope, addressed to Department of Purchasing, Fulton County Public Safety Building, 130 Peachtree Street, S.W., Suite 1168 Atlanta, Georgia 30303 and labeled "Bid for **ITB06ITB510268C-BL, Andover Drive Sewer Extension**. **THE BIDDER IS ALSO REQUIRED TO DISPLAY THEIR GEORGIA UTILITY CONTRACTOR LICENSE NUMBER ON THE OUTSIDE OF THE SEALED BID ENVELOPE. The Utility Contractors license (For all contractors engaged in Utility Contracting – Utility Contracting is defined as the undertaking to construct, erect, alter or repair or to have constructed, erected, altered, or repaired any utility system in which the cost of the utility system work exceeds one hundred thousand dollars - \$100,000) number is also required to be clearly printed on the Proposers/Bidders Envelope.**

REQUIRED SUBMITTALS: The bidder **must complete and execute** the following:

1. Bid Form
2. Bid Schedule
3. Bid Bond
4. Certification of Acceptance of Bid/Proposal Requirements
5. Contractor License Certification
6. Non-Collusion Affidavit of Prime Bidder
7. Non-Collusion Affidavit of Subcontractor
8. Certification Regarding Debarment
9. Corporate Certification

10. Non-Conflict of Interest Certification
11. Contractors and Proposers Disclosure Questionnaire
12. Georgia Utility License
13. Contract Compliance Forms, fully executed
 - a. Promise of Non-Discrimination (Exhibit A)
 - b. Employment Report (Exhibit B)
 - c. Schedule of Intended Subcontractor Utilization (Exhibit C)
 - d. Letter of Intent to Perform As a Subcontractor or Provide Materials or Services (Exhibit D)
 - e. Declaration Regarding subcontractor Practices (Exhibit E)
 - f. Joint Venture Disclosure Affidavit (Exhibit F)
 - g. Equal Business Opportunity (EBO) Plan

Any bids received after the stated time and date shall not be considered. It shall be the sole responsibility of the bidder to have his/her bid delivered to the Fulton County Department of Purchasing for receipt on or before the stated bid due date and time **11:00 AM, July 26, 2006**. If a bid is sent by U.S. Mail, the bidder shall be responsible for its timely delivery to the Purchasing Department. Bids delayed by mail will not be considered, shall not be opened, and arrangements shall be made for their return at the bidder's request and expense.

One originally signed bid, with three (3) copies shall be submitted in a sealed package, clearly marked on the outside.

Additionally, Bidder must write their Georgia Utility Contractor License Number on the outside of the sealed package containing the bid. Failure to put the Utility Contractor License number on the package will result in the bid being determined to be non-responsive.

Bid shall be publicly opened, with only the names and total bid price of the bidders disclosed at the opening.

2.7 Bid and Contract Security: A Bid Bond for an amount equal to five percent (5%) of the bid amount must accompany each Proposal. The bid bond shall be submitted in a separate, sealed envelope marked "Bid Bond" with bid number affixed.

Bids must be accompanied by a bid bond or certified check in an amount of five percent (5%) of the TOTAL AMOUNT of the base bid. The bid bond or certified check shall apply ONLY TO THIS BID. The bid name and contract number must appear on the security instrument. The bond must remain in full force and effect until the Bidder executes the final Contract. Bids not satisfying the bonding requirements of this project will be declared non-responsive.

Any bid bond, performance bond, payment bond, or security deposit required for public works construction contract shall be approved and filed with purchasing agent. At the option of the County, if the surety named in the bond is other than a surety company

authorized by law to do business in this state pursuant to a current certificate of authority to transact surety business by the Commissioner of Insurance, such bond shall not be approved and filed unless such surety is on the United States Department of Treasury's list of approved bond sureties.

A Purchasing Agent shall approve as to form and as to the solvency of the surety any bid bond, performance bond, or payment bond required by this. In the case of a bid bond, such approval shall be obtained prior to acceptance of the bid or proposal. In the case of payment bonds and performance bonds, such approval shall be obtained prior to the execution of the contract.

Whenever, in the judgment of the County:

- (1) Any surety on a bid, performance, or payment bond has become insolvent;
- (2) Any corporation surety is not longer certified or approved by the Commissioner of Insurance to do business in the state; or
- (3) For any cause there are no longer proper or sufficient sureties on any or all the bonds

The County may require the contractor to strengthen any or all of the bonds or to furnish a new or additional bond or bonds within ten days. Thereupon, if so ordered by the County, all work on the contract shall cease unless such new or additional bond or bonds are furnished. If such bond or bonds are not furnished within such time, the County may terminate the contract and complete the same as the agent of and at the expense of the contractor and his or her sureties.

As a condition of responsiveness the bidder must contain a Bid Bond for an amount equal to 5% of the bid amount. The Bid Bond shall be included in a separate envelope marked on the outside "Bid Bond". Checks or letters of credit of any type will not be accepted. A certified cashier's check will be acceptable. Provide a completed and fully executed Bid Bond. When the bidder's package is opened, a purchasing agent will verify the presence of the Bid Bond and remove it from the Proposal Package.

If the bidder withdraws its bid from the competition after the selection of its bid for a reason not authorized by Georgia law, the County will proceed on the Bid Bond, along with any other available remedies.

The Surety of the Bid Bond shall be from a surety company authorized to do business in the State of Georgia, shall be listed in the Department of Treasury Circular 570, and shall have an underwriting limitation in excess of 100% of the bid amount. The Bonds and Surety shall be subject to approval by the County Attorney.

Attorneys-in-fact for bidders who sign bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

2.8 Right to Reject Bids: The County reserves the right to reject any or all bids and to waive informalities. No bids will be received after the time set for opening bids. Any unauthorized conditions, limitations or provisions attached to the Bid, except as provided

herein, will render it informal and may cause its rejection. **Unbalanced bids will be subject to rejection.** Any bidder may withdraw his/her bid, either personally or by telegraphic or written request, at any time prior to the scheduled closing time for receipt of bids. Telegraphic or written requests for withdrawal must be in the possession of the County prior to the closing time for receipt of bids.

- 2.9 Applicable Laws:** All applicable laws and regulations of the State of Georgia and ordinances and regulations of Fulton County shall apply. Protestors shall seek resolution of their complaints in the manner provided in the Fulton County Code of Laws §2-324, which is incorporated by reference herein.
- 2.10 Examination of Contract Documents:** Prospective bidders shall examine the contract documents and before submitting a bid, shall make a written request to the County for an interpretation or correction of any ambiguity, in consistency or error therein which could be discovered by a bidder. At the bid opening each bidder shall be presumed to have read and be familiar with the contract documents.
- 2.11 Termination:** The County may terminate the contract resulting from this solicitation at any time the vendor fails to carry out the contract provisions, if in the opinion of the County, the performance of the contract is unreasonably delayed, or the vendor is in direct violation of the contract conditions. The County shall provide the vendor with notice of any conditions which violate or endanger the performance of the contract and, if after such notice the contractor fails to remedy such conditions within thirty (30) days, to the satisfaction of the County, the County may exercise their option in writing to terminate the Contract without further notice to the Contractor and order the Contractor to stop work immediately and vacate the premises. Vendor agrees by its bid submission that the County's decision is final and valid.
- 2.12 Indemnification and Hold Harmless Agreement:** The successful contractor will agree to indemnify, save harmless and defend the County, its agents, servants, and employees from all lawsuits, claims, demands, liabilities, losses and expenses for or on account of any injury or loss in connection with the work performed under this contract: Provided, however the Contractor shall not be liable for any damages resulting for the sole negligent or intentional acts or omission of the County and its employees, agents or representatives.
- 2.13 Bid Opening:** Bids will be **opened, July 26, 2006 at 11:00 am, local time** in public and read aloud. All bidders are requested to be present at the opening.
- 2.14 Determination of Successful Bidder:** Fulton County desires to complete this work in a timely manner. The Contract will be awarded to the lowest responsive, responsible bidder(s), if awarded.
- 1) **Responsibility:** The determination of the bidder's responsibility will be made by the County based on whether the bidder meets the following minimum requirements:

- a) The County reserves the right to reject any bid if the evidence submitted by, or investigation of, the bidder fails to satisfy the County that he/she is properly qualified to carry out the obligations of the Contract.
 - b) Is properly licensed to perform this type of work in Fulton County. Bidders must have a utility contractor's license to perform this work. O.C.G.A. §43-14-8.3 (h)
 - c) Maintains a permanent place of business individually or in conjunction with the prime contractor.
 - d) Has the appropriate and adequate technical experience. Designated Project Manager must be proficient in all aspects of contracted work.
 - e) Has adequate personnel and equipment to do the work expeditiously.
 - f) Has suitable financial means to meet obligations incidental to the work.
- 2) **Responsiveness:** The determination of responsiveness will be made by the County based on a consideration of whether the bidder has submitted a complete Bid form without irregularities, excisions, special conditions, or alternative bids for any item unless specifically requested in the Bid form. Unbalanced bids shall be deemed non responsive and will be subject to rejection.

2.15 Wage Clause: Pursuant to 102-391, Each Contractor shall agree that in the performance of the Contract he will comply with all lawful agreements, if any, which the Contractor had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

2.16 Notice of Award of Contract: As soon as possible, and within sixty (60) days after receipt of bids, the County shall notify the successful Bidder of the Award of Contract.

The award shall be made by the Board of Commissioners of Fulton County to the lowest responsive, responsible bidder(s) as soon as possible after receipt of bids, taking into consideration price and the responsiveness to the requirements set forth in the Invitation for Bid. In such case, no claim shall be made by the selected Contractor(s) for loss of profit if the contract is not awarded or awarded for less work than is indicated and for less than the amount of his bid. The total of the awarded contract shall not exceed the available funds allocated for this project.

Should the County require additional time to award the contract, the time may be extended by mutual agreement between the County and the successful bidder. If an Award of Contract has not been made within sixty (60) days from the bid date or within the extension mutually agreed upon, the Bidder may withdraw the Bid without further liability on the part of either party.

The term of this Contract shall be one hundred and twenty (120) consecutive calendar

days from the date of an issuance of a Notice to Proceed (NTP.)

Any award made by the Board of Commissioners as a result of this bid will begin from the date of award by the Board of Commissioners. The Bidder agrees hereby to commence work under this Contract, with adequate personnel and equipment, on a date to be specified in a written order of the Construction Manager. The contract shall become effective on the Contract Date and shall continue in effect until the end of the term of the contract or until the project has been closed-out by the Construction Manager unless earlier terminated pursuant to the termination provisions of the contract.

- 2.17 Execution of Contract Documents:** Upon notification of Award of Contract, the County shall furnish the Contractor the conformed copies of Contract Documents for execution by the Contractor and Contractor's surety.

Within fifteen (15) days after receipt the Contractor shall return all the documents properly executed by the Contractor and the Contractor's surety. Attached to each document shall be an original power-of-attorney for the person executing the bonds for the surety and certificates of insurance for the required insurance coverage.

After receipt of the documents executed by the Contractor and his surety with the power-of-attorney and certificates of insurance, the County shall complete the execution of the documents. Distribution of the completed documents will be made upon completion.

Should the contractor and/or surety fail to execute the documents within the time specified, the County shall have the right to proceed on the Bid Bond accompanying the bid.

If the County fails to execute the documents within the time limit specified, the Contractor shall have the right to withdraw the Contractor's bid without penalty.

Should an extension of any of the time limits stated above be required, this shall be done only by mutual agreement between both parties.

Any agreement or contract resulting from the acceptance of a bid shall be on a County approved document form. The County reserves the right to reject any agreement that does not conform to the Invitation for Bid and any County requirements for agreements and contracts. The County reserves the right to modify the agreement resulting from this bid upon the recommendation of the County Attorney.

- 2.18 Joint Venture** Any Bidder intending to respond to this solicitation as a joint venture must submit an executed joint venture agreement with its offer. The agreement must designate those persons or entities authorized to execute documents or otherwise bind the joint venture in all transactions with Fulton County, or be accompanied by a document, binding upon the joint venture and its constituent members, making such designation. Offers from joint ventures that do not include these documents will be rejected as being non-responsive.

2.19 Contractors Compliance With All Assurances And/Or Promises Made In Response To Procurement: Should any Bidder submit a response to the County promising to provide a certain level of service for either the scope of work, MFBE participation, or any other matter, including where such promise or assurance is greater than what is required by the procurement documents, and should this response containing the promise or assurance be accepted by the County and made a part of the Contract Documents, then this degree or level of service promised by the bidder relating to the scope of work, MFBE participation, or other matter shall be considered to be a material part of the Agreement between the bidder and the County, such that the bidder's failure to provide the agreed upon degree or level of service or participation shall be a material breach of the Agreement giving the County just cause to terminate the Agreement for cause, pursuant to the General Conditions of the Agreement.

2.20 Availability Of Funding: Any award of work, contract, or service for any portion of the Andover Drive Sewer Extension Contract will be conditional and subject to Fulton County obtaining financing through the issuance of water and sewer revenue bonds where the proceeds from such bonds are in an amount sufficient to fund the Andover Drive Sewer Extension Contract. This conditional award will not be in effect until Fulton County has been successful in raising the required funds for payment of the Andover Drive Sewer Extension Contract. If it proves impossible for Fulton County to raise the required funds, the conditional award will be cancelled by Fulton County without any recourse by the responding entity. The submittal of a bid in response to any phase of the procurement for the Andover Drive Sewer Extension Contract serves as acceptance of this condition by the entity responding to the procurement. Without waiving any of the conditions contained herein, and solely for informational purposes, please be aware that the Fulton County Board of Commissioners has taken legislative action authorizing the Fulton County Director of Finance to procure the services of the various professionals that will assist in obtaining the bond proceeds, and it is anticipated that the funding will be in place by the second or third quarter of 2006.

2.21 MINIMUM PARTICIPATION REQUIREMENTS FOR PRIME CONTRACTORS

Pursuant to Fulton County Code 102-357, Prime Bidders on the project must perform no less than 51% of the scope of work required under the project.

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**BID GENERAL REQUIREMENTS
FULTON COUNTY PURCHASING DEPARTMENT**

ANDOVER DRIVE SEWER EXTENSION

The following information pertains to the submission of a Bid to Fulton County, and contains instructions on how Bids must be presented in order to be considered. Listed below are the requirements for all Bidders interested in doing business with Fulton County.

1. The Bid sheets included in this Invitation to Bid (“Bid”) must be fully completed and returned with the Bid unless otherwise specified in writing by the Purchasing Department. Type or neatly print the date, company name, and the full legal name and title of the person(s) signing the Bid in the place provided at the bottom of each Bid sheet. Any additional sheets submitted must contain the same signature and Bidder information.
2. Original signature(s) must appear on each page of the Bid document. All signatures must be executed by person(s) having contracting authority for the Bidder.
3. Absolutely no fax Bids or reproduction Bids will be accepted, except that photocopies may be submitted in addition to the original when multiple copies of the Bid are specifically requested in the solicitation.
4. The envelope in which the Bid response is submitted must be sealed and clearly labeled with the Bid number, project title, due date and time, and the name of the company or individual submitting the proposal. Bids must be received by the opening date and time shown on this Bid in order to be considered. The Purchasing Agent has no obligation to consider Bids which are not in properly marked envelopes. Contract Compliance submittals shall be submitted in a separate sealed envelope or package.
5. The original and the required number of copies of the Bid must be returned to:

Fulton County Purchasing Department
William Long, Chief Assistant Purchasing Agent
Fulton County Purchasing Department
130 Peachtree Street, S.W., Suite 1168
Atlanta, Georgia 30303

Any inquiries, questions, clarifications or suggestions regarding this solicitation should be submitted in writing to the Purchasing Contact Person. Contact with any other County personnel in regard to a current solicitation is strictly prohibited in accordance with Fulton County “No Contact” policy outlined in Section 35.

6. Show information and prices in the format requested. Prices are to be quoted F.O.B. Destination, and must include all costs chargeable to the Contractor executing the Contract, including taxes. Unless otherwise provided in the Contract, Fulton County

shall have no liability for any cost not included in the price. The Contractor shall provide Fulton County the benefit through a reduction in price of any decrease in the Contractor's costs by reason of any tax exemption based upon Fulton County's status as a tax-exempt entity.

7. All prices Bid must be audited by the Bidder to ensure correctness before the Bid is submitted. The Bidder is solely responsible for the accuracy of information placed on a Bid sheet, including prices. Clerical or mathematical error is insufficient to void a successful Bid but a Bidder may withdraw a sealed Bid prior to opening without a penalty.
8. All prices must be submitted in the format requested and less all trade discounts. When multiple items are being Bid, Bidder must show both the unit price and the total extended price for each item. When applicable, the Bidder must include an additional lump sum Bid for groups or items. In the event a Bidder is offering an additional discount on groups of items, Bidder must indicate the total lump sum Bid for the particular group of items before any extra discount, the amount of extra discount, and the net total for the particular group. In the event of an extension error, unit pricing shall prevail.
9. By submitting a signed Bid, Bidder agrees to accept an award made as a result of that Bid under the terms and conditions spelled out in the Bid documents. In the event of a conflict between the different Bid documents, the County's cover Contract (if used) shall have precedence, followed in order by the Invitation to Bid, Purchase Order, Bid, Contractor's Warranty Agreement, Maintenance Agreement, and/or other Contractor provided agreements.
10. A Bidder may submit only one (1) Bid response for each specific Bid solicitation unless otherwise authorized in the specifications.
11. All prices submitted by the Bidder to Fulton County must be guaranteed by the authorized person(s) against any price increase for the time period designated in the Bid specifications, and Fulton County must be given the benefit of any price decrease occurring during such designated time period.
12. All items Bid must be new. Used, rebuilt and refurbished items will not be considered unless specifically authorized by Fulton County in the written specifications.
13. All Bidders must specify in the Bid response the earliest actual delivery date for each item unless otherwise specified in writing by Fulton County. The delivery date may be a factor in deciding the Bidder's capability to perform.
14. A successful Bidder's delivery ticket(s) and invoice(s) must list each item separately and must show Fulton County's purchase order number as well as the proper department and address to which delivery was made, as listed on the purchase order or in the Bidder's contract with Fulton County.

15. Unless clearly shown as “no substitute” or words to that effect, any items in this invitation to Bid which have been identified, described or referenced by a brand name or trade name are for reference only. Such identification is intended to be descriptive but not restrictive, and is to indicate the general quality and characteristics of products that may be offered. Each item Bid must be individually identified as to whether it is a specified item or an equivalent item by typing or printing after the item(s): The brand name; model or manufacturer’s number, or identification regularly used in the trade. Deviations from the specifications must be clearly and fully listed on the Bid sheet, including photographs or cuts, specifications, and dimensions of the proposed “alternate”. Fulton County is the sole judge of “exact equivalent”, or “alternate”. The factors to be considered are: function, design, materials, construction, workmanship, finishes, operating features, overall quality, local service facilities, warranty terms and service, and other relevant features of item(s) Bid.
16. For all Bids, Fulton County reserves the right to request representative samples. If requested, samples must be delivered at the Bidder’s cost within three (3) business days. Samples are submitted at the risk of the Bidder and may be subjected to destructive tests by Fulton County. Samples must be plainly tagged with Fulton County’s Bid number, item name, manufacturer, and the name of the Bidder.
17. Item(s) Bid must be complete and ready to operate. No obvious omissions of components or necessary parts shall be made even though the specifications may not detail or mention them. Unit(s) must be furnished with factory installed equipment and must be comparable with the basic form, fit, and functional requirements which are all to be included in the base price as well as any other equipment included as standard by the manufacturer or generally provided to the buying public.
18. All successful Bidders must assume full responsibility for all item(s) damaged prior to F.O.B. Destination delivery and agree to hold harmless Fulton County of all responsibility for prosecuting damage claims.
19. All successful Bidders must assume full responsibility for replacement of all defective or damaged goods within thirty (30) days of notice by Fulton County of such defect or damage.
20. All successful Bidders must assume full responsibility for providing or ensuring warranty service on any and all items including goods, materials, or equipment provided to the County with warranty coverage. If a successful Bidder is not the manufacturer, all manufacturers’ warranties must be passed through to Fulton County. The Bidder and not Fulton County is responsible for contacting the manufacturer of the warranty service provided during the warranty period and supervising the completion of the warranty service to the satisfaction of Fulton County.
21. As a successful Bidder providing any equipment which requires fitting and assembly, the Bidder shall be solely responsible for such installation being performed by a manufacturer’s authorized or approved service or an experienced worker, utilizing workmanship of the highest caliber. The Bidder must verify all dimensions at the site,

shall be responsible for their correctness, and shall be responsible for the availability of replacement parts when specified in writing by Fulton County in the specifications, purchase order, or other contract.

22. A successful Bidder is solely responsible for disposing of all wrappings, crating, and other disposable material upon deliver of item(s).
23. All Bidders are required to be authorized distributors or regularly engaged in the sale or distribution of the type of goods, materials, equipment or services for which the Bidder is submitting a Bid response in addition, all Bidders are required to provide Fulton County with three (3) written references documenting the successful completion of Bids or contracts for the types of items including goods, materials, equipment, or services for which the Bidder is submitting a Bid response. In instances where a Bidder has never supplied such goods, material, equipment, or services before, the Bidder must submit with the Bid response a statement and supporting documentation demonstrating such expertise, knowledge, or experience to establish the Bidder as a responsible Bidder, capable of meeting the Bid requirements should an award be made. No exceptions to this provision will be made unless authorized in the Bid specifications.
24. Bidders may be required to furnish evidence that they maintain permanent places of business of a type and nature compatible with their Bid proposal, and are in all respects competent and eligible vendors to fulfill the terms of the specifications. Fulton County may make such investigations as it deems necessary to determine the ability of the Bidder to perform such work, and reserves the right to reject any Bidder if evidence fails to indicate that the Bidder is qualified to carry out the obligation of the Contract and to complete the work satisfactorily.
25. All Bidders must comply with all Fulton County Purchasing laws, policies, and procedures, non-discrimination in contracting and procurement ordinances, and relevant state and federal laws including but not limited to compliance with EEOC hiring guidelines and requirements under the Americans with Disabilities Act. Successful Bidder must obtain all permits, licenses, and inspections as required and furnish all labor, materials, insurance, equipment, tools, supervision, and incidentals necessary to accomplish the work in these specifications.
26. If a successful Bidder is unable or unwilling to enter into a Contract with Fulton County subsequent to being granted an award, or who fails to perform in accordance with the Bid specifications the Bidder will be subject to damages and all other relief allowed by law.
27. Successful Bidders contract directly with Fulton County and are the party or parties obligated to perform. Contracts may not be assigned and any failure to perform the Contract in accordance with the specifications will constitute a breach of Contract and may result in a Bidder being found to be “non-responsive” in the future.
28. In case of default by the successful Bidder, Fulton County may procure the articles for services from another source and hold the successful Bidder responsible for any resulting excess cost.

29. The County may award any Bid in whole or in part to one or more vendors or reject all Bids and/or waive any technicalities if it is in the best interests of the County to do so. In the event that all Bids are not rejected, Bids for items including goods, materials, equipment, and services will be awarded to the lowest “responsible” Bidder(s) as determined by Fulton County. Submitting the lowest Bid, as published at the Bid opening, does not constitute an award or the mutual expectation of an award of a Contract and purchase order. For purposes of this notice and the attached Bid sheets, a purchase order is a Contract to provide items including goods, materials, equipment, and services and is intended to have the full force and effect of a Contract. A breach of the terms and conditions of a purchase order constitutes a breach of Contract.
30. Bids for projects that are solicited pursuant to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 et seq.) may withdrawn as follows:

Competitive sealed Bids (“Bid”) may not be revoked or withdrawn until 60 days after the time set by the governmental entity for opening of Bids. At the end of this time period, the Bid will cease to be valid, unless the Bidder provides written notice to the County prior to the scheduled expiration date that the Bid will be extended for a time period specified by the County.
31. In the evaluation of the Bids, any award will be subject to the Bid being:
 - A. Compliant to the specification – meets form, fit, and function requirements stated or implied in the specification.
 - B. Lowest cost to the County over projected useful life.
 - C. Administratively Compliant – Including all required bonds, insurance, established quality of work and general reputation, financial responsibility, relevant experience, and related criteria.
32. All proposals and Bids submitted to Fulton County are subject to the Georgia “Open Records Act”, Official Code of Georgia, Annotated (O.C.G.A.) §50-18-70 et seq.
33. All proposals and Bids submitted to Fulton County involving Utility Contracting are subject to the Georgia law governing licensing of Utility Contractors, O.C.G.A. §43-14-8.2(h). The Utility Contractor License number of the person who will perform the utility work shall be written on the face of the Bid envelope.
34. The apparent silence of this specification, and any supplement thereto, as to details, of the omission from it of a detailed description concerning any point, will be regarded as meaning only the best commercial practices are to prevail. Only materials of the highest quality, correct type, size, and design are to be used. All interpretations of this specification will be made upon the basis of this statement, with Fulton County interpretation to prevail.

35. It is the policy of Fulton County that the evaluation and award process for County contracts shall be free from both actual and perceived impropriety, and that contacts between potential vendors and County officials, elected officials and staff regarding pending awards of County contracts shall be prohibited.
- A. No person, firm, or business entity, however situated or composed, obtaining a copy of or responding to this solicitation, shall initiate or continue any verbal or written communication regarding this solicitation with any County officer, elected official, employee, or designated County representative, between the date of the issuance of this solicitation and the date of the County Manager's recommendation to the Board of Commissioners for award of the subject contract, except as may otherwise be specifically authorized and permitted by the terms and conditions of this solicitation.
 - B. All verbal and written communications initiated by such person, firm, or entity regarding this solicitation, if same are authorized and permitted by the terms and conditions of this solicitation, shall be directed to the Purchasing Agent.
 - C. Any violation of this prohibition of the initiation or continuation of verbal or written communications with County officers, elected officials, employees, or designated County representatives shall result in a written finding by the Purchasing Agent that the submitted Bid or proposal of the person, firm, or entity in violation is "non-responsive", and same shall not be considered for award.
36. Any Bidder intending to respond to this solicitation as a Joint Venture must submit an executed Joint Venture Agreement with this Bid. This agreement must designate those persons or entities authorized to execute documents or otherwise bind the Joint Venture in all transactions with Fulton County, or are accompanied by a document, binding upon the Joint Venture and its constituent members, making such designation. Bids from Joint Ventures that do not include these documents will be rejected as being "non-responsive".
37. Any Bidder intending to respond to this solicitation must complete all of the Procurement Affidavit Forms provided in this solicitation. Bids that do not include these completed documents will be rejected as being "non-responsive".

UTILITY CONTRACTORS. All Bidders/Proposers shall comply with the requirements of O.C.G.A. § 43-14-8.2(h) which states:

After June 30, 1994, it shall be unlawful for any contracting body to open or consider any bid for utility contracting unless the bidder has obtained the license required by this Code section or intends to have the utility contracting work performed by another person who has obtained such license. The utility contractor's license number of the person who will perform the utility work shall be written on the face of the bid envelope, unless otherwise provided. If 50 percent or more of any multifaceted project being proposed is utility work, the bidder must have obtained a utility license and his or her number must be written on the face of the bid. (Code 198, § 43-14-8.2, enacted by Ga. L. 1989, P.175, §7; Ga. L. 1993, p.123, § 31; Ga. L. 1993, p.1339, §7; Ga. L. 1994, p.1, §1; Ga. L. 1994, p. 383, §4.)

ANY BIDDER FAILING TO COMPLY WITH THE REQUIREMENTS OF PLACING ITS UTILITY CONTRACTOR'S LICENSE NUMBER ON THE FACE OF THE BID ENVELOPE SHALL BE DEEMED NON-RESPONSIVE AND ITS BID SHALL NOT BE OPENED.

-END OF SECTION 2-

SECTION 3 - PURCHASING FORMS & INSTRUCTIONS

This section contains the procurement forms that are required to be executed and submitted with the bid package. This section does not contain all forms required to be included with the bid package submittal.

To be deemed responsive to this ITB, Bidders must provide the information requested and complete in detail all Purchasing Forms. The appropriate individual(s) authorized to commit the Bidder to the Project must sign the Purchasing Forms. Bidders should reproduce each Purchasing Form, as required, and complete the appropriate portions of the forms provided in this section.

- Form A: Non-Collusion Affidavit of Prime Bidder
- Form B: Non-Collusion Affidavit of Sub-Contractors
- Form C: Certificate of Acceptance of Request for Bid Requirements
- Form D: Contractor License Certification
- Form E: Certification Regarding Debarment
- Form F: Corporate Certification
- Form G: Non-Conflict of Interest Certification
- Form H: Certificate as to Corporate Principal
- Form I: Contractors and Proposers Disclosure Questionnaire
- Form J: Georgia Utility License

3.1.1 - Form A - NON-COLLUSION AFFIDAVIT OF BIDDER/OFFEROR

STATE OF GEORGIA

COUNTY OF FULTON

I, _____ certify that pursuant to Fulton County Code Section 2-320 (11), this bid or proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same work, labor or service to be done or the supplies, materials or equipment to be furnished 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 damages awards. I agree to abide by all conditions of this bid or proposal and certify that I am authorized to sign this bid or proposal for the bidder.

Affiant further states that pursuant to O.C.G.A. Section 36-91-21 (d) and (e), _____ has not, by itself or with others, directly or indirectly, prevented or attempted to prevent competition in such bidding or proposals by any means whatsoever. Affiant further states that (s)he has not prevented or endeavored to prevent anyone from making a bid or offer on the project by any means whatever, nor has Affiant caused or induced another to withdraw a bid or offer for the work.

Affiant further states that the said offer of _____ is bona fide, and that no one has gone to any supplier and attempted to get such person or company to furnish the materials to the bidder only, or if furnished to any other bidder, that the material shall be at a higher price.

(COMPANY NAME)

(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me this _____ day of _____, 200__.

(SECRETARY/ASSISTANT SECRETARY)

(Affix corporate seal here, if a corporation)

Notary Public: _____

County: _____

Commission Expires: _____

NOTE:

IF THE OFFEROR IS A PARTNERSHIP, ALL OF THE PARTNERS AND ANY OFFICER, AGENT, OR OTHER PERSON WHO MAY HAVE REPRESENTED OR ACTED FOR THEM IN BIDDING FOR OR PROCURING THE CONTRACT SHALL ALSO MAKE THIS OATH.

IF THE OFFEROR IS A CORPORATION, ALL OFFICERS, AGENTS, OR OTHER PERSONS WHO MAY HAVE ACTED FOR OR REPRESENTED THE CORPORATION IN BIDDING FOR OR PROCURING THE CONTRACT SHALL MAKE THE OATH.

3.1.2 – Form B – NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR

STATE OF GEORGIA

COUNTY OF FULTON

I, _____ certify that pursuant to Fulton County Code Section 2-320 (11), this bid or proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a bid for the same work, labor or service to be done or the supplies, materials or equipment to be furnished 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 damages awards. I agree to abide by all conditions of this bid or proposal and certify that I am authorized to sign this bid or proposal for the bidder.

Affiant further states that pursuant to O.C.G.A. Section 36-91-21 (d) and (e), _____ has not, by itself or with others, directly or indirectly, prevented or attempted to prevent competition in such bidding or proposals by any means whatsoever. Affiant further states that (s)he has not prevented or endeavored to prevent anyone from making a bid or offer on the project by any means whatever, nor has Affiant caused or induced another to withdraw a bid or offer for the work.

Affiant further states that the said offer of _____ is bona fide, and that no one has gone to any supplier and attempted to get such person or company to furnish the materials to the bidder only, or if furnished to any other bidder, that the material shall be at a higher price.

(COMPANY NAME)

(PRESIDENT/VICE PRESIDENT)

Sworn to and subscribed before me this _____ day of _____, 200__.

(SECRETARY/ASSISTANT SECRETARY)

(Affix corporate seal here, if a corporation)

Notary Public: _____

County: _____

Commission Expires: _____

NOTE:

IF THE OFFEROR IS A PARTNERSHIP, ALL OF THE PARTNERS AND ANY OFFICER, AGENT, OR OTHER PERSON WHO MAY HAVE REPRESENTED OR ACTED FOR THEM IN BIDDING FOR OR PROCURING THE CONTRACT SHALL ALSO MAKE THIS OATH.

IF THE OFFEROR IS A CORPORATION, ALL OFFICERS, AGENTS, OR OTHER PERSONS WHO MAY HAVE ACTED FOR OR REPRESENTED THE CORPORATION IN BIDDING FOR OR PROCURING THE CONTRACT SHALL MAKE THE OATH.

**3.1.3 - Form C - CERTIFICATE OF ACCEPTANCE OF BID/PROPOSAL
REQUIREMENTS**

This Is To Certify That On This Day Bidder/Proposer Acknowledges That He/She Has Read This Bid Document, Pages _____ To _____ Inclusive, Including Addendum(s) ____ To ____, And/Or Appendices ____ To ____, In Its Entirety, And Agrees That No Pages Or Parts Of The Document Have Been Omitted, That He/She Understands, Accepts And Agrees To Fully Comply With The Requirements Therein, And That The Undersigned Is Authorized By The Bidding/Proposing Company To Submit The Bid/Proposal Herein And To Legally Obligate The Bidder/Proposer Thereto.

Company: _____

Signature: _____

Name: _____

Title: _____

Date: _____

(Corporate Seal)

3.1.4 - Form D - CONTRACTOR'S LICENSE CERTIFICATION

Contractor's Name: _____

Utility Contractor's Name: _____

Expiration Date of License: _____

(ATTACHED COPY OF LICENSE)

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: _____

Date: _____

3.1.5 - Form E - CERTIFICATION REGARDING DEBARMENT

- (1) The Offeror certifies that neither it or its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from doing business with any government agency. Any such exclusion may cause prohibition of your firm from participating in any procurement by the Fulton County Government.
- (2) If the Offeror is unable to certify to any of the statements in this certification, such Offeror or subcontractor shall attach an explanation to this bid or proposal.

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this certification, the Offeror is providing the certification set out below:

- (1) The certification in this clause is a material representation of fact upon which reliance will be placed. If it is later determined that the prospective vendor knowingly rendered a false certification, the Purchasing Agent may pursue all available remedies, including suspension and/or debarment, for withdrawal of award or termination of a contract.
- (2) The prospective Offeror shall provide immediate written notice to the Purchasing Agent if at anytime the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (3) Offeror shall be under a continuing duty to immediately inform the Purchasing Agent in writing of any changes, if as a result of such changes, the Offeror certification regarding debarment is affected.

DEBARMENT ORDINANCE

The following Section 2-322 of Fulton County Code of Laws establishes the procedure for the debarment of contractors.

(a) ***Authority to suspend.***

After reasonable notice to the entity involved and reasonable opportunity for that entity to be heard, the Purchasing Agent, after consultation with user department, the County Manager and the County Attorney shall have the authority to suspend an entity for cause from consideration for award of county contracts. As used in this section, the term entity means any business entity, individual, firm, contractor, subcontractor or business corporation, partnership, limited liability corporation, firm, contractor, subcontractor or business structured; provided, further, that any such entity shall also be subject to suspension under this section if any of its constituents, members, subcontractors at any tier of such entity's and the entity, or any constituent or member, knew or should have known of the commission of the act. The suspension shall be for a period not to exceed three (3) years unless cause is based on a felony conviction for an offense related or associated with fraudulent contracting or misappropriation of funds wherein the suspension

shall not exceed seven (7) years.

(b) Causes for Suspension. The causes for suspension include:

- 1) Conviction for commission of a criminal offense as an incident to obtain or attempting to obtain a public or private contract or subcontract, or in performance of such contract or subcontract;
- 2) Conviction of state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a county contractor.
- 3) Conviction of state or federal anti-trust statutes arising out of the solicitation and submission of bids and proposals;
- 4) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify suspension action:
 - a. Failure to perform in accordance with the specifications within a time limit provided in a county contract;
 - b. A recent record of failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts; provided, that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for suspension;
 - c. Material representation of the composition of the ownership or workforce or business entity certified to the county as a minority business enterprise; or
 - d. Falsification of any documents.
- i. For violation of the ethical standards set forth in Fulton County Code Chapter 9, Code of Ethics.
- ii. Knowing misrepresentation to the county, of the use which a majority owned contractor intends to make a minority business enterprise (a business entity at least 51 percent of which is owned and controlled by minority persons, as defined in Fulton County Code Chapter 6, Article B, Minority Business Enterprise Affirmative Action Program and certified as such by the County) as a subcontractor or a joint venture partner, in performing work under contract with the County.

Failure to fully and truthfully provide the information required, may result in the disqualification of your bid/proposal from consideration or termination of the Contract, once awarded. This document must be completed and included as a part of the

bid/proposal package along with other required documents.

Under penalty of perjury, I declare that I have examined this certification and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this _____ day of _____, 2006

(Legal Name of Offeror) (Date)

(Signature of Authorized Representative) (Date)

(Title)

3.1.6 - Form F - CORPORATE CERTIFICATE

Corporations

I, _____, certify that I am the Secretary of the Corporation named as Contractor in the foregoing Bid; that _____, who signed said Bid on behalf of the Contractor was then _____ of said Corporation; that said Bid was duly signed for and on behalf of said Corporation by authority of its Board of Directors, and is within the scope of its corporate powers; that said Corporation is organized under the laws of the State of _____.

This _____ day of _____, 20 ____ .

(SEAL) must be affixed

Partnership or other entities:

I, _____, certify that I am authorized to sign to commit _____ named as Contractor in the foregoing Bid. That said company is formed under the laws of the State of _____.

This _____ day of _____, 20 ____ .

It is necessary to attach a letter on company letterhead and dated on or after the date of this certificate that the individual signing to commit the partnership or other entity not a corporation to the stipulations of this bid is authorized to do so. The letter should be signed by an individual working for the company who has knowledge of this fact.

3.1.7 - Form G - NON CONFLICT OF INTEREST CERTIFICATION

I, _____, as the legal representative of _____, do certify that we will not perform any type of professional services for property owners adjacent or contiguous to any project assigned by Fulton County, during the active life of such project. Further, I additionally certify that if we already have an agreement(s) with property owner(s) adjacent or contiguous to a project assigned by Fulton County, we will either reject the County assignment, or cancel the property owner already in effect if so directed by Fulton County Board of Commissioners. In no case will our firm utilize our knowledge of the ongoing Fulton County project for professional gain during the active life of such Project.

Name: _____

Title: _____

Date: _____

Witness: _____

Name: _____

Title: _____

Date: _____

3.1.8 – Form H - CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the Corporation named as principal in the within bond; that _____, Who signed the said bond of said corporation; that I know this signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed and attested for in behalf of said Corporation by authority of its governing body.

SECRETARY

(CORPORATE SEAL)

SURETY

(SEAL)

BY _____

**3.1.9 Form I - CONTRACTOR OR PROPOSER'S DISCLOSURE FORM AND
QUESTIONNAIRE**

1. Please provide the names and business addresses of each of the Contractor or Proposer's officers, directors, affiliates and other employees, agents or representative of this form, the subject project _____.

For the purposes of this form, the term "affiliate" of any Contractor or Proposer shall mean any person or entity that directly or indirectly controls or is controlled by, or is under common control with, such Contractor or Proposer. "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through ownership of voting securities, by entreat, or otherwise.

Describe accurately, fully and completely, their respective relationships with said Contractor or Proposer, including their ownership interests and their anticipated role in the management and operations of said Contractor or Proposer.

2. Please describe the general development of said Contractor or Proposer's business during the past five (5) years, or such shorter period of time that said Contractor or Proposer has been in business.
3. Please state whether any employee, agent or representative of said Contractor or Proposer who is or will be directly involved in the subject project has or had within the last five (5) years: (i) directly or indirectly had a business relationship with Fulton County; (ii) directly or indirectly received revenues from Fulton County; or (iii) directly or indirectly receives revenues from the result of conducting business on Fulton County property or pursuant to any contract with Fulton County. Please describe in detail any such relationship.

LITIGATION DISCLOSURE:

Failure to fully and truthfully disclose the information required, may result in the disqualification of your bid or proposal from consideration or termination of the Contract, once awarded.

1. Please state whether any of the following events have occurred in the last five (5) years with respect to said Contractor or Proposer. If any answer is yes, explain fully the following:
 - (a) whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Contractor or Proposer, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Contractor or Proposer;

- (b) whether Contractor or Proposer was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Contractor or Proposer from engaging in any type of business practice, or otherwise eliminating any type of business practice; and
- (c) whether said Contractor's or Proposer's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said Contractor or Proposer, which directly arose from activities conducted by the business unit or corporate division of said Contractor or Proposer which submitted a bid or proposal for the subject project. If so please explain.

2. Have you or any member of your firm or team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Circle One: YES NO

3. Have you or any member of your firm or team been terminated (for cause or otherwise) from any work being performed for Fulton County or any other Federal, State or Local Government, or

Circle One: YES NO

4. Have you or any member of your firm or team been involved in any claim or litigation with Fulton County or any other federal, state or local government, or private entity during the last ten

Circle One: YES NO

If you have answered "YES" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Contractor's or Proposer's most recent filings with the Securities and Exchange Commission ("SEC") may be provided if they are responsive to certain items within the questionnaire.) However, for purposes of clarity, Contractor or Proposer should correlate its responses with the exhibits by identifying the exhibit and its relevant text.

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by Fulton County. Such disclosure must be submitted at the time of the bid or proposal submission and included as a part of the bid/proposal submitted for this project. Disclosure is required for Contractor or Proposers, joint venture partners and first-tier sub-contractor or Proposers.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by Fulton County can result in the bid/proposal declared as non-responsive. This document must be completed and included as a part of the bid/proposal package along with other required documents.

Under penalty of perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this _____ day of _____, 20__

(Legal Name of Proponent) (Date)

(Signature of Authorized Representative) (Date)

(Title)

Sworn to and subscribed before me,

this _____ day of _____, 20__

(Notary Public) (Seal)

Commission Expires _____
(Date)

Form J - 3.2.0 CONTRACTOR'S GEORGIA UTILITY LICENSE CERTIFICATION

Andover Drive Sewer Extension

NOTE: **The Utility Contractor's License Number is also required on the Bid Envelope.**

Contractor's Name: _____

Bidder's Georgia Utility Contractor's License Number: _____

Expiration Date of License: _____

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: _____

Printed: _____

Date: _____

(ATTACH COPY OF LICENSE)

SECTION 4 – Contract Compliance Requirements

NON-DISCRIMINATION IN CONTRACTING AND PROCUREMENT

Policy Statement: It is the policy of Fulton County Government that discrimination against businesses by reason of the race, color, gender or national origin of the ownership of any such business is prohibited. Furthermore, it is the policy of the Board of Commissioners (“Board”) that Fulton County and all vendors and contractors doing business with Fulton County shall provide to all businesses the opportunity to participate in contracting and procurement paid, in whole or in part, with monetary appropriations of the Board. Similarly, it is the policy of the Board that the contracting and procurement practices of Fulton County should not implicate Fulton County as either an active or passive participant in the discriminatory practices engaged in by private contractors seeking to obtain contracts with Fulton County.

Equal Business Opportunity Plan (EBO Plan): In addition to the proposal submission requirements, each vendor **must** submit an Equal Business Opportunity Plan (EBO Plan) with their bid/proposal. The EBO Plan is designed to enhance the utilization of a particular racial, gender or ethnic group by a bidder/proposer, contractor, or vendor or by Fulton County. The respondent **must** outline a plan of action to encourage and achieve diversity and equality in the available procurement and contracting opportunities with *this solicitation*.

The EBO Plan **must** identify and include:

1. Potential opportunities within the scope of work of *this solicitation* that will allow for participation of racial, gender or ethnic groups.
2. Efforts that will be made by the bidder/proposer to encourage and solicit minority and female business utilization in this solicitation.

Fulton County encourages joint ventures, teaming, partnering and mentor-protégé relationships with minority and female businesses in an effort to achieve contracting and procurement diversity.

Prompt Payment: The prime contractor **must** certify in writing and **must** document on the Exhibit G Form (Prime Contractor/Subcontractor Utilization Report) that all subcontractors, sub-consultants and suppliers have been promptly paid for work and materials, (less any retainage by the prime contractor prior to receipt of any further progress payments). In the event the prime contractor is unable to pay subcontractors, sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime contractor shall pay all subcontractors, sub-consultants or suppliers funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County. In no event shall a subcontractor, sub-consultant or supplier be paid later than fifteen (15) days as provided for by state law.

REQUIRED FORMS AND EBO PLAN:

In order to be compliant with the intent and provisions of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance (99-0960), bidders/proposers **must** submit the following completed documents. Failure to provide this information **shall** result in the bid/proposal being deemed non-responsive:

- **Exhibit A** - Promise of Non-Discrimination
- **Exhibit B** - Employment Report
- **Exhibit C** - Schedule of Intended Subcontractor Utilization
- **Exhibit D** - Letter of Intent to Perform As a Subcontractor or Provide Materials or Services
- **Exhibit E** - Declaration Regarding Subcontractor Practices
- **Exhibit F** - Joint Venture Disclosure Affidavit
- **Equal Business Opportunity Plan (EBO Plan)** – This document is not a form. It is a statement created by the bidder/proposer on its company letter head addressing the EBO Plan requirements.

All Contract Compliance documents (Exhibits A – F and EBO Plan) are to be placed in a **separate sealed envelope** clearly marked “Contract Compliance”. The EBO Plan must be submitted on company letterhead. These documents are considered part of and should be submitted with the Technical Proposal.

The following document **must** be completed as instructed if awarded the bid:

- **Exhibit G** - Prime Contractor’s Subcontractor Utilization Report

EXHIBIT A – PROMISE OF NON-DISCRIMINATION

“Know all persons by these presents, that I/WE (_____),
Name

Title Firm Name

Hereinafter “Company”), in consideration of the privilege to bid on or obtain contracts funded, in whole or in part, by Fulton County, hereby consent, covenant and agree as follows:

- 1) No person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin or gender in connection with any bid submitted to Fulton County for the performance of any resulting there from,
- 2) That it is and shall be the policy of this Company to provide equal opportunity to all businesses seeking to contract or otherwise interested in contracting with this Company without regard to the race, color, gender or national origin of the ownership of this business,
- 3) That the promises of non-discrimination as made and set forth herein shall be continuing in nature and shall remain in full force and effect without interruption,
- 4) That the promise of non-discrimination as made and set forth herein shall be made a part of, and incorporated by reference into, any contract or portion thereof which this Company may hereafter obtain,
- 5) That the failure of this Company to satisfactorily discharge any of the promises of non-discrimination as made and set forth herein shall constitute a material breach of contract entitling the Board to declare the contract in default and to exercise any and all applicable rights and remedies, including but not limited to cancellation of the contract, termination of the contract, suspension and debarment from future contracting opportunities, and withholding and/or forfeiture of compensation due and owing on a contract; and
- 6) That the bidder shall provide such information as may be required by the Director of Contract Compliance pursuant to Section 4.4 of the Fulton County Non-Discrimination in Purchasing and Contracting Ordinance.

SIGNATURE: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

EXHIBIT B – EMPLOYMENT REPORT

The demographic employment make-up for the bidder must be identified and submitted with this bid/proposal. In addition, if subcontractors will be utilized by the bidder/proposer to complete this project, then the demographic employment make-up of the subcontractor(s) must be identified and submitted with this bid.

EMPLOYEES

CATEGORY	NATIVE INDIAN		AFRICAN AMERICAN		ASIAN AMERICAN		HISPANIC AMERICAN		CACUSIAN AMERICAN		OTHER	
	M	F	M	F	M	F	M	F	M	F	M	F
Mgmt/Official												
Professional (Arch., P.E., etc.)												
Supervisors												
Office/ Clerical												
Craftsmen												
Laborers												
Others (Specify)												
TOTALS												

FIRM'S NAME: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

This completed form is for (Check one) _____ Bidder/Proposer _____ Subcontractor

Submitted by: _____ Date Completed: _____

EXHIBIT C – SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION

If the bidder/proposer intends to subcontract any portion of this scope of work/service(s), this form **must be** completed and **submitted with the bid/proposal**. All prime bidders/proposers **must** include Letter(s) of Intent (Exhibit D) in the bid document for all subcontractors who will be utilized under the scope of work/services.

Prime Bidder/Proposer: _____

ITB/RFP NUMBER: _____

Project Name or Description of Work/Service(s): _____

1. My firm, as Prime Bidder/Proposer on this scope of work/service(s) is _____ is not _____ a minority or female owned and controlled business. (Please indicate below the portion of work, including, percentage of bid amount that your firm will carry out directly):

If the Prime Bidder/Proposer is a Joint Venture, please complete Exhibit F: Joint Venture Disclosure Affidavit and attach a copy of the executed Joint Venture Agreement.

2. Sub-Contractors (Including suppliers) to be utilized in the performance of this scope of work/service(s), if awarded, are:

SUBCONTRACTOR NAME: _____

ADDRESS: _____

PHONE: _____

CONTACT PERSON: _____

ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____

WORK TO BE PERFORMED: _____

DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

***Ethnic Groups: African American (AABE); Asian American (ABE); Hispanic American (HBE); Native American (NABE); White Female American (WFBE); **If yes, attach copy of recent certification letter.**

EXHIBIT C – SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION

SUBCONTRATOR NAME: _____
ADDRESS: _____
PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____
DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRATOR NAME: _____
ADDRESS: _____
PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____
DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRATOR NAME: _____
ADDRESS: _____
PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____
DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRATOR NAME: _____
ADDRESS: _____
PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____
DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

SUBCONTRATOR NAME: _____
ADDRESS: _____
PHONE: _____
CONTACT PERSON: _____
ETHNIC GROUP*: _____ COUNTY CERTIFIED** _____
WORK TO BE PERFORMED: _____
DOLLAR VALUE OF WORK: \$ _____ PERCENTAGE VALUE: _____ %

Total Dollar Value of Small Business Enterprise Agreements: (\$)

Total Percentage Value: (%)

CERTIFICATION: The undersigned certifies that he/she has read, understands and agrees to be bound by the Bid provisions, including the accompanying Exhibits and other terms and conditions regarding sub-contractor utilization. The undersigned further certifies that he/she is legally authorized by the Bidder to make the statement and representation in this Exhibit and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder knowing them to be false, or if there is a failure of the intentions, objectives and commitments set forth herein without prior approval of the County, then in any such event the Contractor's acts or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the County to terminate the Contract for default. The right to so terminate shall be in addition to, and in lieu of, any other rights and remedies the County may have for other defaults under the contract.

Signature/Title: _____

Firm or Corporate Name: _____

Address: _____

Telephone: () _____ **Fax Number:** () _____

Email _____

***Ethnic Groups: African American (AABE); Asian American (ABE); Hispanic American (HBE); Native American (NABE); White Female American (WFBE); **If yes, attach copy of recent certification letter.**

EXHIBIT E – DECLARATION REGARDING SUBCONTRACTING PRACTICES

If the bidder/proposer **does not intend to subcontract** any portion of the scope of work services(s), this form **must be** completed and submitted with the bid.

_____ Hereby declares that it is my/our
(Bidder)

intent to perform 100% of the work required for _____
(IFB/RFP Number)

(Description of Work)

In making this declaration, the bidder/proposer states the following:

1. That the bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform **all elements** of the work on this project with his/her own current work forces;
2. If it should become necessary to subcontract some portion of the work at a later date, the bidder will comply with all requirements of the County’s Non-Discrimination Ordinance in providing equal opportunities to all firms to subcontract the work. The determination to subcontract some portion of the work at a later date shall be made in good faith and the County reserves the right to require additional information to substantiate a bidder’s decision to subcontract work following the award of the contract. Nothing contained in this provision shall be employed to circumvent the spirit and intent of the County’s Non-Discrimination Ordinances;
3. The bidder will provide, upon request, information sufficient for the County to verify Item Number one.

AUTHORIZED COMPANY REPRESENTATIVE

Name: _____ **Title:** _____ **Date:** _____

Signature: _____

Firm: _____

Address: _____

Phone Number: _____

Fax Number: _____

Email Address: _____

EXHIBIT F – JOINT VENTURE DISCLOSURE AFFIDAVIT

IFB No. _____

Project Name _____

This form must be completed and submitted with the bid if a Joint Venture approach is to be undertaken.

The firms listed below do hereby declare that they have entered into a joint venture agreement pursuant to the above mentioned project. The information requested below is to clearly identify and explain the extent of participation of each firm in the proposed joint venture. All items must be properly addressed before the business entity can be evaluated.

1. Firms:

1) Name of Business: _____

Street Address: _____

City/State/Zip: _____

County: _____

Nature of Business: _____

2) Name of Business: _____

Street Address: _____

City/State/Zip: _____

County: _____

Nature of Business: _____

3) Name of Business: _____

Street Address: _____

City/State/Zip: _____

County: _____

Nature of Business: _____

NAME OF JOINT VENTURE (If applicable): _____

OFFICE ADDRESS: _____

PRINCIPAL _____

OFFICE PHONE: _____

EXHIBIT F – JOINT VENTURE DISCLOSURE AFFIDAVIT

Note: Attach additional sheets as required

1. Describe the capital contributions by each joint venturer and accounting thereof. Indicate the percentage make-up for each joint venture partner.
2. Describe the financial controls of the joint venture, e.g., will a separate cost center be established? Which venturer will be responsible for keeping the books? How will the expense therefore be reimbursed? What is the authority of each joint venture to commit or obligate the order?
3. Describe any Ownership, options for Ownership, or loans between the joint ventures. Identify terms thereof.
4. Describe the estimate contract cash flow for each joint venturer.
5. To what extent and by whom will the on-site work be supervised?
6. To what extent and by whom will the administrative office be supervised?
7. Which joint venturer will be responsible for material purchases including the estimated cost thereof? How will the purchase be financed?
8. Which joint venturer will provide equipment? What is the estimated cost thereof? How will the equipment be financed?
9. Describe the experience and business qualifications of each joint venturer.
10. Submit a copy of all joint venture agreements and evidence of authority to do business in the State of Georgia as well as locally, to include all necessary business licenses.
11. Percent of ownership by each joint venture in terms of profit and loss sharing: _____

12. The authority of each joint venturer to commit or obligate the other: _____

13. Number of personnel to be involved in project, their crafts and positions and whether they are employees of the small business enterprise, the majority firm or the joint venture: _____

14. Identification of control and participation in venture; list those individuals who are responsible for day-to-day management and policy decision-maker, including, but not limited to, those with prime responsibility for areas designated below; (use additional sheets if necessary)

<u>Name</u> <u>Operation</u>	<u>Race</u>	<u>Sex</u>	<u>Financial</u> <u>Decisions</u>	<u>Supervision</u> <u>Field</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

In connection with any work that these firms, as a joint venture, might be authorized to perform in connection with above captioned contract, we each do hereby authorize representatives of the Fulton County Department of Contract Compliance, Departments of Purchasing and Finance, under the direction of the County Manger's Office, to examine, from time to time, the books, records and files to the extent that such relate to this County project.

WE DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT WE ARE AUTHORIZED, ON BEHALF OF THE ABOVE FIRMS, TO MAKE THIS AFFIDAVIT AND GRANT THE ABOVE PRIVILEGE.

FOR: _____
(Company)

Date: _____

(Signature of Affiant)

(Printed Name)

(Company)

Date: _____

(Signature of Affiant)

(Printed Name)

State of _____ :

County of _____ :

On this _____ **day of** _____, 20_____, **before me, appeared**

_____, the undersigned known to me to be the person described in the foregoing Affidavit and acknowledge that he (she) executed the same in the capacity therein stated and for the purpose therein contained.

EXHIBIT G – PRIME CONTRACTOR/SUBCONTRACTOR UTILIZATION REPORT

This report is required to be submitted by the tenth day of each month, with a copy of your payment invoice (schedule of values/payment application) to Contract Compliance. Failure to comply may result in the County commencing proceedings to impose sanctions on the successful bidder, in addition to purchasing any other available legal remedy. Sanctions may include the suspending of any payment or part thereof, termination or cancellation of the contract, and the denial to participate in any future contracts awarded by Fulton County.

REPORTING PERIOD		PROJECT NAME:	
FROM:		PROJECT NUMBER:	
TO:		PROJECT LOCATION:	

PRIME CONTRACTOR		Contract Award Date	Contract Award Amount	Change Order Amount	Contract Period	% Complete to Date
Name:						
Address:						
Telephone #:						

AMOUNT OF REQUISITION THIS PERIOD:\$ _____
 TOTAL AMOUNT REQUISITION TO DATE:\$ _____

SUBCONTRACTOR UTILIZATION (add additional rows as necessary)

Name of Sub-contractor	Description of Work	Contract Amount	Amount Paid To Date	Amount Requisition This Period	Contract Period	
					Starting Date	Ending Date
TOTALS						

Executed By: _____ (Signature)
 _____ (Printed Name)

SECTION 5 - Insurance and Risk Management Provisions

It is Fulton County Government’s practice to obtain Certificates of Insurance from our Contractors and Vendors. Insurance must be written by a licensed agent in a company licensed to write insurance in the State of Georgia. Respondents shall submit with the bid/proposal evidence of insurability satisfactory to Fulton County Government as to form and content. Either of the following forms of evidence is acceptable:

- A letter from an insurance carrier stating that upon your firm/company being the successful Bidder/Respondent that a Certificate of Insurance shall be issued in compliance with the Insurance and Risk Management Provisions outlined below.
- A Certificate of Insurance complying with the Insurance and Risk Management Provisions outlined below (Request for Bid/Proposal number and Project Description must appear on the Certificate of Insurance).

Upon award, the Contractor/Vendor must maintain at their expense, insurance with policy limits equal to or greater than the limits described below. Any and all Insurance Coverage(s) and Bonds required under the terms and conditions of the contract shall be maintained during the entire length of the contract, including any extensions or renewals thereto, and until all work has been completed to the satisfaction of Fulton County Government.

Accordingly the Respondent shall provide a certificate evidencing the following:

1. WORKERS COMPENSATION/EMPLOYER’S LIABILITY INSURANCE – STATUTORY (In compliance with the Georgia Workers Compensation Acts and any other State or Federal Acts or Provisions in which jurisdiction may be granted)

Employer’s Liability Insurance	BY ACCIDENT - EACH ACCIDENT	\$500,000
Employer’s Liability Insurance	BY DISEASE - POLICY LIMIT	\$500,000
(Aggregate)	BY DISEASE - EACH EMPLOYEE	\$500,000

2. COMMERCIAL GENERAL LIABILITY INSURANCE (Including contractual Liability Insurance)

Bodily Injury and Property Damage Liability	Each Occurrence -	\$1,000,000
(Other than Products/Completed Operations)	General Aggregate -	\$2,000,000
Products\Completed Operation	Aggregate Limit -	\$1,000,000
Personal and Advertising Injury	Limits -	\$1,000,000
Fire Damage	Limits -	\$ 100,000

3. BUSINESS AUTOMOBILE LIABILITY INSURANCE Combined Single Limits Each Occurrence - \$1,000,000
(Including operation of non-owned, owned, and hired automobiles).

4. ELECTRONIC DATA PROCESSING LIABILITY (Required if computer contractor) Limits - \$1,000,000

5. UMBRELLA LIABILITY (In excess of above noted coverage’s) Each Occurrence - \$2,000,000

6. **PROFESSIONAL LIABILITY** Each Occurrence - \$1,000,000
 (Required if respondent providing bid/quotation for professional services).
7. **FIDELITY BOND** Each Occurrence - \$ 100,000
 (Employee Dishonesty)

8. **BUILDERS RISK:** *If the bid/quotation involves construction-related services the respondent will provide* "All-risk" form of builder's risk insurance providing coverage against loss or damage by fire or other peril on an "all-risk" form, including demolition and increased cost of construction, debris removal and the full replacement cost of the Project foundations and containing an agreed amount endorsement, and, until Final Completion and Acceptance of the Project. Such policy of insurance shall contain at least the following sub-limits of insurance and deductibles:

Sub-limits:

Property in Transit	\$1,000,000
Property in Offsite Storage	\$1,000,000
Plans & Blueprints	\$25,000
Debris Removal	25% of Insured Physical Loss
Delay in Completion / Soft Cost	TBD

Deductibles:

Flood and Earthquake	\$25,000
Water Damage other than Flood	\$100,000
All other Perils	\$10,000

Owner and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section, or other property insurance applicable to the Work, accept such rights as they have to the proceeds of such insurance.

Certificates shall state that the policy or policies shall not expire, be cancelled or altered without at least thirty (30) days prior written notice to Fulton County Government. Policies and Certificates of Insurance are to list Fulton County Government as an Additional Insured (except for Workers' Compensation) and shall conform to all terms and conditions (including coverage of the indemnification and hold harmless agreement) contained in the Insurance and Risk Management Provisions.

If Fulton County Government shall so request, the Respondent, Contractor or Vendor will furnish the County for its inspection and approval such policies of insurance with all endorsements, or confirmed specimens thereof certified by the insurance company to be true and correct copies.

Such certificates and notices shall be sent to:

Fulton County Government – Purchasing Department
 130 Peachtree Street, S.W.
 Suite 1168
 Atlanta, Georgia 30303-3459

It is understood that **Insurance in no way limits the Liability of the Contractor/Vendor.**

USE OF PREMISES

Contractor shall confine its apparatus, the storage of materials and the operations of its workers to limits/requirements indicated by law, ordinance, permits and any restrictions of Fulton County Government and shall not unreasonably encumber the premises with its materials.

PROTECTION OF PROPERTY

Contractor will adequately protect its own work from damage, will protect Fulton County Government's property from damage or loss and will take all necessary precautions during the progress of the work to protect all persons and the property of others from damage or loss.

Contractor shall take all necessary precautions for the safety of employees of the work and shall comply with all applicable provisions of the Federal, State and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed.

Contractor shall erect and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of its employees, Fulton County Government employees and the public and shall post all applicable signage and other warning devices to protect against potential hazards for the work being performed.

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Contractor/Vendor hereby agrees to release, indemnify, defend and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents, from and against any and all losses (including death), claims, damages, liabilities, costs and expenses (including but not limited to all actions, proceedings, or investigations in respect thereof and any costs of judgments, settlements, court costs, attorney's fees or expenses, regardless of the outcome of any such action, proceeding, or investigation), caused by, relating to, based upon or arising out of any act or omission by Contractor/Vendor, its directors, officers, employees, subcontractors, successors, assigns or agents, or otherwise in connection (directly or indirectly) with its acceptance, or the performance, or nonperformance, of its obligations under these agreements. Such obligations shall not be construed to negate, abridge or otherwise reduce any other rights or obligations of indemnity which would otherwise exist as to any party or person as set forth in this paragraph.

Contractor/Vendor's obligation to protect, defend, indemnify and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations.

Contractor/Vendor further agrees to protect, defend, indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Contractor/Vendor. These indemnities shall not be limited by reason of the listing of

any insurance coverage.

If the bid/quotation involves construction services Contractor/Vendor will be responsible fully for any and all damage to the work during the course of construction, until the point of Final acceptance by Fulton County.

FULTON COUNTY ACKNOWLEDGES THAT ALL PROVISIONS OF THIS INDEMNITY AGREEMENT MAY NOT BE APPLICABLE TO THE CONTRACTOR/VENDOR'S BUSINESS. TO THE EXTENT THAT CONTRACTOR/VENDOR MAY DEMONSTRATE SUCH NONAPPLICABILITY, FULTON COUNTY MAY NEGOTIATE AMENDMENTS TO THIS AGREEMENT AS THE CIRCUMSTANCES DICTATE.

CONTRACTOR/VENDOR ACKNOWLEDGES HAVING READ, UNDERSTANDING, AND AGREEING TO COMPLY WITH THIS INDEMNIFICATION AND HOLD HARMLESS AGREEMENT, AND THE REPRESENTATIVE OF THE CONTRACTOR/VENDOR IDENTIFIED BELOW IS AUTHORIZED TO SIGN CONTRACTS ON BEHALF OF THE RESPONDING CONTRACTOR/VENDOR.

COMPANY: _____ SIGNATURE _____

NAME: _____ TITLE: _____

DATE: _____

IN WITNESS WHEREOF, each of the parties hereto has caused this Contract to be executed and delivered under their **respective seals** on this the:

ATTEST:

XXXXXXXXXXCONSTRUCTION CO., INC.

Corporate Secretary

BY: _____
Corporate Principal

(CORPORATE SEAL)

ATTEST:

Mark Massey,
County Clerk, Board of Commission

BY: _____
Karen Handel,
Chair, Board of Commissioners

(SEAL)

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

County Attorney

BY: _____
Angela Parker,
Director, Department of Public Works

Note: If the Contractor is a corporation, the Contract shall be signed by the President or Vice President, attested to by the Secretary and the Corporate Seal affixed. If the Contractor is a partnership, the Contract shall be signed in the partnership name by one of the partners, with indication that he or she is a general partner.

SECTION 6 - BOND REQUIREMENTS

6.1.1 - Bid Bond

No bid for a contract in Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Bid Bond with good and sufficient surety payable to, in favor of, and for the protection of Fulton County. The Bid Bond shall be in the amount of not less than 5% of the total amount payable by the terms of the Contract. No bid shall be read aloud or considered if a proper bid bond has not been submitted.

Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Georgia.

Attestation for the corporation must be by the corporate officer; for a partnership by another partner; for an individual by a notary with the corporate seal.

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6.1.1 - BID BOND

**06ITB510268C-BL
ANDOVER DRIVE SEWER EXTENSION**

FULTON COUNTY GOVERNMENT

KNOW ALL MEN BY THESE PRESENTS, THAT WE _____
hereinafter called the PRINCIPAL, and _____

hereinafter called the SURETY, a corporation chartered and existing under the laws of the State of _____, and duly authorized to transact Surety business in the State of Georgia, are held and firmly bound unto the Fulton County Government, in the penal sum of _____ Dollars and Cents (\$_____) good and lawful money of the United States of America, to be paid upon demand of the Fulton County Government, to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally and firmly by these presents.

WHEREAS the PRINCIPAL has submitted to the Fulton County Government, for **ANDOVER DRIVE SEWER EXTENSION**, a Bid;

WHEREAS the PRINCIPAL desires to file this Bond in accordance with law;

NOW THEREFORE: The conditions of this obligation are such that if the Bid be accepted, the PRINCIPAL shall within ten (10) calendar days after receipt of written notification from the COUNTY of the award of the Contract execute a Contract in accordance with the Bid and upon the terms, conditions and prices set forth therein, in the form and manner required by the Fulton County Government, and execute sufficient and satisfactory Performance and Payment Bonds payable to the Fulton County Government, each in the amount of one hundred (100%) percent of the total contract price in form and with security satisfactory to said Fulton County Government, then this obligation to be void; 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 Fulton County Government, upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty but as liquidated damages.

In the event suit is brought upon this Bond by the COUNTY and judgment is recovered, the SURETY shall pay all costs incurred by the COUNTY in such suit, including attorney's fees to be fixed by the Court. Enclosed is a Bid Bond in the approved form, in the amount of

_____ Dollars

(\$_____) being in the amount of five (5%) percent of the CONTRACT Sum. The money payable on this bond shall be paid to the Fulton County Government, for the failure of the Bidder to execute a CONTRACT within ten (10) days after receipt of the Contract form and at the same time furnish a Payment Bond and Performance Bond.

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be duly signed and sealed this _____ day of 2006.

ATTEST:

PRINCIPAL

BY _____ (SEAL)

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, _____, certify that I am the Secretary of the Corporation named as principal in the within bond; that _____, who signed the said bond of said corporation; that I know this signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed and attested for in behalf of said Corporation by authority of its governing body.

SECRETARY

(CORPORATE SEAL)

SURETY

(SEAL) BY _____

6.1.2 - PERFORMANCE BOND REQUIREMENTS

No contract with Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Performance Bond with good and sufficient surety payable to, in favor of and for the protection of Fulton County. The Performance Bond shall be in the amount of at 100% of the total contract amount payable by the terms of the Contract and shall be written on the enclosed form.

Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business as a surety in Georgia.

Attestation for the corporation must be by the corporate officer; for a partnership by another partner; for an individual by a notary with the corporate seal.

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6.1.2 - PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS [insert name contractor] (hereinafter called the “Principal”) and [insert name of surety] (hereinafter called the “Surety”), are held and firmly bound unto **FULTON COUNTY**, a political subdivision of the State of Georgia (hereinafter called the “Owner”) and their successors and assigns, the penal sum of [100% of contract amount], lawful money of the United States of America, for the payment of which the principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract (Contract) with the Owner, dated _____, which is incorporated herein by reference in its entirety, for the [name of project], more particularly described in the Contract (herein called the “Project”); and

NOW, THEREFORE, the conditions of this obligation are as follows, that if the Principal shall fully and completely perform all the undertakings, covenants, terms, conditions, warranties, and guarantees contained in the Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, then this obligation shall be void; otherwise it shall remain in full force and effect.

Whenever the Principal shall be, and declared by the Owner to be, in default under the Construction-Type Contract, the Surety shall promptly remedy the default as follows:

1. Complete the Contract in accordance with its terms and conditions; or, at the sole option of the Owner,
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Surety and the Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as the work progresses (even though there should be a default or succession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the penal sum set forth in the first paragraph hereof, as may be adjusted, and the Surety shall make available and pay to the Owner the funds required by this Paragraph prior to the payment of the Owner of the balance of the contract price, or any portion thereof. The term “balance of the contract price,” as used in this paragraph, shall mean the total amount payable by the Owner to the Contractor under the Contract, and any amendments thereto, less the amount paid by the Owner to the Contractor; or, at the sole option of the Owner,
3. Allow Owner to complete the work and reimburse the Owner for all reasonable costs incurred in completing the work.

In addition to performing as required in the above paragraphs, the Surety shall indemnify and hold harmless the Owner from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description, including reasonable attorney’s fees, litigation costs and expert witness fees, which the Owner may incur, sustain or suffer by reason of the failure or default on the part of the Principal in the performance of any or all of the terms, provisions, and requirements of the Contract, including any and all amendments and modifications thereto, or incurred by the Owner in making good any such failure of performance on the part of the Principal.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Owner to the Surety.

The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Contract, and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, change in payment terms, and amendments.

The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment to the Contract, so as to bind the Principal and the Surety to the full and faithful performance of the Contract as so amended or modified, and so as to increase the penal sum to the adjusted Contract Price of the Contract.

No right of action shall accrue on this Bond to or for the use of any person, entity or corporation other than the Owner and any other obligee named herein, or their executors, administrators, successors or assigns.

This Bond is intended to comply with O.C.G.A. Section 36-91-1 et seq., and shall be interpreted so; as to comply with; the minimum requirements thereof. However, in the event the express language of this Bond extends protection to; the Owner beyond that contemplated by O.C.G.A. Section 36-91-1 et seq. and O.C.G.A. Section 13-10-1, as amended, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this day of _____, _____.

_____(SEAL)
(Principal)

By:

Attest:

Secretary

_____(SEAL)
(Surety)

By:

Attest:

Secretary

(Address of Surety's Home Office)

(Resident Agent of Surety)

6.1.3 - PAYMENT BOND

No Contract with Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Payment Bond with good and sufficient surety payable to Fulton County for the use and protection of all sub-contractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the Contract. The Payment Bond shall be in the amount of 100% of the total contract amount payable by the terms of the Contract and shall be written on the following form.

Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Georgia.

Attestation for the corporation must be by the corporate officer; for a partnership by another partner; for an individual by a notary with the corporate seal.

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6.1.3 - PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that [insert name of contractor] (hereinafter called the “Principal”) and [insert name of surety] (hereinafter called the “Surety”), are held and firmly bound unto **FULTON COUNTY**, a political subdivision of the State of Georgia (hereinafter called the “Owner”), its successors and assigns as obligee, in the penal sum of [100% of contract amount], lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract with the Owner, dated [insert date of contract], which is incorporated herein by reference in its entirety (hereinafter called the “Contract”), for construction-type services of a project known as [insert name of project], as more particularly described in the Contract (hereinafter called the “Project”);

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all persons working on or supplying labor or materials under the Contract, and any amendments thereto, with regard to labor or materials furnished and used in the Project, and with regard to labor or materials furnished but not so used, then this obligation shall be void; but otherwise it shall remain in full force and effect.

1. A “Claimant “ all be defined herein as any subcontractor, person, party, partnership, corporation or the entity furnishing labor, services or materials used, or reasonably required for use, in the performance of the Contract, without regard to whether such labor, services or materials were sold, leased or rented, and without regard to whether such Claimant is or is not in privity of contract with the Principal or any subcontractor performing work on the Project, including, but not limited to, the following labor, services, or materials: water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. In the event a Claimant files a lien against the property of the Owner, and the Principal fails or refuses to satisfy or remove it promptly, the Surety shall satisfy or remove the lien promptly upon written notice from the Owner, either by bond or as otherwise provided in the Contract.
3. The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in the payment terms, and any other amendments in or about the Contract and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and amendments.
4. The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment or modifications to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full payment of any Claimant under the Contract, as amended or modified, provided only that the Surety shall not be liable for more than the penal sum of the Bond, as specified in the first paragraph hereof.
5. This Bond is made for the use and benefit of all persons, firms, and corporations who or which may furnish any materials or perform any labor for or on account of the construction-type services to be performed or supplied under the Contract, and any

amendments thereto, and they and each of them may sue hereon.

6. No action may be maintained on this Bond after one (1) year from the date the last services, labor, or materials were provided under the Contract by the Claimant prosecuting said action.
7. This Bond is intended to comply with O.C.G.A. Section 36-91-1 et seq., and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the Owner beyond that contemplated by O.C.G.A. Section 36-91-1 et seq. and O.C.G.A. Section 13-10-1, as amended, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF, the Principal and Surety have hereunto affixed their corporate seals and caused this obligations to be signed by their duly authorized representatives this _____ of _____.

_____(SEAL)
(Principal)

By:

Attest:

Secretary

_____(SEAL)
(Surety)

By:

Attest:

Secretary

(Address of Surety's Home Office)

(Resident Agent of Surety)

SECTION 7 – SPECIFICATIONS AND GENERAL CONDITIONS

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ANDOVER DRIVE SEWER EXTENSION

008-1 FAMILIARITY WITH SITE

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

008-2 CONTRACT DOCUMENTS

This agreement consists of FULTON County's invitation for bid, instructions to bidders, bid form, performance bond, payment bond, acknowledgments, the Agreement, general conditions, special conditions, specifications, plans, drawings, exhibits, addenda, and written change orders.

A. Notice of Award of Contract and Execution of Contract Documents:

Upon notification of Award of Contract, the Owner shall furnish the Contractor the conformed copies of Contract Documents for execution by the Contractor and the Contractor's surety.

Within ten (10) days after receipt the Contractor shall return all the documents properly executed by the Contractor and the Contractor's surety. Attached to each document shall be an original power-of-attorney for the person executing the bonds for the surety and certificates of insurance for the required insurance coverage.

After receipt of the documents executed by the Contractor and his surety with the power-of-attorney and certificates of insurance, the Owner shall complete the execution of the documents. Distribution of the completed documents will be made upon completion.

Should the Contractor and/or surety fail to execute the documents within the time specified, the Owner shall have the right to proceed on the Bid Bond accompanying the bid.

If the Owner fails to execute the documents within the time limit specified, the Contractor shall have the right to withdraw the Contractor's bid without penalty.

B. Drawings and Specifications:

The Drawings, Specifications, Contract Documents, and all supplemental documents, are considered essential parts of the Contract, and requirements occurring in one are as binding as though occurring in all. They are intended to define, describe and provide for all Work necessary to complete the Project in an acceptable manner, ready for use, occupancy, or operation by the Owner.

In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings.

In cases where products or quantities are omitted from the Specifications, the description and quantities shown on the Drawings shall govern.

Any ambiguities or need for clarification of the Drawings or Specifications shall be immediately reported to the Engineer in writing. Any such ambiguity or need for clarification shall be handled by the Engineer in writing. No clarification of the Drawings and Specifications hereunder by the Engineer shall entitle the Contractor to any additional monies unless a Change Order has been processed as provided by "Changes in the Contract" hereof.

Any work done by the Contractor following a discovery of such differing site condition or ambiguity or need for clarification in the Contract Drawings and Specifications prior to a written report to the Engineer shall not entitle the Contractor to additional monies and shall be done at the Contractor's risk.

The Engineer will furnish the Contractor five (5) copies of the Contract Drawings and the Specifications, one copy of which the Contractor shall have available at all times on the Project site.

008-3 DEFINITIONS

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

Change Order - A written order to the Contractor issued by the County pursuant to Fulton County Procedure 800-6 for changes in the work within the general scope of the contract documents, adjustment of the contract price, extension of the contract time, or reservation of determination of a time extension.

Construction Manager - The Construction Manager is the person or entity identified as such in writing by the County. The Construction Manager may be a County employee or entity retained by the County for purposes of administering this contract. The term "Construction Manager" means the Construction Manager or the Construction Manager's authorized representative. The Construction Manager is the County's agent for purposes of administering this contract.

Contract Price - The sum specified in the Agreement to be paid to the Contractor in consideration of the Work.

County - FULTON County, Georgia, a political subdivision of the State of Georgia, acting by and through the Chairman of its Board of Commissioners.

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

Director - Director of the Department of Public Works of FULTON County, Georgia or the designee thereof.

Engineer - Shall be the Deputy Director, Technical Services Group, of Public Works or his duly authorized representative.

Notice to Proceed - A written communication issued by the County to the Contractor authorizing it to proceed with the work, establishing the date of commencement and completion of the work, and providing other direction to the Contractor.

Program Manager - Not Used In This Contract. Any provision in reference to this term shall be deleted.

Project Manual - The Contract Documents

Substantial Completion - The date certified by the Construction Manager when all or a part of the work, as established pursuant to General Condition 0500-81, is sufficiently completed in accordance with the requirements of the contract documents so that the identified portion of the work can be utilized for the purposes for which it is intended.

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

008-4 CODES

All codes, specifications, and standards referenced in the contract documents shall be the latest editions, amendments and revisions of such referenced standards in effect as of the date of the Invitation to Bids for this contract.

008-5 REVIEW OF CONTRACT DOCUMENTS

Before making its Bid to the County, and continuously after the execution of the agreement, the Contractor shall carefully study and compare the contract documents and shall at once report to the Construction Manager any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, or regulation of any public authority bearing on the performance of the work. By submitting its Bid, the Contractor agrees that the contract documents, along with any supplementary written instructions issued by or through the Construction Manager that have become a part of the contract documents, appear accurate, consistent and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency, or omission to the Construction Manager, has properly stopped the affected work

until instructed to proceed, and has otherwise followed the instructions of the Construction Manager, the Contractor shall not be liable to the County for any damage resulting from any such error, inconsistency, or omission in the contract documents. The Contractor shall not perform any portion of the work without the contract documents, approved plans, specifications, products and data, or samples for such portion of the work.

008-6 STRICT COMPLIANCE

No observation, inspection, test or approval of the County or Construction Manager shall relieve the Contractor from its obligation to perform the work in strict conformity with the contract documents except as provided in General Condition 008-48.

008-7 APPLICABLE LAW

All applicable State laws, County ordinances, codes, and rules and regulations of all authorities having jurisdiction over the construction of the project shall apply to this agreement. The Contractor shall comply with the requirements of any Fulton County program concerning non-discrimination in contracting, hereto, and the Fulton County Safety Management Program, as set out in the Contractor Safety and Health Management Process, attached hereto as Exhibit "B". All work performed within the right of way of the Georgia Department of Transportation and any railroad crossing shall be in accordance with Georgia Department of Transportation regulations, policies and procedures and, where applicable, those of any affected railroad. The Contractor shall comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work as specified and the Contractor agrees to indemnify and hold harmless the County, its officers, agents and employees, as well as the Construction Manager against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order or decree affecting the conduct of the work, whether occasioned by the Contractor, his agents or employees.

008-8 PERMITS, LICENSES AND BONDS

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Contractor, the Contractor shall not be entitled to additional compensation or time. The Contractor shall obtain and keep in force at all times performance and payment bonds payable to Fulton County in penal amounts equal to 100% of the Contract price.

008-9 TAXES

- A. The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes and levies as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying. The Contractor shall apply for any and all tax exemptions which may be applicable and shall timely request from the County such documents and information as may be necessary to obtain such tax exemptions. The County shall have no liability to the Contractor for payment of any tax from which it is exempt.
- B. The Contractor is obligated to comply with all local and State Sales and Use Tax laws. The Contractor shall provide the Owner with documentation to assist the Owner in obtaining sales and/or use tax refunds for eligible machinery and equipment used for the primary purpose of reducing or eliminating air or water pollution as provided for in Chapter 48-8-3 (36) and (37) of the Official Code of Georgia. All taxes shall be paid by the Contractor. All refunds will accrue to the Owner.

Acceptance of the project as complete and final payment will not be made by the Owner until the Contractor has fully complied with this requirement.

008-10 DELINQUENT CONTRACTORS

The County shall not pay any claim, debt, demand or account whatsoever to any person firm or corporation who is in arrears to the County for taxes. The County shall be entitled to a counterclaim, back charge, and offset for any

such debt in the amount of taxes in arrears, and no assignment or transfer of such debt after the taxes become due shall affect the right of the County to offset any taxes owed against said debt.

008-11 LIEN WAIVERS

The Contractor shall furnish the County with evidence that all persons who have performed work or furnished materials pursuant to this agreement have been paid in full prior to submitting its demand for final payment pursuant to this agreement. A final affidavit, Exhibit D, must be completed, and submitted to comply with requirements of 008-11. In the event that such evidence is not furnished, the County may retain sufficient sums necessary to meet all lawful claims of such laborers and material men. The County assumes no obligation nor in any way undertakes to pay such lawful claims from any funds due or that may become due to the Contractor.

008-12 MEASUREMENT

All items of work to be paid for per unit of measurement shall be subject to inspection, measurement, and confirmation by the Construction Manager.

008-13 ASSIGNMENT

The Contractor shall not assign any portion of this agreement or moneys due there from (include factoring of receivables) without the prior written consent of the County. The Contractor shall retain personal control and shall provide personal attention to the fulfillment of its obligations pursuant to this agreement. Any assignment without the express written consent of the County shall render this contract voidable at the sole option of the County.

008-14 FOREIGN CONTRACTORS

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

008-15 INDEMNIFICATION

The Contractor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the County and the Construction Manager and their agents, officers, and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorney's fees and claims for contribution arising out of or resulting from the performance of the work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless whether such claim is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described in this agreement. In any and all claims against the County, the Construction Manager, or any of their officers, agents, or employees by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

008-16 SUPERVISION OF WORK AND COORDINATION WITH OTHERS

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

The County reserves the right to perform work related to the Project with the County's own forces and to award separate contracts in connection with other portions of the project, other work on the site under these or similar conditions of the contract, or work which has been extracted from the Contractor's work by the County.

When separate contracts are awarded for different portions of the project or other work on the site, the term "separate contractor" in the Contract Documents in each case shall mean the contractor who executes each separate County Agreement.

The Contractor shall cooperate with the County and separate contractors in arranging the introduction and storage of materials and equipment and execution of their work, and shall cooperate in coordinating connection of its work with theirs as required by the Contract Documents.

If any part of the Contractor's Work depends for proper execution or results upon the work of the County or any separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Construction Manager any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results **within fourteen (14) days** of discovery of such discrepancy or defect. Failure of the Contractor to so report in writing shall constitute an acceptance of the County's or separate contractor's work as fit and proper to receive the Work, except as to any defects which may subsequently become apparent in such work by others.

Any costs caused by defective or untimely work shall be borne by the party responsible therefore. Should the Contractor wrongfully cause damage to the work or property of the County, or to other work or property on the site, including the work of separate contractors, the Contractor shall promptly remedy such damage at the Contractor's expense.

Should the Contractor be caused damage by any other contractor on the Project, by reason of such other contractor's failure to perform properly his contract with the County, no action shall lie against the County or the Construction Manager inasmuch as the parties to this agreement are the only beneficiaries hereof and there are no third party beneficiaries and neither the County nor the Construction Manager shall have liabilities therefore, but the Contractor may assert his claim for damages solely against such other contractor. The Contractor shall not be excused from performance of the contract by reason of any dispute as to damages with any other contractor or third party.

Where the Work of this Contract shall be performed concurrently in the same areas as other construction work, the Contractor shall coordinate with the Construction Manager and the separate contractors in establishing mutually acceptable schedules and procedures that shall permit all jobs to proceed with minimum interference.

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up, the County may clean up and charge the cost thereof to the Contractor or contractors responsible therefor as the County shall determine to be just.

008-17 ADMINISTRATION OF CONTRACT

The Construction Manager shall provide administration services as hereinafter described.

For the administration of this Contract, the Construction Manager shall serve as the County's primary representative during design and construction and until final payment to the Contractor is due. The Construction Manager shall advise and consult with the County. The primary point of contact for the Contractor shall be the Construction Manager. All correspondence from the Contractor to the County shall be forwarded through the Construction Manager. Likewise, all correspondence and instructions to the Contractor shall be forwarded through the Construction Manager.

The Construction Manager will determine in general that the construction is being performed in accordance with design and engineering requirements, and will endeavor to guard the County against defects and deficiencies in the Work.

The Construction Manager will not be responsible for or have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor will it be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

The Construction Manager will not be responsible for or have control or charge over the acts or omissions of the Contractor, its engineers, consultants, subcontractors, or any of their agents or employees, or any other persons performing the Work.

Based on the Construction Manger's observations regarding the Contractor's Applications for Payment, the Construction Manager shall determine the amounts owing to the Contractor, in accordance with the payment terms of the Contract, and shall issue Certificates for Payment in such amount to the County.

The Construction Manager shall render interpretations necessary for the proper execution or progress of the Work. Either party to the Contract may make written requests to the Construction Manager for such interpretations.

Claims, disputes and other matters in question between the Contractor and the County relating to the progress of the Work or the interpretation of the Contract Documents shall be referred to the Construction Manager for interpretation.

All interpretations of the Construction Manager shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in graphic form.

Except as otherwise provided in this Contract, the Construction Manager shall issue a decision on any disagreement concerning a question of fact arising under this Contract. The Construction Manager shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Construction Manager shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor files a written appeal with the Director of Public Works and mails or otherwise furnishes the Construction Manager a copy of such appeal. The decision of the Director of Public Works or the Director's duly authorized representative for the determination of such appeals shall be final and conclusive. Such final decision shall not be pleaded in any suit involving a question of fact arising under this Contract, provided such is not fraudulent, capricious, arbitrary, so grossly erroneous as necessarily implying bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of Contractor's appeal. Pending any final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract as directed by the Construction Manager.

The Construction Manager shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the Construction Manager's opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the County shall have authority to require special inspection or testing of the Work whether or not such Work be then fabricated, installed or completed. The Contractor shall pay for such special inspection or testing if the Work so inspected or tested is found not to comply with the requirements of the contract; the County shall pay for special inspection and testing if the Work is found to comply with the contract. Neither the Construction Manager's authority to act under this Subparagraph, nor any decision made by the Construction Manager in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Construction Manager to the Contractor, any subcontractor, any of their agents or employees, or any other person performing any of the Work.

The Contractor shall provide such shop drawings, product data, and samples as may be required by the Construction Manager and/or as required by these Contract Documents.

The Construction Manager shall conduct inspections to determine Substantial Completion and Final Completion, and shall receive and forward to the County for review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Construction Manager shall approve and issue Certificates for Payment upon compliance with Substantial and Final Completion requirements indicated in General Conditions 008-81, 008-82, 008-84 and 008-85 of this Agreement.

Except as provided in General Condition 008-48, the Contractor shall not be relieved from the Contractor's obligations to perform the work in accordance with the contract documents by the activities or duties of the County or any of its officers, employees, or agents, including inspections, tests or approvals, required or performed pursuant to this agreement.

008-18 RESPONSIBILITY FOR ACTS OF EMPLOYEES

The Contractor shall employ only competent and skilled personnel. The Contractor shall, upon demand from the Construction Manager, immediately remove any superintendent, foreman or workman whom the Construction Manager may consider incompetent or undesirable.

The Contractor shall be responsible to the County for the acts and omissions of its employees, subcontractors, and agents as well as any other persons performing work pursuant to this agreement.

008-19 LABOR, MATERIALS, SUPPLIES, AND EQUIPMENT

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

008-20 DISCIPLINE ON WORK SITE

The Contractor shall enforce strict discipline and good order among its employees and subcontractors at all times during the performance of the work, to include compliance with the Fulton County Drug Free Work Place Policy. The Contractor shall not employ any subcontractor who is not skilled in the task assigned to it. The Construction Manager may, by written notice, require the Contractor to remove from the work any subcontractor or employee deemed by the Construction Manager to be incompetent.

008-21 HOURS OF OPERATION

All work at the construction site, with the exception of emergency repairs, shall be performed during regular business hours of the Fulton County government, except upon the Construction Manager's prior written consent to other work hours. It is further understood that the Contractor's construction schedule is based on a normal 40 hours, five day work week, less Fulton County-recognized holidays. If the Contractor desires to work in excess of this limit, the Contractor shall submit a written request to the Construction Manager, a minimum of five days prior to the desired work date. The Contractor shall be responsible for any additional expenses incurred, unless determined to be emergency work, by the Owner as a result of the extended work hours, including resident inspection overtime at a rate of \$41.92 per hour. The cost associated with resident inspector overtime shall be deducted from the Contractor monthly payment request.

008-22 FAMILIARITY WITH WORK CONDITIONS

The Contractor shall take all steps necessary to ascertain the nature and location of the work and the general and local conditions which may affect the work or the cost thereof. The Contractor's failure to fully acquaint itself with the conditions which may affect the work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of utilities, labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the County relating to the project which may affect the work of the Contractor, applicable provisions of law, and the character and availability of equipment and facilities necessary prior to and during the performance of the work shall not relieve the Contractor of its responsibilities pursuant to this agreement and shall not constitute a basis for an equitable adjustment of the contract terms. The County reserves the right to perform with its own forces or to contract with other entities for other portions of the project work, in which case the Contractor's responsibility to assure its familiarity with work conditions hereunder shall include all coordination with such other contractors and the County necessary to insure that there is no interference between contractors as will delay or hinder any contractor in its prosecution of work on the project. The County assumes no responsibility for any understandings or representations concerning conditions of the work made by any of its officers, agents, or employees prior to the execution of this agreement.

008-23 RIGHT OF ENTRY

The County reserves the right to enter the site of the work by such agent, including the Construction Manager, as it may elect for the purpose of inspecting the work or installing such collateral work as the County may desire. The Contractor shall provide safe facilities for such access so that the County and its agents may perform their functions.

008-24 NOTICES

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

- (1) Upon personal delivery to the Contractor, its authorized representative, or the Construction Manager on behalf of the County. Personal delivery may be accomplished by in-person hand delivery or bona fide overnight express service.
- (2) Three days after depositing in the United States mail a certified letter addressed to the Contractor or the Construction Manager for the County. For purposes of mailed notices, the County's mailing address shall be 141 Pryor Street, 6th Floor, Atlanta, Georgia 30303, or as the County shall have otherwise notified the Contractor. The Contractor's mailing address shall be the address stated in its Bid or as it shall have most recently notified the Construction Manager in writing.

008-25 SAFETY, EMERGENCIES, SUSPENSION OF WORK

- A. The Contractor shall take all reasonable precautions for the safety of all persons and property associated with the work, and the Contractor shall erect and maintain, as required by law or regulation, existing conditions and the progress of the work, all reasonable safeguards for the safety, health, and protection of persons in the vicinity of the project and in accordance with the Fulton County Contractor Safety and Health Management Process (Process). The Process establishes only the minimum safety requirements for the work. Compliance with the Process shall not relieve the Contractor of its obligation to comply with any other requirement of law or regulation or provide a defense against any claim of violation of such other law or regulation. The Contractor is solely responsible for providing a safe and healthy workplace and shall defend, indemnify and hold harmless the County, its officers, employees, agents, and other contractors from any and all losses, claims, penalties, judgments, and expenses, including attorney's fees and legal costs arising in whole or in part from any failure of the Contractor or any of its subcontractors at any tier to comply with the safety and health requirements of this contract. Failure to provide a safe and healthy working place or to follow the safety requirements of this agreement after written notification by the County of such failure is reason for termination of the contract according to the termination provisions herein.
- B. In any emergency affecting the safety of persons or property, or in the event of a claimed violation of any federal or state safety or health law or regulation, arising out of or in any way connected with the work or its performance, the Contractor shall act immediately to prevent threatened damage, injury or loss and to remedy said violation. Failing such action the County or its agent(s) may immediately take whatever steps it deems necessary including, but not limited to, suspending the Work as provided in this agreement. The County or its agent(s) may offset any and all costs or expenses of whatever nature, including attorneys' fees paid or incurred by the County or its agent(s) (whether such fees are for in-house counsel or counsel retained by the County or its agent), in taking the steps authorized by this Condition against any sums then or thereafter due the Contractor. The Contractor shall defend, indemnify and hold harmless the County, its officer, employees, agents, and contractors against any and all costs or expenses caused by or arising from the exercise by the County of its authority to act in an emergency as set out herein.
- C. Should, in the judgment of the County or its agent(s), the Contractor or any subcontractor fail to provide a safe and healthy work place or fail to follow the safety requirements defined in the contract documents and approvals, the County or its agent(s) shall have the right, but not the obligation, to suspend work in the unsafe areas until deficiencies are corrected. All costs of any nature (including, without limitation, overtime pay, liquidated damages or other costs arising out of delays) resulting from the suspension, by whomsoever incurred, shall be borne by the Contractor.
- D. The Contractor is solely responsible for the implementation of its safety program and the safe provision of its services. The Contractor shall defend, indemnify, and hold harmless the County and its agent(s) from and against any and all liability (whether public or private, penalties (contractual or otherwise), losses, damages, costs, attorneys' fees, expenses, causes of action, claims or judgments resulting, either in whole or in part, from any failure of; the Contractor, its subcontractors at any tier or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, to comply with the safety requirements of the contract. The

Contractor shall not be relieved of its responsibilities under the safety requirements of the Contract the County or its agent(s) act or fail to act pursuant to its rights hereunder. The County and its agents shall not assume, nor be deemed to have assumed, any responsibilities otherwise imposed upon the Contractor by this agreement by virtue of having provided any safety program guidelines. The Contractor shall not raise as a defense to its obligation to indemnify under this Condition any failure of those indemnified hereunder to assure Contractor operates safely, it being understood and agreed that no such failure shall relieve the Contractor from its obligation to assure safe operation or from its obligation to so indemnify. The Contractor also hereby waives any rights it may have to seek contribution, either directly or indirectly from those indemnified hereunder.

- E. In any and all claims against those indemnified hereunder by any employee of the Contractor, any subcontractor at any tier or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Condition shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor at any tier under any workers' compensation act, disability benefit or other employee benefit acts.

008-26 BLASTING AND EXCAVATION

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

008-27 HIGH VOLTAGE LINES

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

008-28 SCAFFOLDING AND STAGING

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

008-29 CLEAN-UP

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

008-30 PROTECTION OF WORK

The Contractor shall be responsible for maintenance and protection of the work, which shall include any County-furnished supplies, material, equipment, until final completion of this agreement and acceptance of the work as defined herein. Any portion of the work suffering injury, damage or loss shall be considered defective and shall be corrected or replaced by the Contractor without additional cost to the County.

008-31 REJECTED WORK

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

008-32 DEFECTIVE WORK

If the Contractor defaults or neglects to carry out any portion of the work in accordance with the contract documents, and fails within three days after receipt of written notice from the Construction Manager to commence and continue correction of such default or neglect with diligence and promptness, the County may, after three days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the County may have, make good such deficiencies and complete all or any portion of any work through such means as the County may select, including the use of a separate Contractor. In such case, an appropriate change order shall be

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

The County may, at its option, accept defective or nonconforming work instead of requiring its removal or correction. In such case, a change order shall be issued reducing the price due the contractor to the extent appropriate and equitable. Such contract price adjustment shall be effected whether or not final payment has been made.

008-33 WARRANTY OF NEW MATERIALS

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

008-34 CONTRACTOR'S WARRANTY OF THE WORK

If within one year after the date of issuance of the certificate of final payment pursuant to General Condition 84, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the contract documents, any of the work is found to be defective or not in accordance with the contract documents, the Contractor shall correct such work promptly after receipt of written notice from the Construction Manager to do so. This obligation shall survive both final payment for the work and termination of the contract.

008-35 ASSIGNMENT OF MANUFACTURERS' WARRANTIES

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

008-36 WARRANTIES IMPLIED BY LAW

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

008-37 STOP WORK ORDERS

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

008-38 TERMINATION FOR CAUSE

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

Termination of this agreement pursuant to this paragraph may result in disqualification of the Contractor from bidding on future County contracts.

008-39 TERMINATION FOR CONVENIENCE

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

008-40 TERMINATION FOR CONVENIENCE – PAYMENT

If the Contract is terminated for convenience by the Owner as provided in this article, Contractor will be paid compensation for those services actually performed as approved by the Owner or his representative. Partially completed tasks will be compensated for based on a signed statement of completion prepared by the Project Manager and submitted to the Contractor which shall itemize each task element and briefly state what work has been completed and what work remains to be done. Contractor shall also be paid for reasonable costs for the orderly filing and closing of the project.

008-41 TERMINATION FOR CONVENIENCE - PAYMENT LIMITATIONS

Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as determined by the Construction Manager, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the County or to another buyer.

008-42 COST TO CURE

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

008-43 ATTORNEY'S FEES

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

008-44 CONTRACTOR'S RESPONSIBILITIES UPON TERMINATION

After receipt of a notice of termination from the County, and except as otherwise directed by the Construction Manager, the Contractor shall:

- (1) Stop work under the contract on the date and to the extent specified in the notice of termination;
- (2) Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the agreement as is not terminated;
- (3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
- (4) Assign to the County in the manner, at the times, and to the extent directed by the Construction Manager, all of the rights, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, at

its discretion, to settle or pay any and all claims arising out of the termination of such orders or subcontracts;

- (5) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts with the approval or ratification of the Construction Manager, to the extent the engineer may require, which approval or ratification shall be final for all purposes;
- (6) Transfer title and deliver to the entity or entities designated by the Construction Manager, in the manner, at the times, and to the extent, if any, directed by the Construction Manager, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the work as has been terminated:
 - (a) The fabricated or unfabricated parts, work, and progress, partially completed supplies, and equipment, materials, parts, tools, dyes, jigs, and other fixtures, completed work, supplies, and other material produced as a part of or acquired in connection with the performance of the work terminated by the notice of termination; and
 - (b) The completed or partially completed plans, drawings, information, and other property to the work.
- (7) Use its best efforts to sell in the manner, at the times, to the extent, and at the prices directed or authorized by the Construction Manager, any property described in Section 6 of this paragraph, provided, however, that the Contractor shall not be required to extend credit to any buyer and further provided that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the County to the Contractor pursuant to this agreement.
- (8) Complete performance of such part of the work as shall not have been terminated by the notice of termination; and
- (9) Take such action as may be necessary, or as the Construction Manager may direct, for the protection and preservation of the property related to the agreement which is in the possession of the Contractor and in which the County has or may acquire an interest.

008-45 RECORDS

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

008-46 DEDUCTIONS

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

008-47 REIMBURSEMENT OF THE COUNTY

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

008-48 SUSPENSION, INTERRUPTION, DELAY, DAMAGES

The Contractor shall be entitled to only those damages and that relief from termination by the County as specifically set forth in this agreement. The Construction Manager may issue a written order requiring the Contractor to suspend, delay or interrupt all or any part of the work for such period of time as the County may determine to be appropriate for the convenience of the County. If the performance of the work is interrupted for an unreasonable period of time by an act of the County or any of its officers, agents, employees, contractors, or consultants in the administration of this agreement, an equitable adjustment shall be made for any increase in the Contractor's costs of performance and any increase in the time required for performance of the work necessarily caused by the unreasonable suspension, delay, or interruption. Any equitable adjustment shall be reduced to writing and shall

constitute a modification to this agreement. In no event, however, shall an equitable adjustment be made to the extent that performance of this agreement would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment pursuant to this paragraph shall be permitted before the Contractor shall have notified the Construction Manager in writing of the act or failure to act involved, and no claim shall be allowed unless asserted in writing to the Construction Manager within ten days after the termination of such suspension, delay or interruption.

008-49 COMMENCEMENT AND DURATION OF WORK

The County may issue a Notice to Proceed at any time from the date of Contract execution to the end of the year from when the contract was awarded. The Contractor shall commence work pursuant to this agreement within ten days of mailing or delivery of written notice to proceed. The Contractor shall diligently prosecute the work to completion within the time specified therefor in the Agreement. The capacity of the Contractor's construction and manufacturing equipment and plan, sequence and method of operation and forces employed, including management and supervisory personnel, shall be such as to insure completion of the work within the time specified in the Agreement. The Contractor and County hereby agree that the contract time for completion of the work is reasonable taking into consideration the average climatic conditions prevailing in the locality of the work and anticipated work schedules of other contractors whose activities are in conjunction with or may affect the work under this contract.

008-50 TIME OF THE ESSENCE

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

008-51 IMPACT DAMAGES

Except as specifically provided pursuant to a stop work order or change order, the Contractor shall not be entitled to payment or compensation of any kind from the County for direct or indirect or impact damages including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever whether such delay, disruption, interference or hindrance is reasonable or unreasonable, foreseeable or unforeseeable, or avoidable, provided, however, that this provision shall not preclude the recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the part of the County, its agents, or employees. The Contractor shall be entitled only to extensions in the time required for performance of the work as specifically provided in the contract.

008-52 DELAY

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

008-53 INCLEMENT WEATHER

The Contractor shall not be entitled to an extension of the contract time due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the Construction Manager that there was greater than normal inclement weather and that such greater than normal inclement weather actually delayed the work, the Contractor shall not be entitled to an extension of time therefor. The following shall be considered the normal inclement weather days for each month listed, and extensions of time shall be granted in increments of not less than one half day only for inclement weather in excess of the days set out.

January	10 days
February	10 days
March	7 days
April	6 days
May	4 days
June	3 days
July	4 days
August	2 days

September	2 days
October	3 days
November	6 days
December	9 days

008-54 DELAY, NOTICE AND CLAIM

The Contractor shall not receive an extension of time unless a Notice of Delay is filed with the Construction Manager within ten days of the first instance of such delay, disruption, interference or hindrance and a written Statement of the Claim is filed with the Construction Manager within 20 days of the first such instance. In the event that the Contractor fails to comply with this provision, it waives any claim which it may have for an extension of time pursuant to this agreement.

008-55 STATEMENT OF CLAIM – CONTENTS

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

008-56 WORK BEHIND SCHEDULE, REMEDY BY CONTRACTOR

If the work actually in place falls behind the currently updated and approved schedule, and it becomes apparent from the current schedule that work will not be completed within the contract time, the Contractor agrees that it will, as necessary, or as directed by the Construction Manager, take action at no additional cost to the County to improve the progress of the work, including increasing manpower, increasing the number of working hours per shift or shifts per working day, increasing the amount of equipment at the site, and any other measure reasonably required to complete the work in a timely fashion.

008-57 DILIGENCE

The Contractor's failure to substantially comply with the requirements of the preceding paragraph may be grounds for determination by the County that the Contractor is failing to prosecute the work with such diligence as will insure its completion within the time specified. In such event, the County shall have the right to furnish, from its own forces or by contract, such additional labor and materials as may be required to comply with the schedule after 48 hours written notice to the Contractor, and the Contractor shall be liable for such costs incurred by the County.

008-58 SET-OFFS

Any monies due to the Contractor pursuant to the preceding paragraph of this agreement may be deducted by the County against monies due from the County to the Contractor.

008-59 REMEDIES CUMULATIVE

The remedies of the County under General Condition 56, 57, and 58 are in addition to and without prejudice to all of the rights and remedies of the County at law, in equity, or contained in this agreement.

008-60 TITLE TO MATERIALS

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

008-61 INSPECTION OF MATERIALS

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

008-62 CONSTRUCTION MANAGER'S PRESENCE DURING TESTING

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

008-63 MATERIALS INCORPORATED IN WORK

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

008-64 STORAGE OF MATERIALS

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

008-65 PAYROLL REPORTS

The Contractor may be required to furnish payroll reports to the Construction Manager as deemed necessary for the purpose of verification in accordance with the law.

008-66 CONTRACTORS' REPRESENTATIVE

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

008-67 SPECIALTY SUB-CONTRACTORS

The Contractor may utilize the services of specialty subcontractors on those parts of the project which, under normal contracting practices, are performed by specialty subcontractors. The Contractor shall not award more than seventy-five percent of the work to subcontractors.

008-68 INSPECTION BY THE CONSTRUCTION MANAGER

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

008-69 WORK COVERED PRIOR TO CONSTRUCTION MANAGER'S INSPECTION

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

008-70 SCHEDULING OF THE WORK

- A. The work of this contract shall be planned, scheduled, executed, and reported using the critical path method (CPM) as established in Section 01310 of these Contract Documents.
- B. With ten (10) calendar days after the Notice to Proceed, the Contractor shall submit a Detailed Construction Schedule according to the requirements established herein.

008-71 PROGRESS ESTIMATES

The Contractor shall prepare a written report for the Construction Manager's approval, on County forms, of the total value of work performed and materials and equipment obtained to the date of submission. Such a report must accompany each request for a progress payment and is subject to review and approval by the Construction Manager. Approval of a progress estimate or tendering of a progress payment shall not be considered an approval or acceptance of any work performed, and all estimates and payments shall be subject to correction in subsequent estimates. Progress payments shall be made for all completed activities and for materials suitably stored on-site.

008-72 PROGRESS PAYMENTS

Upon approval of each monthly estimate of work performed and materials furnished, the Construction Manager shall approve payment to the Contractor for the estimated value of such work, materials, and equipment, less the amount of all prior payments and any liquidated damages. The Contractor will be paid 100 percent, less retainage, of the cost of materials received and properly stored on-site but not incorporated into the work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale to establish the County's title to such materials or equipment. The Contractor's request for payment shall provide sufficient detail as to the work completed or materials purchased for which payment is requested to permit meaningful review by the Construction Manager.

008-73 TIME OF PAYMENT

The Contractor will be paid within 30 days following receipt of an approved Progress Estimate. The Contractor expressly agrees that the payment provisions within this Contract shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. Section 13-11-1 et seq., and that the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Contract.

008-74 RETAINAGE

The County shall retain from each progress payment ten percent of the estimated value of the work performed until the progress payments, including retainage, total 50 percent of the contract price. If a contract includes two or more projects or assignments that have been separately priced and have separate budgets, and the performances of such projects or assignments are not related to or dependent upon the performance of any other, the 50 per cent limit shall be based upon the price for each individual project or assignment. Thereafter, no further retainage shall be withheld so long as the Contractor is making satisfactory progress to insure completion of the work within the time specified therefrom. The County may reinstate the ten percent retainage in the event the Construction Manager determines that the Contractor is not making satisfactory progress to complete the work within the time specified in this agreement or in the event that the Construction Manager provides a specific cause for such withholding. The County may also withhold retainage upon substantial completion of the work as provided in O.C.G.A. 13-10-20(c). Interest may be paid upon such retainage in accordance with Georgia law.

008-75 PAYMENT OF SUBCONTRACTORS

The Contractor shall promptly pay each subcontractor upon the receipt of payment from the County. Such payment shall be made from the amount paid to the Contractor pursuant to the subcontractor's work. The Contractor shall also maintain the records of the percentage retained from payments to the Contractor pursuant to such subcontractor's work. The Contractor shall procure agreements from each subcontractor requiring each subcontractor to pay their subcontractors, agents and employees in a similar manner. The County reserves the right to inquire of any subcontractor, supplier, materialman, or subconsultant, the status of any indebtedness of the Contractor. The County further reserves the right to require the

Contractor to designate on each instrument of payment exceeding \$500.00 to subcontractors, suppliers, materialmen, and subconsultants that such payment is on account of the work under this Contract.

008-76 COUNTY'S RESPONSIBILITIES TO SUBCONTRACTORS

[Neither] the County nor the Construction Manager shall have any obligation to pay any subcontractor except as otherwise required by law.

008-77 PROGRESS PAYMENTS - ACCEPTANCE OF WORK

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

008-78 PAYMENTS IN TRUST

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

008-79 JOINT PAYMENTS

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

008-80 RIGHT TO WITHHOLD PAYMENT

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

008-81 CERTIFICATE OF SUBSTANTIAL COMPLETION

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

If in the sole opinion of the Construction Manager, the work is not substantially complete, the Construction Manager shall notify the Contractor of such, in writing, and outline requirements to be met to achieve Substantial Completion.

008-82 PAYMENT UPON SUBSTANTIAL COMPLETION

Upon Substantial Completion of the work and upon application by the Contractor and approval by the Construction Manager, the County shall make payment reflecting 100% work completed, less value of work remaining as determined by Construction Manager and any authorized retainage.

008-83 COMMENCEMENT OF WARRANTIES

Warranties required by this agreement shall commence on the date of final completion of the project as determined under General Condition 008-84 unless otherwise provided in the certificate of Substantial Completion.

008-84 FINAL PAYMENT - WAIVER OF CLAIMS, DISPUTE OF FINAL PAYMENT

The acceptance of the Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of application for payment at Substantial Completion and except for the retainage sums due at final acceptance. Following the Construction Manager's issuance of the certificate of Substantial Completion and the Contractor's completion of the work pursuant to this agreement, the Contractor shall forward to the Construction Manager a written notice that the work is ready for final inspection and acceptance. If after inspection the Construction Manager certifies that the work is complete and issues written notification of such to the Contractor, the Contractor shall forward to the Construction Manager a final application for payment. The Construction Manager shall issue a certificate for payment, which shall approve final payment to the Contractor and shall establish the date of final completion.

In the event the Contractor timely disputes the amount of the final payment, the amount due the CONTRACTOR shall be deemed by the CONTRACTOR and the COUNTY to be an unliquidated sum and no interest shall accrue or be payable on the sum finally determined to be due to the CONTRACTOR for any period prior to final determination of such sum, whether such determination be by agreement of the CONTRACTOR and the COUNTY or by final judgment of the proper court in the event of litigation between the COUNTY and the CONTRACTOR. The CONTRACTOR specifically waives and renounces any and all rights it may have under Section 13-6-13 of the Official Code of Georgia and agrees that in the event suit is brought by the CONTRACTOR against the COUNTY for any sum claimed by the CONTRACTOR under the Contract or for any extra or additional work, no interest shall be awarded on any sum found to be due from the COUNTY to the CONTRACTOR in the final judgment entered in such suit. All final judgments shall draw interest at the legal rate, as specified by law.

008-85 DOCUMENTATION OF COMPLETION OF WORK

Neither the final payment nor the remaining retainage shall become due until the Contractor submits the following documents to the Construction Manager:

- A. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work have been paid or otherwise satisfied;
- B. The surety's consent to final payment; and
- C. Any other data reasonably required by the County or Construction Manager establishing payment or satisfaction of all such obligations, including releases, waivers of liens, and documents of satisfaction of debts, any deliverables and as-builts of work constructed.

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

008-86 GOVERNING LAW

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

008-87 CHANGES IN THE WORK

A. CHANGE ORDERS

1. A Change Order is a written order to the Contractor signed to show the approval and the authorization of the County, issued after execution of the Contract, authorizing a change in the Work and/or an adjustment in the Contract Sum or the Contract Time. Change Orders shall be written using forms designated by the County with Contractor providing supporting documentation as required by the Construction Manager. The Contract Sum and the Contract Time may be changed only by approved Change Order pursuant to Fulton

County Procedure 800-6. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including the adjustment in either or both of the Contract Sum or the Contract Time.

2. The County, without invalidating the Contract, may order changes in the Work within the general scope of the Contract as defined in General Condition 2. The time allowed for performance of the work and the contract price to be paid to the Contractor may be adjusted accordingly.
3. The contractor shall provide an invoice to the Project Manager with 3 competitive vendor labor and material rates. 10% will be allowed as markup to the contractor.
4. The cost or credit to the County resulting from a change in the Work shall be determined in one or more of the following ways:
 - a. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - b. By unit prices stated in the Contract Documents or subsequently agreed upon;
 - c. By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - d. By the method provided in Subparagraph A5 below.
5. If none of the methods set forth in Subparagraphs 3a, 3b, or 3c above is agreed upon, the Contractor, provided a written order signed by the Construction Manager is received, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Construction Manager on basis of the reasonable expenditures and savings of those performing the Work attributable to the change. The cost of the change shall include only the items listed in Subparagraph 5a below, and in the case of either a decrease or an increase in the Contract Sum, an allowance for overhead and profit in accordance with the schedules set forth in Subparagraphs 5b and 6 below shall be applied to the cost or credit.
 - a. In such case, and also under Subparagraph 3a above, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting of all actual costs expended, together with appropriate supporting data for inclusion in a Changer Order.
 - b. All hourly rate charges shall b submitted to the Construction Manager for prior review and approval. All hourly rate charges shall be properly supported as required by the Construction Manager with certified payrolls, or their acceptable equivalent. When authorized to proceed for a given change and actual expenditures have been made prior to execution of a Changer Order for the entire change, such actual expenditures may be summarized monthly, and if approved, incorporated into a Changer Order. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.
6. In Subparagraphs 3 and 4 above, the items included in "Cost and "Overhead" shall be based on the following schedule:
 - a. Unless otherwise provided in the Contract Documents, "Cost" shall be limited to the following: cost of materials incorporated into the Work, including sales tax and cost of delivery; cost of direct labor (labor cost may include a pro rata share of foreman's account of the change) including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; rental value of equipment and machinery; costs for preparing Shop Drawings.
 - b. Unless otherwise provided in the Contract Documents, "Overhead" shall include the following: bond and insurance premiums including increase and decreases from change in the Work, supervision, superintendence, construction parking, wages of timekeepers, watchmen and clerks, small tools, consumable supplies, expendables, incidentals, general office expense, the cost of additional reproduction for the Contractor's subcontractors beyond that agreed upon in the

Contract Documents, construction parking, any additional costs of craft supervision by the Contractor's or subcontractors' superintendents, and overhead charges which would be customary and expended regardless of the change in the Work due to other overlapping activities which are included as part of the original Contract, and all other expenses not included in "Cost" above.

- c. In the event that a change is issued by the County which would require the expenditure of substantial amounts of special supervision (beyond the foreman level) by the Contractor, the Contractor may, at the sole direction of the Construction Manager, be allowed to incorporate these charges into the agreement cost for the change.
7. In Subparagraphs 3 and 4 above, the allowance for overhead and profit combined, included in the total cost or credit to the County, shall be based on the following schedule:
 - a. For the Contractor, for any work performed by the Contractor's own forces, ten (10) percent of the cost.
 - b. For the Contractor, for any work performed by a Contractor's subcontractor, ten (10) percent of the amount due the subcontractor.
 - c. For each subcontractor or sub-subcontractor involved, for any work performed by that subcontractor's or sub-subcontractor's own forces, ten (10) percent of the cost.
 - d. For each subcontractor, for work performed by a sub-subcontractor, five (5) percent of the amount due to the sub-subcontractor.
 - e. Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 5 above unless modified otherwise.
 8. In order to facilitate checking of quotations for extras or credits, all Bids or bids, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor cost, materials and subcontracts. Labor and materials shall be itemized in the manner defined in Subparagraph 4 above. Where major cost items are subcontracts, they shall be itemized also. In no case shall a change be approved without such itemization.
 9. No payment shall be made for any changes to the contract that are not included in a fully executed Change Order.

B. CONCEALED, UNKNOWN AND DIFFERING CONDITIONS

Should concealed conditions be encountered in the performance of the Work below the surface of the ground, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum and Contract Time shall be equitably adjusted by Change Order upon request by either party made **within twenty (20) days after the first observance** of the conditions. No such request for equitable adjustment shall be valid unless the Contractor complies with this (20) days notice and Subparagraph C.1. below.

The Contractor shall promptly, and before such conditions are disturbed, notify the Construction Manager in writing of any claim of concealed, unknown or differing conditions pursuant to this paragraph. The Construction Manager shall authorize the Engineer to investigate the conditions, and if it is found that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be recommended to the Construction Manager.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above, prior to disturbing the condition.

No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

Any materially differing site condition as between what is shown on the Drawings and Specifications and actually found on site shall be immediately reported to the Construction Manager in writing prior to the commencement of Work at the site. Failure of the Contractor to notify the Construction Manager in writing of the differing site condition prior to performance of Work at the site shall constitute a waiver of any claim for additional monies. Any Change Order necessitated by the differing site condition shall be processed as provided under "Changes in the Contract".

C. REQUESTS FOR ADDITIONAL COST

1. If the Contractor wishes to request an increase in the Contract Sum, the Contractor shall give the Construction Manager written notice thereof **within twenty (20) days** after the occurrence of the event, or identification of the conditions, giving rise to such request. This notice shall be give by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Paragraph 10.7 of this Agreement, and Subparagraph A.4 above. **No such request shall be valid unless so made within the twenty (20) days specified above.** If the County and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the Construction Manager. Any change in the Contract Sum resulting from such claim shall be documented by Change Order.
2. If the Contractor claims that addition cost is involved because of, but not limited to (1) any written interpretation pursuant to General Condition 008-17 of this Agreement, (2) any order by the County to stop the Work pursuant to General Conditions 008-25 and 008-37 of this Agreement where the Contractor was not at fault, or any such order by the Construction Manager as the County's agent, or (3) any written order for a minor change in the Work issued pursuant to Paragraph D below, the Contractor shall submit a request for an increase in the Contract Sum as provided in Subparagraph C.1 above. No such claim shall be valid unless the Contractor complies with Subparagraph C.1 above.

D. MINOR CHANGES IN THE WORK

The Construction Manager may order minor changes in the Work not involving an adjustment in the Contract Price extension of the time allowed for performance of the work and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by a written Change Directive issued by the Construction Manager, and shall be binding on the County and the Contractor. The Contractor shall carry out such written orders promptly.

E. BONDS

If any change order results in an increase in the contract price, the contractor shall increase the penal sum of the performance and payment bonds to equal the increased price.

008-88 DISAGREEMENT WITH ORDERS FOR CHANGE

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the Construction Manager, at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligation under Clause 008-87, Change Orders.

008-89 NO WAIVER OF REMEDIES

Exercise by the County of any remedy is not exclusive of any other remedy available to County and shall not constitute a waiver of any such other remedies. Failure of the County to exercise any remedy, including breach of contract remedies, shall not preclude the County from exercising such remedies in similar circumstances in the future.

008-90 LAND AND RIGHTS-OF-WAY

The owner will provide, as indicated in the Contract Documents and prior to Notice to Proceed, the lands upon which the work is to be done, right-of-way for access thereto, and such other lands which are designated for the use of the Contractor. The Contractor shall confine the Contractor's work and all associated activities to the easements and other areas designated for the Contractor's use. The Contractor shall comply with any limits on construction methods and practices which may be required by easement agreements. If, due to some unforeseen reason, the necessary easements are not obtained, the Contractor shall receive an equitable extension of contract time dependent upon the effect on the critical path of the project schedule.

008-91 COORDINATION WITH STATE DEPARTMENT OF TRANSPORTATION

- A. No clearing or grading shall be completed by Contractor within the State Department of Transportation (DOT) area under construction. The Contractor must coordinate his construction scheduling with DOT.
- B. If the Contractor begins work before DOT's completion date, he must obtain the approval of DOT before starting work in the area. The state DOT has the right to stop the Contractor's work the DOT area.
- C. The Contractor shall receive no additional compensation or damages resulting from delay or work stoppage from DOT actions or scheduling.
- D. Contractor shall obtain DOT drawings of the DOT, project area for verification of road geometry, storm drains, etc. from Georgia Department of Transportation or Fulton County. The Contractor is responsible for obtaining any pertinent DOT revisions.

-END OF SECTION 8-

SECTION 8 - SUPPLEMENTAL CONDITIONS

9 – 01010 SUMMARY OF WORK

1.0 LOCATION

The work described by the Specifications is located in Fulton County, Georgia. The exact location is shown on the Drawings.

2.0 WORK INCLUDED

The work to be done under this Contract consists of furnishing all materials and equipment and performing all labor necessary for the construction of Andover Drive Sewer Extension which includes approximately 4,550 linear feet of gravity sewer, including appurtenances and other related work.

3.0 WORK COORDINATION

- A. The Contractor shall coordinate his work with third parties (such as public utilities and telephone company) in areas where such parties may have rights to underground property or facilities, and request maps or other descriptive information as to the nature and location of such underground facilities or property.
- B. The Contractor shall also coordinate his work with owners of private and public property where access is required for the performance of the work. Legal access will be acquired and provided by the Owner.

4.0 CONDITIONS AT THE SITES

- A. The Contractor shall make all necessary investigations to determine the existence and location of underground utilities.
- B. The Contractor will be held responsible for any damage to and for maintenance and protection of existing utilities and structures.
- C. Nothing in these Contract Documents or associated Drawings shall be construed as a guarantee that such utilities are in the location indicated or that they actually exist, or that other utilities are not within the area of the operations.

-END OF SECTION 9 - 01010-

9 - 01025 APPLICATION FOR PAYMENT

1.0 SUBMITTAL OF APPLICATION FOR PAYMENT

The County will make payments to the Contractor on the basis of a duly certified and approved estimate of the Work completed through the 25th day of each calendar month, as reviewed by the Construction Manager, provided the estimate was submitted in accordance with the following requirements:

- A. The Applications for Payment shall be itemized as directed by the Construction Manager. Applications for Payment are to serve as certification by the Contractor as to the status of the Work. All monthly payments invoiced by the Contractor to the County shall be based on Completion of the work in accordance with the cost-loaded Construction Schedule, and Schedule of Values.
- B. On or prior to the 20th day of each month, the Contractor will prepare a preliminary, itemized Application for Payment for work completed and the value of any stored materials, projected through the 25th of the current month, as well as additional information required herein or as Construction Manager may require to verify and approve the amount of payment applied for. The Contractor may be requested to review the Application for Payment with the Construction Manager on the jobsite in order to verify work in place or the location of stored materials.
- C. After the Construction Manager has advised the Contractor of the acceptability of the Application for Payment, and on or before the 25th day of each month, the Contractor shall submit to the Construction Manager an itemized, notarized Application for Payment. The Contractor shall also submit items in paragraph (I) and if requested, additional documentation, including, but not limited to, all sworn statements, waivers and releases of liens and claims, including those required of sub-contractors of any tier as may be requested by the Construction Manager, reflecting all retainage, previous Applications for Payment, payment for labor and material, payment for materials stored and other documentation and requirements related to Work performed as provided elsewhere in the Contract Documents or as required by the Construction Manager.
- D. Late applications will not be accepted for any reason whatsoever. If the Contractor is late with its pay application, it will not be processed until the next pay cycle.
- E. The Contractor shall submit the Application for Payment in four (4) paper hardcopies and one electronic copy on CD-ROM. An electronic version of the standard forms will be provided to the Contractor at or before the Pre-Construction Conference. Each copy shall display an original signature by a duly authorized agent of the Contractor. The application shall be generated by the use of Microsoft Excel or other applications package acceptable to the Construction Manager, and provided that the forms generated are in the format acceptable to the Construction Manager. All four copies shall be individually notarized.
- F. Nothing in this section is meant to be in conflict with the Contract. Any inconsistencies between this section and the contract, the contract shall prevail. Bell Road Reuse Water Main Extension Phase I 01025-150 12/1/2004
- G. For a payment submittal to be accepted by the Construction Manager all the conditions as defined in Section 8 of the contract must be met by the Contractor. Failure to meet these requirements constitutes not-submittal of the payment request.
- H. With each payment submittal the Contractor must include:
 - 1. A reasonably detailed description of all Work actually completed during the period of the payment submittal
 - 2. An up-to-date and annotated Construction Schedule which shall reflect the status of the Contractor 's Construction Schedule since the date of the last payment submittal

3. An up-to-date and annotated Schedule of Values indicating the percentage of Work completed by activity and milestone for the project.
4. Revisions to the critical path schedule which shall reflect changes in the critical path schedule since the date of the last payment submittal.
5. Notice of any liens or "Encumbrances which have been filed, together with evidence that the Contractor has boned or discharged such liens or encumbrances
6. A complete and filled-out Exhibit G, Technical Proposal Form 8
7. Construction Progress Photos
8. Any other documents or information relating to the Work or this Contract requested by the Construction Manager as may be required by Applicable Law or this Contract

I. Schedule Of Values Utilization

1. Applications for Payment: The Schedule of Values, that is acceptable to the County, shall be the basis for the Contractor's applications for payment.
2. Changes to the Schedule of Values: The County shall have the right to require the Contractor to alter the value or add/delete categories listed on the Schedule of Values at any time for the following reasons:
 - a) The Schedule of Values appears to be incorrect or unbalanced.
 - b) A revision to the segregation of values is required due to the Contractor revising the sequence of construction or assembly of building components, which in turn invalidates the Schedule of Values.
 - c) Change Orders are issued to the Contractor and require incorporation into the Schedule of Values.

J. At no time during the contract will the Contractor be allowed to bill for an amount which is in excess of the amount of its contract (total bid amount), including all signed and executed change orders.

2.0 PAYMENT FOR MATERIALS STORED ON SITE

- A. As provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work, but delivered and suitably stored at the site, provided such materials are stored according to the provisions of the Contract Documents and the satisfaction of the Construction Manager.
- B. The Contractor shall include with his payment request an itemization of the quantity of such materials, and shall document with invoices, Bills of Sale or other documentation acceptable to the Construction Manager, the cost of said materials.

3.0 PAYMENT FOR MATERIALS STORED OFF SITE

Payment for materials stored at a location off the project site will not be made under any circumstance.

4.0 PROGRESS PAYMENTS

- A. If the Contractor has made Application for Payment as detailed herein, the Construction Manager will confirm the amounts to be paid to the Contractor, certify each copy by original signature,

retain one signed copy for its project files, and transmit the remaining copies as Certification for Payment to the County.

- B. The Contractor may expect payment from the County within forty-five (45) days of the Certification by the Construction Manager of the Contractor's submittal of an Application for Payment per Paragraph 1.01 of this Section. Any follow-up inquiries on the status of payments shall be through the Construction Manager. The Contractor is not permitted to contact the County directly with any payment inquiries.
- C. No approval of any application for progress payment, or any progress payment, or any partial or entire use of occupancy of the Work or the Project by the County, shall constitute an acceptance of any Work not in accordance with the Contract Documents. D. Progress Payments will be delivered to the Contractor via U.S. Mail only.

5.0 RETAINAGE

The County shall withhold a retainage amount of each monthly payment otherwise due and payable to the Contractor in the amount of 10 percent. Such holdbacks shall continue until the Contractor satisfactorily completes 50 percent of the value of the Design/Build Work performed is satisfactory to the County, at which time further payments will not be subject to retainer holdbacks. The County may, however, withhold additional retainage after 50 percent of the work is complete pursuant to the Design/Build Contract. The retained amount shall be released upon Acceptance except for amounts equal to 200 percent of the value of any outstanding Design/Build Work.

6.0 FINAL PAYMENT/CLOSE-OUT OF PROJECT

Following acceptance and the project milestone "**Complete**" has been achieved the project must be closed-out for the Contractor to receive the Final Payment. The Contractor shall provide as part of the project submittals the following documents:

- A. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work have been paid otherwise satisfied; each subcontractor must also provide an affidavit.
- B. The surety's and guarantor's consent to final payment
- C. Certificate of Occupancy for all facilities constructed as part of the Design/Build Work
- D. Contractor Statement of Completion of all Work
- E. OCIP Signoff –Exhibit B
- F. A Final Exhibit G – Prime Contractor and Sub-contractor Utilization Report (TPP8)
- G. Notification of Warranty Period for all major pieces of equipment
- H. Transmittals signed by Construction Manager for all deliverables
- J. A final invoice for the D/B Work

- END OF SECTION 9 – 01025 -

9 – 01050 CONSTRUCTION LAYOUT

1.0 DESCRIPTION

For this project, the following work is required: furnishing, placing, replacing when required, marking, and maintaining all construction layout stakes necessary for proper guidance and control of construction operations in accordance with the provisions of this specification. It shall also include the preparation of all construction staking field books.

2.0 MATERIALS

All surveying equipment, stakes and any other material necessary to perform the work, shall be furnished by the Contractor and shall be approved by the Engineer.

3.0 CONSTRUCTION

- A. The Engineer will furnish sufficient reference points from which the project datum can be re-established.
- B. The Engineer will furnish benchmarks which will be relocated if necessary and preserved by the Contractor. The Contractor must check these for accuracy after clearing and prior to any construction, and must report any discrepancies which are found to the Engineer. Any additional bench marks which are needed for construction must be established by the Contractor.
- C. Any stakes or monuments destroyed or disturbed shall be replaced at the Contractor's expense.
- D. All other line and grade stakes necessary to construct the job shall be set by the Contractor.
- E. The Contractor shall furnish personnel fully qualified and capable of establishing or re-establishing all line and grade points necessary to complete the work in accordance with plan dimensions and to the tolerance generally acceptable to the degree of precision in surveying required for the work being performed.
- F. The Contractor shall furnish a copy of all survey records made by his forces to the Engineer who reserves the right to check, correct where necessary, or require any layout work to be revised. These records shall be furnished upon request or as they are completed and shall become a part of the permanent project records.
- G. Acceptance of all or any part of the Contractor's layout by the Engineer shall not relieve the Contractor of his responsibility to secure proper dimensions in the completed work.

4.0 MEASUREMENT

This item will not be measured for payment.

5.0 PAYMENT

This work will not be paid for separately. The costs shall be included in other items of work.

- END OF SECTION 9 – 01050 -

9 – 01150 MEASUREMENT AND PAYMENT

PART 1 - GENERAL

1.01 PAYMENTS

This Section identifies each Measurement for Payment outlined in the Proposal (Bid Schedule)) and describes the methods by which payments shall be based.

1.02 NON-PAYMENTS

- A. No separate payment shall be made for the restoration of developed property and the cost shall be included in the overall prices for the execution of the work unless specifically noted otherwise.
- B. No separate payment shall be made for cutting of concrete and asphalt pavement, excavation, disposal of rubbish and debris, pipe bedding, backfill, dewatering of trench, repair of damaged properties. All testing required for the execution of the work shall be done as part of the price for the item involved.
- C. No separate payment shall be made for any traffic control, work area protection, recording, safety measures, set-up of equipment and set-up of staging area except as indicated below. Payment for these items shall be part of the unit price bid for each particular item of work.
- D. No separate payment shall be made for providing detail surveys needed for construction. The Owner shall furnish bench marks, reference points and stakes to establish a base line for locating the principal component of the Work. The Contractor shall be responsible in providing further survey necessary to complete the Work. The Contractor shall carefully preserve the established points, and in case of willful or careless destruction, the Contractor shall be responsible for the costs of reestablishing the bench marks, reference points and stakes.

PART 2 - MEASUREMENT AND PAYMENT

2.01 SCOPE

- A. The Bid lists each item of Work for which payment will be made. No payment will be made for any items other than those listed in the Bid. Items specified in this section to be measured for payment but not included in the Bid are provided for general information only and are not intended for this Contract.
- B. Required items of work and incidentals necessary for the satisfactory completion of the Work which are not specifically listed in the Bid, and which are not specified in this section to be measured or to be included in one of the items listed in the Bid, shall be considered as incidental to the Work. All costs thereof, including Contractor's overhead costs and profit, shall be considered as included in the lump sum or unit prices bid for the various Bid items. The Contractor shall prepare his Bid accordingly.

Work includes furnishing all plant, labor, equipment, tools, and materials, which are not furnished by the Owner, and performing all operations required to complete the Work satisfactorily, in place, as indicated on the Drawings, specified or directed by the Engineer.

2.02 DESCRIPTIONS

- A. Measurement of an item of Work will be by the unit indicated in the Bid Schedule.
- B. Payment will include all necessary and incidental related work not specified to be included in any

other item of Work listed in the Bid Schedule.

- C. Unless otherwise stated in individual sections of the Specifications or in the Bid Schedule, no separate payment will be made for any item of Work, materials, parts, equipment, supplies or related items required to perform and complete the Work. The costs for all such items required shall be included in the Contract Price bid of which it is a part.
- D. Payment will be made at the Contract Price per unit indicated in the Bid Schedule, with the total price of the Contract being equal to the Total Bid and then summing the extended prices to reflect actual work. Such price and payment shall constitute full compensation to the Contractor for furnishing all plant, labor, equipment, tools, and materials not furnished by the Owner, and for performing all operations required to provide to the Owner the entire Project, complete in place, as specified and as indicated on the Drawings.
- E. Products shall mean materials or equipment permanently incorporated into the work.
- F. Provide shall mean furnish and install.

2.03 CLEARING AND GRUBBING

- A. Payment for Clearing and Grubbing shall be made for the area cleared and grubbed within the permanent and construction easements limits only, where the area, in the opinion of the Engineer is considered thickly dense with trees and vegetation. The area cleared outside the limits shall not be included unless directed by the Engineer
- B. Clearing and Grubbing shall include removal and disposal off site materials which include all trees, stumps, roots, growth, debris, stumps and other objectionable matter.
- C. The cost of moving and reestablishing landscape features within the right-of-way and easements shall be included in the unit prices bid for Sewer Lines.
- D. No separate payment will be made for clearing in grass area and in non-established vegetation area within the right-of-way where sewer line is to be laid. Cost of such work should be included in the unit price bid for Sewer Lines.

2.04 TRENCH EXCAVATION AND BACKFILL

- A. No separate payment or additional payment shall be made for any special unique method, means, techniques or equipment necessary for the Contractor's compliance with these Specifications, regulatory requirements, permits, laws or regulations which govern the project. All costs shall be included in the unit price bid for Sewer Lines.
- B. No separate payment shall be made for trench excavation. All costs shall be included in the unit price bid for Sewer Lines.
- C. Sheeting, Bracing, and Shoring
 - 1. No separate payment will be made for providing sheeting, bracing, and timbering specified, shown on the Drawings or necessary due to the Contractor's means of construction. All costs for sheeting, bracing, and shoring shall be included in the unit price bid for Sewer Lines.
 - 2. No payment will be made for sheeting removed or for sheeting left in place for the Contractor's convenience.
- D. Bedding and Haunching

1. No separate payment will be made for material used to provide crushed stone (#57) bedding and haunching. The cost of all bedding and haunching materials shall be included in the unit price bid for the item to which it relates except for trench stabilization.
 2. No additional payment will be made for improved bedding required to compensate for over excavation of the trench.
 3. Additional bedding required to compensate for removed unsuitable materials, as directed by the Engineer will be paid through the unit price bid for Trench Stabilization.
- E. Initial Backfill
1. No separate payment shall be made for initial backfill.
 2. No separate payment shall be made for drying out the initial backfill material in order to meet the compaction requirements.
 3. No separate payment shall be made for the adding of moisture to the initial backfill materials in order to meet compaction requirements.
 4. No separate payment shall be made for providing select material if the insitu material cannot meet the compaction requirements.
- D. Final Backfill
1. No additional payment will be made for additional material.
 2. No additional payment will be made for select backfill material. Payment for select material shall be included in the unit price bid for Sewer Lines.
 3. No additional payment will be made for disposal off site of surplus excavated materials.
 4. No additional payment will be made for placing temporary crusher run backfill or granular material on top portion of trench on paved areas. Such cost shall be included as incidental item for constructing sewer lines.

2.05 ROCK EXCAVATION IN PIPE TRENCHES

- A. Rock excavation shall be paid for as an extra addition to payment for pipe provided for elsewhere in the specifications. Payment will be made for the measured quantity of rock excavated, at the sum of the unit prices bid for Rock Excavation.
- B. The maximum allowable volume of rock excavated for payment shall be based on a trench width equal to the outside diameter of the pipe barrel plus eighteen (18) inches, but not less than 36-inches, and depth of rock on the pipe centerline, from the top of the rock to the bottom of the rock or the specified bottom of trench, whichever has the higher elevation.
- C. The Owner must be given reasonable notice to measure all rock. Payment shall be made based on a quantity certified correct by the Owner based on a joint measurement conducted by and between the Contractor and the Owner.
- D. Rock excavation shall be paid for as an extra addition to payment for pipe provided for elsewhere in the specifications. Payment will be made for the measured quantity of rock excavated, at the sum of the unit prices bid for Rock Excavation.

- E. No allowance shall be made for excavation to the extra width for construction of manholes or other appurtenances, for excavation to sloping sides, or for excavations made necessary by the physical limitations of the Contractor's equipment. Cost of such additional rock excavation shall be included in the unit price bid for the item to which it pertains.
- F. If rock is encountered that requires removal by blasting, the Owner will require the Contractor to employ a Blasting Engineer to supervise the Work. The Blasting Engineer must be approved by the Engineer. It will be the Blasting Engineer's duty to advise the blaster of hole spacing and loading and to make seismic and concussion measurements where deemed necessary.
- G. No extra payment will be made for blasting. All costs of equipment, labor and materials required for blasting shall be included in the unit price bid for Rock Excavation.
- H. Payment for blast monitoring shall be made under the Task Allowances provided for Blast Monitoring. A fee must be agreed upon by the Owner prior to the Contractor employing an independent, qualified specialty subcontractor to monitor the blasting. If the Contractor employs the specialty subcontractor prior to the Owner's approval of the fee, all such costs are subject to non-reimbursement.

2.06 SEWER LINES

- A. Payment for Sewer Lines shall be made for the quantity installed. Measurement for payment shall be made along the centerline of the pipe, through manholes and casings or tunnel. Sewer Lines payment shall include excavation, dewatering, shoring, crushed stone bedding, and haunching backfilling, compaction, clean-up and testing and all related items. Payment shall only be made for a section of pipe that has passed the required tests, and the area completely cleaned-up to the satisfaction of the Engineer.
- B. No additional payment will be made for replacement of defective materials.
- C. No additional payment will be made to cease flow while connection is made.
- D. The cost of soil testing involved in the installation of Sewer Lines will be paid by the Contractor from the Task Allowances for Soil Testing.

2.07 BORE AND JACK CASINGS (Not Used)

- A. Payment for bore and jack with steel casings of various sizes shall be at the unit price bid per inch per diameter foot for Bore and Jack with Steel Casing and shall include: labor, equipment, casing, supports, grout, and accessories for installing casing and carrier pipe per details. Measurement for payment shall be made along the centerline of the casing from edge to edge of actual bore. Length of casing protruding outside the actual bored area shall not be included.
- B. Payment shall also include excavation and dewatering of access pits and providing sheeting and other safety requirements by OSHA.
- C. Payment for carrier pipe shall be included in the unit price bid for Sewer Lines.
- D. In the event that rock is encountered during the installation of pipe casing which, in the opinion of the Engineer, cannot be removed through the casing, the Engineer may authorize the Contractor to complete the crossing by installing a tunnel.
- E. No additional payment shall be made for rock excavation if some is encountered during boring and jacking operation.
- F. Payment for steel casing installed by bore and jack shall be made only at the completion of all work specified for the casing installation.

- G. Payment for bore and jack without casings of various sizes shall be at the unit price bid for Bore and Jack without Casing and shall include: labor, equipment, grout, excavation of access pits, dewatering, sheeting and other accessories for complete installation. Payment for carrier pipe shall be made at the unit price bid for Sewer Lines.

2.08 OPEN CUT INSTALLATION WITH STEEL CASING (Not Used)

- A. Payment for installing steel casing in an open cut trench shall be made at the unit price bid for Open Cut Installation with Steel Casing, and shall include: labor, equipment, casing, supports, grout and accessories for installing casing and carrier pipe per details, and all other related work necessary for the completion of the work.
- B. No additional payment shall be made for excavation, dewatering, shoring and backfilling.
- C. Payment for carrier pipe shall be included in the unit price bid for Sewer Lines.

2.09 SEWER SERVICE LATERALS

- A. The unit price bid for Clean-Out Assembly shall include all labor, material, equipment, and tools to install vertical wye, plugs, clean-out, standard box and lid, gravel bedding, bends and other required fittings necessary to complete the work as shown on Drawings, specified or directed by the Engineer. The vertical pipe from the wye to the clean-out at the property line will be paid separately under the unit price bid for Lateral Pipe.
- B. Payment for Lateral Pipe shall be measured based on linear feet of horizontal and vertical pipe installed from the main line to the clean-out including installation of wye, and bends at the main line. In case of connecting to a manhole, the costs of coring, grouting, sleeves and related items shall be included in the unit price bid for Lateral Pipe.
- C. No additional payment shall be made for excavation, dewatering, shoring, backfilling, crushed stone bedding and haunching, compaction, testing, and all related items necessary to complete the work.
- D. Payment for soil testing shall be made from the Task Allowances for Soil Testing.

2.10 MANHOLES

- A. Payment for Manholes for different types and sizes shall be measured based on vertical feet installed. The vertical feet shall be the total number of vertical feet of respective manhole base, barrel or riser and dome or slab top as measured between the inside invert of the downstream sewer pipe to the top of the dome or slab top, as shown on the Drawings, and built in accordance with the Specifications. All measurement shall be measured to the nearest 0.10 feet.
- B. Payment shall include the furnishing of all labor, materials, equipment and tools for properly constructing the manholes complete, including coring, steps, building invert, grouting of holes, sleeves, concrete, crushed stone bedding, mastic sealant, brickwork and mortar, excavation, shoring, dewatering, backfilling, compaction and all incidental items to complete the work.
- C. Payment for Manhole Frame and Cover shall be paid separately based on quantity installed for various type including brickwork and mortar and all labor, material, equipment and tools necessary to complete the work.
- D. The unit price for Dog House Manhole shall include only the 4-ft section base, including pouring and grouting of concrete base, construction of invert, coring and cutting of precast manhole, cutting of existing pipe, diverting of flow, dewatering, excavation, shoring, bedding, backfilling,

compaction and all related items necessary to complete the work. Extension barrel or riser and cone section shall be paid separately under standard Manhole per vertical feet. Frame and cover shall be paid separately under Manhole Frame and Cover.

- E. Precast concrete safety platform shall be required for deep manholes as indicated on the Drawings, specified or as directed by the Engineer. Payment shall be made based on the quantity installed for various sizes under Safety Platform.
- F. The cost of the vertical drop pipe including fittings and concrete encasement will be paid for under Drop Manhole. No additional payment shall be made for coring of manhole wall. Such cost should be considered as incidental to the construction of Sewer Lines.

2.11 TIE-IN TO EXISTING MANHOLE

The unit price for Tie-In to Existing Manhole shall include excavation, sheeting and shoring, dewatering, diverting of flow, coring of existing manhole, link seal, grouting, rebuild invert, backfilling , related items and the furnishing of all labor, material, equipment and tools to complete the work.

2.12 REBUILD EXISTING PRECAST CONCRETE MANHOLE (Not Used)

- A. The Engineer shall order the Contractor to rebuild an existing precast concrete manhole if in his opinion, the existing manhole is deteriorated, structurally unsound, needs reconfiguration, and other valid reasons.
- B. Payment for rebuilding existing manhole shall be measured based on vertical feet of manhole rebuilt which shall include removal of existing manhole, disposal, excavation, dewatering, sheeting and shoring, ceasing and diverting of flow, installation of new concrete manhole base, riser and cone sections, bedding, coring, connection to existing pipe, build invert, brick work, grouting, steps, backfilling, compaction, all related items and the furnishing of all labor, material, equipment, and tools necessary to complete the work as shown on the Drawings, specified or as directed by the Engineer.

2.13 RAISE EXISTING PRECAST CONCRETE MANHOLE (Not Used)

The unit price for raising existing precast concrete manhole shall include excavation, removal of cone section or sections to be replaced, disposal, sheeting and shoring, dewatering, install new section, grouting of joints, steps, brickwork, backfilling, compaction, all related items, and all labor, material, equipment and tools necessary to complete the work as indicated on the Drawings, specified or directed by the Engineer.

2.14 REMOVE AND REPLACE DRIVEWAY

- A. Payment for removing and replacing driveways shall be made as a separate item based on the measured quantity replaced at the unit price bid for driveway type. The quantity shall be defined by the limits indicated in the Standard Details. The unit price shall include the furnishing of all labor, materials, tools and equipment necessary to complete the work as specified or as shown.
- B. Payment for soil, asphalt and concrete testing shall be made from the Task Allowances for Soil, Asphalt and Concrete Testing. No payment shall be made for tests which fail to verify required results.
- C. No additional payment will be made for removing and replacing damaged adjacent area of driveway caused by the Contractor.
- D. No additional payment shall be made for saw cutting driveways.

2.15 REMOVE AND REPLACE CURB AND GUTTER

- A. Payment for removing and replacing curb and gutter shall be made as a separate item based on the measured quantity at the unit price bid for curb and gutter type. The quantity shall be defined by the limits indicated in the Standard Details.
- B. Payment for soil, asphalt and concrete testing shall be made from the Task Allowances for Soil, Asphalt and Concrete Testing. No payment shall be made for tests which fail to verify required results.
- C. No additional payment will be made for removing and replacing damaged adjacent curb and gutter caused by the Contractor.
- D. No additional payment shall be made for saw cutting curb and gutter.

2.16 REMOVE AND REPLACE PAVEMENT

- A. Payment for removing and replacing pavements will be made as a separate item based on the measured quantity at the unit price bid for pavement type. The quantity shall be defined by the limits indicated in the Standard Details.
- B. The unit price for Removing and Replacing Concrete Pavement shall include cutting, removing and disposing existing pavement and replacing and compaction of base, subbase, concrete and all related items, as shown on the Drawings, specified or as directed by the Engineer.
- C. The unit price for Removing and Replacing Asphalt Pavement shall include cutting, removing and disposing existing pavement and replacing and compaction of base, subbase, asphalt, concrete and all related items, as shown on the Drawings, specified or as directed by the Engineer.
- D. The unit price for Type "F" Asphalt Topping shall include the overlaying of a minimum of 1.5 inches of Type "F" asphalt on existing pavement.
- E. The unit price for Milling of Existing Asphalt Pavement shall include milling of minimum of 2-inch thick of existing pavement and disposing of waste materials, and all related items.
- F. Payment for soil, asphalt and concrete testing shall be made from the Task Allowances for Soil, Asphalt and Concrete Testing. No payment shall be made for tests which fail to verify required results.
- G. No additional payment will be made for removing and replacing damaged adjacent pavement.

2.17 PAVEMENT MARKING AND STRIPING (Not Used)

Payment for pavement marking and striping will be made as a separate item based on the measured quantity at the unit price bid for Pavement Marking and Striping.

2.18 REMOVE AND REPLACE CONCRETE SIDEWALK (Not Used)

- A. Payment for removing and replacing concrete sidewalk will be made as a separate item based on the measured quantity at the unit price bid for Remove and Replace Concrete Sidewalk.
- B. The unit price for removing and replacing concrete sidewalk shall include removal and disposal of existing sidewalk, concrete, forms, curing and the furnishing of all labor, materials, tools and appliances

- D. Payment for soil, asphalt and concrete testing shall be made from the Task Allowances for Soil, Asphalt and Concrete Testing. No payment shall be made for tests which fail to verify required results.

2.19 CAST-IN-PLACE CONCRETE (Not Used)

- A. Payment for cast-in-place concrete will be made as a separate item based on measured quantity at the unit price bid for specified strength. This is a separate item from Concrete Sidewalk, Concrete Curb and Gutter and Concrete Pavement. This applies to any concrete work as shown on the Drawings, specified or as directed by the Engineer which is not classified under the aforementioned items, or work specified not to be included in any other item of work listed in the Bid Schedule.
- B. The unit price for cast-in-place concrete shall include excavation, dewatering, sheeting and shoring, formworks, concrete, curing and the furnishing of all labor, materials, equipment and tools necessary to complete the work as specified or as shown.
- C. Payment for reinforcing bars shall be paid under separate item.
- D. Payment for soil and concrete testing shall be made shall be made from the Task Allowances for Soil, Asphalt and Concrete Testing. No payment shall be made for tests which fail to verify required results.

2.20 INSTALL NEW STORM WATER PIPE

- A. The unit price for installing storm water pipe shall include excavation, dewatering, sheeting and shoring, backfilling, compaction, related items and the furnishing of all labor, materials, equipment and tools necessary to complete the work as specified or as shown.
- B. No separate payment will be made for supporting existing storm water pipe when installing sewer line crossing over or under storm pipe. Cost for such work should be included in the unit price bid for Sewer Line.
- C. No separate payment will be made for removing and replacing existing storm water pipe for the purpose of ease in construction when installing sewer line. Cost of such work should be included in the unit price bid for Sewer Line.

2.21 GRASSING

- A. Payment for temporary grassing shall be paid separately from permanent grassing. Temporary grassing shall be applied to all disturbed area to be left exposed for a period greater than 14 days.
- B. The unit price for temporary grassing shall include spreading of fast growing seed, mulching, watering and all related items. No additional payment will be made for maintenance and repairing damaged work.
- C. Payment for permanent grassing shall be paid separately. Permanent grassing shall be applied to disturbed area where final grading and dress-up have been completed.
- D. The unit price for permanent grassing shall include fine grading of area disturbed, raking, pulverizing soil, removal of rocks, coarse soil and other objectionable materials, fertilizing, seeding, mulching , watering and all related items. No additional payment will be made for maintenance and repairing damaged work.
- E. In no case shall one area be paid more than once for temporary and permanent grassing. Where an area is temporarily grassed, which is left permanently, as directed by the Engineer, shall only be

paid once for temporary grassing. No additional payment shall be made for permanent grassing in this case.

- F. Payment for temporary and permanent grassing will be measured on a linear foot basis along the sewer line centerline at the unit price bid for Grassing.

2.22 SODDING

- A. Sodding shall be planted as directed by the Engineer. Payment for sodding will be made as a separate item based on measured quantity installed for any type. Unit price shall include preparation of surface to be planted as described in Permanent Grassing, installation of sod, rolling, compacting, watering, all related items including the furnishing of all labor, materials, equipment and tools necessary to complete the work.
- B. No additional payment will be made for maintenance and repairing damaged work.

2.23 SILT FENCE

- A. The cost for silt fencing for erosion control purposes, including all materials, labor, equipment and tools, as shown on the Drawings, specified or directed by the Engineer shall be included in the unit price bid for Silt Fence for various types.
- B. No additional payment will be made for the cost of maintenance and repair work for damaged work.
- C. No additional payment will be made for the cost of removal and disposal of used materials. Removal of silt fence shall be done only when construction area has been completely stabilized with permanent vegetation and all roadways and driveways have been paved and/or as directed by the Engineer.

2.24 STAKED HAYBALES

- A. Payment for installing haybales shall be made as a separate item based on actual quantity installed. Installed haybales that do not serve its primary purpose to control erosion will not be paid, unless shown on the Drawings or specified or directed by the Engineer.
- B. The unit price for staked haybales shall include installation, maintenance, replacement of damaged unit, disposal and the furnishing of all labor, materials, equipment and tools necessary to complete the work.

2.25 CONSTRUCTION EXIT/ENTRANCE

- A. The unit price for installing construction exit/entrance shall include geotextile under liner, stone (NRA R-2 1.5 to 3.5 inches stone), maintenance, repair, disposal and furnishing of all labor, materials, equipment and tools necessary to complete the work.
- B. If the action of the vehicle traveling over the gravel pad does not sufficiently remove the mud, the tires should be washed prior to entrance onto public right-of-way. No additional payment will be made for the cost of washing of tires.
- C. The construction pad may require periodic top dressing with 1.5 to 3.5 stone, as condition demand as part of maintenance. Such cost should be included in the unit price bid for Construction Exit/Entrance.
- D. No. 57 stone is not an acceptable material for construction pad. No additional payment will be made should this material be used for this purpose.

2.26 RIPRAP

- A. The cost of all riprap, including filter fabric, shown on the Drawings, specified or directed by the Engineer shall be included in the unit price bid for Riprap. Quantities shall be measured and paid for in square yards.
- B. When crossing a stream or ditch, the quantity eligible for payment shall be limited to 10 feet upstream and 10 feet downstream from any disturbed area. Extend filter fabric and riprap from 5 feet from top of bank, across stream bed to 5 feet past the top of the bank. Any other areas at creeks or ditches disturbed by the Contractor, which requires riprap, shall be rip-rapped at no additional cost to the Owner.
- C. Payment for installed Rock Check Dam, Rock Filter Dam and Rock Channel Stabilization will be made using the unit price bid for Riprap.

2.27 PIGS-IN-A-BLANKET

“Pigs-in-a-blanket” are used for inlet sediment trap, as shown on the Drawings, specified or as directed by the Engineer. Payment shall be measured based on quantity installed by linear foot. Unit price shall include fabric, blocks, wires and the furnishing of all labor, materials, equipment and tools necessary for installation, maintenance, and disposal all wastes.

2.28 REPLACE TOP SOIL (Not Used)

- A. During clearing of site, lawn sod shall be removed by cutting into maximum size which can be handled without tearing, stripping sod and underlying topsoil, and stockpiling for use in restoring the surface area. The cost of this work will not be made as a separate item but should be included in the unit price bid for Sewer Line.
- B. Payment for top soil shall be made only as directed by the Engineer where in his opinion, the existing surface soil is not viable for grass and vegetative growth. The unit price shall include the removal and disposal of existing surface soil, importing acceptable top soil, spreading, raking, fine grading and the furnishing of all labor, materials, equipment and tools necessary to complete the work.

2.29 GABION (Not Used)

Payment for gabion shall be made as a separate item from riprap, based on quantity installed as shown on the Drawings, as specified or directed by the Engineer. The unit price shall include the furnishing of stones, reinforcing basket, stakes, excavation, grading, compaction, and all other labor, materials, equipment and tools necessary to complete the work.

2.30 GEOTEXTILE MATTING (Not Paid Separately)

- A. Geotextile matting or soil stabilization mat are used to establish permanent vegetation on steep slopes, channels, or shorelines.
- B. The cost of all materials, labor, equipment and tools to install matting required to establish permanent vegetation as shown on the Drawings, specified or directed by the Engineer, shall be included in the unit price bid for Geotextile Matting.

2.31 DIRT BAG

- A. Payment for dirt bag shall be made as a separate item based on quantity installed for the purpose of controlling silt during dewatering operation. The unit price shall include the furnishing of non-woven bag, gravel bed, straps, and all other labor, materials, equipment and tools necessary for a

complete work.

- B. The dirt bag is considered full and should be removed from the site when it is impractical for the bag to filter the sediment out at a reasonable flow rate and should be replaced with a new dirtbag.
- C. No additional payment will be made for cleaning, maintenance and disposal of dirtbag.

2.32 TREE PROTECTION

Payment for tree protection fence shall be measured based on quantity installed per linear foot. No additional payment will be made for tree protection fence that has been damaged and has to be reestablished due to Contractor's negligence.

2.33 TRAFFIC CONTROL

- A. During construction, the work shall be planned and prosecuted so that it can be performed with the least interference to all vehicular and pedestrian traffic. All costs for providing traffic control in compliance with the Manual on Uniform Traffic Control Devices and Georgia DOT Specifications will be borne by the Contractor. Payment for these items shall be part of the unit price bid for each particular item of work, except for items specifically indicated hereunder as a separate item. **NO SEPARATE PAYMENT SHALL BE MADE FOR ITEMS B THROUGH H OF 2.33 TRAFFIC CONTROL, BELOW.**
- B. Payment for Standard DOT Concrete Barrier shall be based on quantity installed as shown on the Drawings, specified or directed by the Engineer. Concrete barrier shall only be installed, as directed by the Engineer, in open excavation on roadways and other areas where safety is a concern.
- C. It is expected that no excavation on roadways will be left open overnight. Therefore, all concrete barriers will be removed from the roadway and moved to a location where vehicular and pedestrian traffic are not obstructed. The cost of moving the barriers shall be included in the unit price bid.
- D. The unit price for Concrete Barrier shall also include provision of warning lights when necessary, removal and disposal, maintenance, repair, and furnishing of all labor, materials, equipment and tools necessary to complete the work. Payment shall be based on linear feet of barrier installed per day. No payment will be made for concrete barriers installed that do not serve its purpose.
- E. When condition warrants, the Engineer shall require the Contractor to provide additional MUTCD Standard Safety Barrel on site. The Contractor shall be paid for quantity installed per day. However, no additional payment will be made for the costs of providing traffic control devices that are required in compliance with MUTCD as indicated in item 2.33-A above.
- F. The Engineer may require the Contractor to provide a Police Cruiser on site to bolster the traffic control in place. The Contractor will be paid based on quantity provided on hourly basis. Payment will be made only for time spent on site.
- G. Payment for providing Certified Flagman shall be made as a separate item measured based on quantity of certified flagman provided on hourly basis, as directed by the Engineer. The flagman shall be certified and dedicated only to maintain and direct traffic flow. An individual who works part time as a flagman and laborer or acts in dual capacity will not be considered for payment under this item. Such cost shall be included as part of the unit price bid for the items involved.
- H. Proof of certification of flagman may be required by the Engineer prior to performing of any traffic related task.

2.34 TRENCH STABILIZATION

- A. Where the subgrade is, by nature, too soft and mucky, in the opinion of the Engineer, for proper installation of pipe, the Engineer may order the Contractor to undercut the ditch and backfill with granular material (crushed stone, #57). The crushed stone shall be brought to grade and compacted. When the unsuitable nature of in-place material arises out of wet trench conditions, granular material will be authorized only where alternative techniques (including dewatering methods) are impractical as determined by the Engineer.
- B. Measurement for payment of Trench Stabilization (crushed stone, #57) will not be made where such material is a part of a required pipe foundation bedding or where such material is used by the Contractor to increase production or utilize a lesser strength pipe when permitted by an improved pipe foundation. Such additional use of granular material in bedding pipe or for other purposes is considered an incidental cost of constructing sewer line and no separate payment will be made therefore.
- C. When use of granular material is authorized, its volume in cubic yards will be computed by multiplying (1) the horizontal length of the granular material construction along the sewer line centerline by (2) the authorized depth of granular material measured at the side of the pipe by (3) the narrowest maximum trench width authorized in the specifications and drawings.
- D. If during excavation, the subgrade in-place material under roadway or other paved areas is found unsuitable, in the opinion of the Engineer for proper backfilling of trench and installation of pavement, the Engineer may order the Contractor to remove such material and replace it with trench stabilization material such as suitable earth material (borrow), crusher run or M-10 sand. Where trench stabilization is provided, the trench stabilization material shall be compacted to the requirement of the specifications. However if the excavated material is found suitable but becomes unsuitable later due to improper handling and stockpiling by the Contractor, the Contractor shall be responsible for providing suitable backfill material acceptable to the Engineer. The Engineer may also order the replacement of in-situ materials with trench stabilization materials. Payment of such will be similar as described below.
- E. Payment for Trench Stabilization shall be full compensation for removing and disposing the unsuitable material, furnishing trench stabilization material, over-excavation of trench, dewatering, compaction and other related work. Trench Stabilization materials will be measured similar to computing granular material described in item C above.
- F. Backfilling the top portion of trench on paved areas temporarily with crusher run or granular material to make the road passable or for other purposes is considered as an incidental cost of constructing sewer line, and shall be the responsibility of the Contractor. No separate payment will be made for this work.
- G. No additional payment will be made for disposing surplus material offsite.

2.35 REMOVE AND REPLACE EXISTING FENCE

Payment of removing and replacing existing fence shall be measured based on quantity removed and replaced for various type of fence. Unit price shall include all labor, material, equipment and tools necessary to complete the work as shown on the Drawings, specified or directed by the Engineer.

2.36 CLEAN-UP AND TESTING

- A. All costs for clean-up and testing shall be included in the unit price bid for Sewer Line. Final payment shall not be made for any length of line unless both testing and clean-up have been performed satisfactorily for that length of line for which payment is being requested.

- B. Payment for testing shall be made at the unit price bid for Sewer Line. No separate payment shall be made for associated testing fees.
- C. The cost of moving and reestablishing man-made and landscape features, including labor, materials and equipment shall be included in the unit price bid for Sewer Line.

2.37 TASK ALLOWANCES

A. General

- 1. The Contractor shall include in the Total Bid all allowances stated in the Contract Documents. The allowances shall cover the net cost of the services provided by a firm selected by the County. The Contractor's handling costs, labor, overhead, profit and other expenses contemplated for the original allowance shall be included in the items to which they pertain and not in allowances.
- 2. No payment will be made for nonproductive time on the part of testing personnel due to the Contractor's failure to properly coordinate testing activities with the work schedule or the Contractor's problems with maintaining equipment in good working condition.
- 3. No payment shall be provided for services, which fail to verify required results. The Contractor shall be responsible for payment of failed tests.

B. Should the net cost be more or less than the specified amount of the allowance, the Contract will be adjusted accordingly by Change Order. The amount of change order will not recognize any changes in handling costs at the site, labor, overhead, profit and other expenses caused by the adjustment to the allowance.

C. The County's authorized representative shall select a firm, which has a valid standby contract with the County and issue a notice to proceed describing the required services, duration of these services, and the not-to-exceed amount. Upon notification by the County, the Contractor shall issue a purchase order to the selected firm. The Contractor shall issue the selected firm with conformed contract documents and relevant updates.

D. Documentation

- 1. Submit copies of the invoices with each periodic payment request from the firm providing the services. Clearly identify project information, date and type of service. Submit invoice back up for all direct expenses.
- 2. Submit reports documenting the results of services provided which verify compliance with the contract requirements.

E. Schedule of Task Allowances

1. **Soil, Asphalt and Concrete Testing**

Allow the amount provided in the Bid Schedule for the services of a geotechnical engineering firm and testing laboratory to verify soils conditions including trench excavation and backfill, pile bearing resistance, asphalt coring and density tests, testing of concrete cylinders and other similar issues as directed as directed by the Engineer. The presence of this allowance in no way relieves the Contractor of the responsibility of providing quality assurance of the work such as proper soil compaction, proper asphalt and concrete mixtures and other components of the work.

2. **Utility Conflict Resolution**

Allow the amount provided in the Bid Schedule to resolve any unforeseen utility conflicts including relocating and/or replacement. Payment for conflicts with existing utilities shall be made only when the sewer line can not be routed to avoid the conflict. No payment will be made for any delay or extra cost encountered by the Contractor due to protection, avoidance, or relocation of existing utilities, main or services or changing the horizontal or vertical alignment of the sewer line.

When deemed necessary as ordered by the Engineer, the Contractor shall perform exploratory excavation using special methods to locate existing utilities, where in his opinion cannot be done by conventional method due to difficulty and the potential danger that may occur. In this case, the Contractor shall submit a price to perform such work subject to approval by the Engineer. No work shall be performed unless authorized by the Engineer.

3. **Construction Surveying**

Allow the amount provided in the Bid Schedule for construction surveying by an independent surveying firm, selected by the Owner, to perform horizontal and vertical alignment checks at the discretion of the Engineer.

This allowance is solely for the use of the Owner at the Engineer's recommendation for verification of the Contractor's reference points, centerlines, and work performed. The presence of this allowance in no way relieves the Contractor of the responsibility of installing reference points, centerlines, temporary benchmarks, or verifying that the work has been performed accurately.

No payment shall be made for survey work performed by or for the Contractor in the reestablishment of reference points, benchmarks, including their restoration, as well as centerlines or baseline points.

4. **Blast Monitoring**

Allow the amount provided in the Bid Schedule for the services of an independent, qualified specialty subcontractor to monitor the blasting, when directed by the Engineer. Payment shall be made based on the provisions of item 2.05 (Rock Excavation in Pipe Trenches) above.

5. **Landscape Restoration**

Allow the amount provided in the Bid Schedule for landscape restoration. This allowance is solely for the Owner at the Engineer's recommendation. The Contractor shall be responsible for any landscape feature changed beyond the pay limits.

- END OF SECTION 9 – 01150 -

9 – 01200 PROJECT MEETINGS

1. DESCRIPTION

- A. The Engineer will schedule and administer the preconstruction meeting.
- B. The Engineer shall schedule and administer periodic progress meetings and specially called progress meetings throughout the progress of the work. The Engineer shall prepare agenda for these meetings, distribute written notice of each meeting seven days in advance of the meeting date, and make physical arrangements for the meetings. The Engineer shall preside at the progress meetings, record the minutes, including all significant proceedings and decisions. The Engineer shall reproduce and distribute copies of minutes within three days after each meeting to all participants in the meeting and to all parties affected by decisions made at the meeting.
- C. Representatives of contractors, subcontractors and suppliers attending the meetings shall be qualified and authorized to act on behalf of the entity each represents.
- D. The Engineer shall attend progress meetings to ascertain that work is expedited consistent with the Contract Documents and the construction schedules.
- E. Related Requirements:
 - 1. Section 01010: Summary of Work
 - 2. Section 01310: Construction Schedules
 - 3. Section 01340: Shop drawings, Product Data, and Samples

2. PRECONSTRUCTION MEETING

- A. The Engineer will schedule the meeting within 30 days after Notice of Award of Contract.
- B. The location of the meeting will be designated by the Engineer.
- C. The following parties shall attend the meeting:
 - 1. Owner's Representative.
 - 2. Engineer and his Professional Consultants.
 - 3. Resident Project Representative
 - 4. Contractor's Superintendent.
 - 5. Major Subcontractors.
 - 6. Major Suppliers.
 - 7. Others as Appropriate.
- D. Suggested Agenda:
 - 1. Distribution and discussion of:
 - a. List of major subcontractors and suppliers.
 - b. Projected Construction Schedules.
 - 2. Critical work sequencing.
 - 3. Major equipment deliveries and priorities.
 - 4. Project Coordination.

- a. Designation of responsible personnel.
- 5. Procedures and processing of:
 - a. Field decisions.
 - b. Proposal requests.
 - c. Submittals.
 - d. Change Orders.
 - e. Applications for Payment.
- 6. Adequacy of distribution of Contract Documents.
- 7. Procedures for maintaining Record Documents.
- 8. Use of premises:
 - a. Office work and storage areas.
 - b. Owner's requirements.
- 9. Construction facilities, controls and construction aids.
- 10. Temporary utilities.
- 11. Safety and first aid procedures.
- 12. Security procedures.

3. PROGRESS MEETINGS

- A. The Contractor shall schedule regular periodic meetings and shall hold called meetings as required by progress of the work.
- B. The meetings shall be held at the field office of the Contractor or at other locations made available by the Contractor.
- C. The following parties shall attend the meetings:
 - 1. Engineer, and his professional consultants, as needed.
 - 2. Subcontractors as appropriate to the agenda.
 - 3. Suppliers as appropriate to the agenda.
 - 4. Others as required.
- D. Suggested Agenda:
 - 1. Review and approval of minutes of previous meeting.
 - 2. Review of work progress since previous meeting.
 - 3. Field observations, problems, and/or conflicts.
 - 4. Problems which impede Construction Schedule.
 - 5. Review of off-site fabrication, delivery schedules.
 - 6. Corrective measures and procedures to regain projected schedule.

7. Revisions to Construction Schedule.
8. Plan progress, schedule, during succeeding work period.
9. Coordination of schedules.
10. Review submittal schedules; expedite as required.
11. Maintenance of quality standards.
12. Review proposed changes for:
 - a. Effect on Construction Schedule and on completion date.
 - b. Effect on other components of the Project.
13. Other business.

- END OF SECTION 9 – 01200 -

9 – 01310 SCHEDULING OF THE WORK

1. INTRODUCTION

- A. This Section describes the design and construction scheduling and progress reporting requirements of the Contract. The primary objectives of the requirements of this Section are:
1. to insure adequate planning and execution of the Work by the Contractor;
 2. to assist the County and Construction Manager in evaluating the progress of the Work;
 3. to provide for optimum coordination by the Contractor of its subcontractors, trades, and suppliers, and of its Work with the work or services provided by the County or any separate contractors; and
 4. to permit the timely prediction or detection of events or occurrences which may affect the timely prosecution of the Work.

2. GENERAL SCHEDULING REQUIREMENTS

- A. The Work of this Contract shall be planned, scheduled, executed, and reported using the critical path method (CPM). The Contractor shall use one of the following software programs to develop its Detailed Construction Schedule:
1. Primavera Project Planner, latest version
 2. SureTrak Project Manager, latest version
- B. The Detailed Construction Schedule, as defined herein, shall represent the Contractor's commitment and intended plan for completion of the Work in compliance with the Contract completion date and interim milestone dates specified. The Detailed Construction Schedule shall take into account all foreseeable activities to be accomplished by any separate contractors or the County, and interface dates with utility companies, the County's operations, and others. The Detailed Construction Schedule shall anticipate all necessary manpower and resources to complete the Work within the dates set forth.
- C. Once approved by the Construction Manager, the Detailed Construction Schedule will become the Schedule of Record for coordinating the Work, scheduling the Work, monitoring the Work, reviewing the progress payment requests, evaluating time extension requests, and all other objectives listed above.
- D. The Contractor is responsible for determining the sequence of activities, the time estimates of the detailed construction activities and the means, methods, techniques and procedures to be employed. The Detailed Construction Schedule shall represent the Contractor's best judgment of how it will prosecute the Work in compliance with the Contract requirements. The Contractor shall ensure that Detailed Construction Schedule is current and accurate and is properly and timely monitored, updated and revised as Project conditions and the Contract Documents may require.
- E. When there are separate contractors working concurrently on the Project whose work must interface or be coordinated with the Work of the Contractor, the Contractor shall coordinate its activities with the activities of the separate contractors, and the Detailed Construction Schedule shall take into account and reflect such work by others.
- F. The Contractor shall be solely responsible for expediting the delivery of all materials and equipment to be furnished by it so that the progress of construction shall be maintained according

to the currently approved construction schedule for the Work. The Contractor shall notify the Construction Manager in writing, and in a timely and reasonable manner, whenever the Contractor determines or anticipates that the delivery date of any material or equipment to be furnished by the Contractor will be later than the delivery date indicated by the currently approved construction schedule, or required consistent with the completion requirements of this Contract, subject to schedule updates as herein provided.

3. DETAILED CONSTRUCTION SCHEDULE

- A. Within two weeks after the Notice to Proceed, the Contractor shall submit a Detailed Construction Schedule according to the requirements established herein.
1. Submit a Preliminary Construction Schedule within 10 days of the Owner's issuance of the Notice of Award. The Construction Manager will review schedule and will return the reviewed copy within reasonable time period.
 2. The Detailed Construction Schedule shall be submitted within 14 days following the County's issuance of the Notice to Proceed. The Construction Manager shall review the schedule and return it within reasonable time period. If required, the Contractor shall resubmit schedule in accordance to the Construction Manager prior review within ten (10) days following its return date, and then again similarly for all such partial approvals and the final approval.
- B. The Detailed Construction Schedule shall consist of a time-scaled, detailed network graphic representation of all activities which are part of the Contractor's construction plan and an accompanying listing of activity's dependencies and interrelationships. The Detailed Construction Schedule submission shall include, but not be limited to, the following information:
1. Project name
 2. Distinct, logical and identifiable subdivisions of Work
 3. Activities for all aspects of the Work, with durations not exceeding fourteen (14) calendar days for all activities for which the Design/Builder will perform actual design or construction work. Material procurement, submittals, concrete curing and other similar activities may exceed fourteen (14) calendar days if approved by the Construction Manager. Related activities, each of a duration of five (5) calendar days or less, may be shown as one activity together, if not on the critical path of timely job completion.
 4. Outage schedules for existing utility services, *if any*, that will be interrupted during the performance of the Work
 5. Acquisition and installation of equipment and materials supplied and/or installed by the County or separate contractors
 6. All start dates, milestones, float and completion dates
 7. An accounting of the number of workdays anticipated to be lost due to weather. This accounting shall be in accordance with allowable days per month provided elsewhere in the Contract Documents.
 8. A tabular report listing all predecessor and successor activities for each activity
 9. A legible time scaled network diagram
 10. A listing of the project calendar, indicating the anticipated days of work performance
 11. A floppy computer disk, in a form and format acceptable to the Construction Manager, of the Detailed Construction Schedule including all required submission information resident in the computer system and containing all of the files associated with the schedule; or a legible spreadsheet report with activity number, description, duration and successor activities.
- C. Activities and milestones to appear on the Detailed Construction Schedule shall include, but not be

limited to, preliminary construction activities, pre-construction meetings, site work, structure erection, roof close-in, exterior wall systems, paving, major material fabrication and delivery, shop drawings submittals, bi-weekly progress meetings, furniture delivery and installation, equipment delivery and installation, coordination requirements, mock-up installations and inspections, dates of Substantial and Final Completion, Certificate of Occupancy inspection, systems testing and instruction, and special County decision points that impact the Work.

- D. Schedule Reports: Schedule submissions will contain the following minimum information for each activity:
1. Activity number, description and estimated duration
 2. Anticipated start and finish dates
 3. Responsibility for activity
 4. The cost loading values for each activity.
- E. For all major equipment and materials to be fabricated or supplied for the Project, the Detailed Construction Schedule shall show a sequence of activities including:
1. Preparation of shop drawings and sample submissions
 2. A reasonable time for review of shop drawings and samples or such time as specified in the Contract Documents
 3. Shop fabrication, delivery and storage
 4. Erection or installation
 5. Testing of equipment and materials.
- F. The Contractor shall submit, as a part of the data submitted to the Construction Manager, a narrative report indicating the anticipated allocation by the Contractor of the following resources and work shifts for each activity which he proposes to be utilized on the Project:
1. labor resources;
 2. equipment resources; and
 3. whether it proposes the Work to be performed on single, double or triple shifts, and whether it is to be done on a 5, 6 or 7 day work week basis.
- G. The Construction Manager shall have the right to require the Contractor to modify any portion of the Contractor's Detailed Construction Schedule, or Recovery Schedule, as herein required, (including cost loading) with the Contractor bearing the expense thereof, which the Construction Manager reasonably determines to be:
1. impractical;
 2. based upon erroneous calculations or estimates;
 3. unreasonable;
 4. not in compliance with other provisions of the Contract Documents;
 5. required in order to ensure proper coordination by the Contractor of the Work of its subcontractors and with the work or services being provided by any separate contractors;
 6. necessary to avoid undue interference with the County's operations or those of any utility companies or adjoining property owners;
 7. necessary to ensure completion of the Work by the milestone and completion dates set forth in the Contract Documents;
 8. required in order for the Contractor to comply with the requirements of this Section or any other requirements of the Contract Documents; or
 9. not in accordance with the Contractor's actual operations.

5. COST LOADING

- A. As part of the submission of the Detailed Construction Schedule, Contractor shall submit a breakdown of the expected value of each of the schedule activities for which payment is required.
- B. The cost breakdown of the Detailed Construction Schedule shall have a direct correlation to the Schedule of Values to be used as the basis for Applications for Payment.

6. UPDATING OF CONSTRUCTION SCHEDULE/PROGRESS REPORTS

- A. Not less than seven (7) calendar days before the submission of the monthly progress payment request, or on a date specified by the Construction Manager, the Contractor shall arrange for its Project Manager, Superintendent and necessary subcontractors and suppliers to attend a monthly schedule meeting with the Construction Manager to review the Contractor's report of actual progress. Prepared by the Contractor, said report shall set forth up-to-date and accurate progress data and shall be based upon the Contractor's best judgment. Said report shall be prepared by the Contractor in consultation with all principal subcontractors and suppliers.
- B. The progress report of the Contractor shall show the activities, or portions of activities, completed during the reporting period, the actual start and finish dates for these activities, remaining duration and/or estimated completion dates for activities currently in progress, and quantities of material installed during the reporting period.
- C. The Construction Manager will produce a computerized update worksheet for the Contractor to complete as a part of this process.
- D. At the monthly schedule meeting a total review of the Project will take place including but not limited to, the following:
 - 1. Current update of the Detailed Construction Schedule
 - 2. Anticipated detailed construction activities for the subsequent report period
 - 3. Critical items pending
 - 4. Contractor's requested changes to the detailed construction schedule.
- E. The Contractor shall submit a narrative with the progress report which shall include, but not be limited to, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, any proposed newly planned activities or changes in sequence, and proposed logic for a Recovery Schedule, if required, as further described herein. The report shall also include:
 - 1. A narrative describing actual Work accomplished during the reporting period
 - 2. A list of major construction equipment used on the Project during the reporting period
 - 3. The total number of men by craft actually engaged in the Work during the reporting period, with such total stated separately as to office, supervisory, and field personnel
 - 4. A manpower and equipment forecast for the succeeding thirty (30) days, stating the total number of men by craft, and separately stating such total as to office, supervisory and field personnel
 - 5. A list of Contractor supplied materials and equipment, indicating current availability and anticipated job site delivery dates
 - 6. Anticipated changes or additions to Contractor's supervisory personnel.
- F. As part of the updating process, the Construction Manager will calculate, based upon progress data provided by the Contractor and agreed to by the Construction Manager, the value of Work completed based on the sum of the cost loading amounts for all activities, including activities specifically defined for stored materials, less the amount previously paid. Summation of all values of each activity less the appropriate percent of retainage shall be the maximum amount payable to the Contractor, provided that the Contractor has complied with all requirements of the Contract Documents.

7. RECOVERY SCHEDULE

- A. Should the updated Detailed Construction Schedule, at any time during the Contractor's performance, show, in the sole opinion of the Construction Manager, that the Contractor is fourteen (14) or more days behind schedule for any milestone or completion date for any location or category of work, the Contractor, at the request of the Construction Manager, shall prepare a Recovery Schedule within 5 days, at no additional cost to the County (unless the County is solely responsible for the event or occurrence which has caused the schedule slippage), explaining and displaying how the Contractor intends to reschedule its Work in order to regain compliance with the Detailed Construction Schedule during the immediate subsequent pay period.
- B. If the Contractor believes that all of the time can be recovered during the subsequent pay period, the Contractor will be permitted to prepare a Recovery Schedule as set forth below. However, if the Contractor believes it will take more than thirty (30) days to recover all of the lost time, it shall prepare and submit a request for revision to the Detailed Construction Schedule and comply with all of the requirements of a Schedule Revision as set forth in Paragraph 8 below.
- C. The Contractor shall prepare and submit to the Construction Manager a one month maximum duration Recovery Schedule, incorporating the best available information from subcontractors and others which will permit a return to the Detailed Construction Schedule at the earliest possible time. The Contractor shall prepare a Recovery Schedule to the same level of detail as the Detailed Construction Schedule. The Recovery Schedule shall be prepared in coordination with other separate contractors on the Project.
- D. Within two (2) days after submission of the Recovery Schedule to the Construction Manager, the Contractor and any of the necessary subcontractors, suppliers, vendors, manufacturers, etc. shall participate in a conference with the Construction Manager to review and evaluate the Recovery Schedule. Each of the participants will give a written commitment to comply with the Recovery Schedule. Within two (2) days of the conference, the Contractor shall submit the revisions necessitated by the review for the Construction Manager's review and approval. The Contractor shall use the approved Recovery Schedule as its plan for returning to the Detailed Construction Schedule.
- E. The Contractor shall confer continuously with the Construction Manager to assess the effectiveness of the Recovery Schedule. As a result of these conferences, the Construction Manager will direct the Contractor as follows:
 - 1. If the Construction Manager determines the Contractor continues behind schedule, the Construction Manager will direct the Contractor to prepare a Schedule Revision and comply with all of the requirements of a Schedule Revision as stated herein and the other requirements of the Contract Documents; provided, however, that nothing herein shall limit in any way the rights and remedies of the County and Construction Manager as provided elsewhere in the Contract Documents; or
 - 2. If the Construction Manager determines the Contractor has successfully complied with provisions of the Recovery Schedule, the Construction Manager will direct the Contractor to return to the use of the approved Detailed Construction Schedule.

8. SCHEDULE REVISIONS

- A. Should the Contractor desire to or be otherwise required under the Contract Documents to make modifications or changes in its method of operation, its sequence of Work or the duration of the activities in its Construction Schedule, it shall do so in accordance with the requirements of this Paragraph and the Contract Documents. The approved Detailed Construction Schedule may only be revised by written approval of the Construction Manager as provided herein.
- B. The Contractor shall submit requests for revisions to the Detailed Construction Schedule to the Construction Manager, together with written rationale for revisions and description of logic for rescheduling work and substantiate that the milestone and completion dates will be met as listed in

the Contract Documents. Proposed revisions acceptable to the Construction Manager and County will be approved in writing and incorporated into the Detailed Construction Schedule or Recovery Schedule as the case may be.

- C. Requests for revision will be accompanied by evidence acceptable to the Construction Manager that the Contractor's suppliers, subcontractors and sub-subcontractors are in agreement with the proposed revisions.
- D. If there are separate contractors on the Project, the approval of the separate contractors shall be obtained to make the proposed schedule revisions. If accepted by the Construction Manager and County, the revisions shall be binding upon the contractor and all separate contractors on the Project.

9. FLOAT TIME

- A. Float or slack time associated with one chain of activities is defined as the amount of time between earliest start date and latest start date or between earliest finish date and latest finish date for such activities, as calculated as part of the currently approved construction schedule. Float or slack time shown on the currently approved construction schedule is not for exclusive use or benefit of either the County or the Contractor and is available for use by either of them according to whichever first needs the benefit of the float to facilitate the effective use of available resources and to minimize the impact of Project problems, delays, impact, acceleration or changes in the Work which may arise during performance. The Contractor specifically agrees that float time may be used by the County or Construction Manager in conjunction with their review activities or to resolve Project problems. The Contractor agrees that there will be no basis for any modification of the milestone or completion dates or an extension of the Contract Time, or a claim for additional compensation as a result of any Project problem, delay, impact, acceleration, or change order which only results in the loss of available float on the currently approved construction schedule.
- B. Float time shown on any construction schedule shall not be used arbitrarily by the Contractor in a manner which, in the opinion of the Construction Manager, unnecessarily delays separate contractors from proceeding with their work in a way which is detrimental to the interests of the County.

- END OF SECTION 9 – 01310 -

9 – 01320 PROGRESS REPORTS AND PHOTOGRAPHS

- A. The Contractor shall submit to the Engineer, on the last day of each week, the daily progress reports for each day worked that week, including the following information:
1. A statement of work performed that day
 2. A manpower report indicating numbers working that day by trade, including subcontractors.
 3. A copy of a delivery receipt of all deliveries, to the project on that day, of the equipment or materials that require approval according to these Specifications.
 4. Weather conditions.
 5. Other data pertinent to the progress of the work.
- B. Prior to the beginning of any work, the Contractor shall take project photographs of the work area to record existing conditions. Following completion of the work, another recording shall be made showing the same area and features as in the pre-construction photographs. All conditions which might later be subject to disagreement shall be shown in sufficient detail to provide a basis for decisions. The pre-construction photographs shall be submitted to the Engineer within 25 calendar days after the date of receipt by the Contractor of Notice to Proceed. Post-construction photographs shall be provided prior to final acceptance of the project. Two (2) 8" x 10" color prints of each photographic shot, for a total of thirty (30) shots, including negatives, shall be submitted for the Pre-Construction and Post-Construction Phases.

As the work progresses, the Contractor shall provide record photographs with negatives of all major components of the construction. The photographs shall be taken at least monthly, or more frequently as necessary to provide an appropriate record of the work. A minimum of three (3) 8" x 10" color prints of each photographic shot, for a total of ten (10) shots shall be submitted monthly with each pay request. The photographs shall be representative of the primary work being claimed for during the period under consideration. The view selection will be agreed to with the Engineer. Pertinent information will be provided at the bottom front left corner of each photograph, including: project name, Contractor's name, description of subject, orientation, and date and time of exposure. Photographs submitted shall be enclosed back to back in a double face plastic sleeve punched to fit a standard three-ring binder. Negatives shall be submitted in polyethylene preservers, 8-1/2" x 11" in size.

At the discretion of the Engineer, the Contractor shall submit photographs in a digital form.

- END OF SECTION 9 – 01320 -

SECTION 10 – Bid Form/Pricing/Bid Schedule

BID # ITB 06IB510268C-BL **ANDOVER DRIVE SEWER EXTENSION**

TO THE BOARD OF COMMISSIONERS, FULTON COUNTY, GEORGIA

Submitted: _____ 2006

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Bid as principal or principals is or are named herein and that no other person than herein mentioned has any interest in this Bid or in the Contract to be entered into; that this Bid is made without connection with any other person, company or parties making a bid or Bid; and that it is in all respects fair and in good faith without collusion or fraud.

The Bidder if selected will work diligently to provide construction services for the Andover Drive sewer system. The selected contractor will perform all work and adhere to Fulton County drawings, specifications, general conditions and will furnish all related contract documents as requested by Fulton County. Specifications for the work and contractual documents relative thereto, and has read all instructions to Bidders and General Conditions furnished prior to the openings of bids; that he has satisfied himself relative to the work to be performed.

The Bidder proposes and agrees, if this Bid is accepted, to contract with the Board of Commissioners of Fulton County, Atlanta, Georgia, in the form of contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation and labor necessary, and to complete the construction of the work in full and complete accordance with the shown, noted, and reasonably intended requirements of the Specifications and Contract Documents to the full and entire satisfaction of the Board of Commissioners of Fulton County, Atlanta, Georgia, with a definite understanding that no money will be allowed for extra work except as set forth in the attached General Conditions and Contract Documents for the following prices.

The Bidder agrees hereby to commence work under this Contract, with adequate personnel and equipment on a date to be specified in a written order (Notice to Proceed) by the Owner and to fully complete all work under this Contract within the allotted time specified in the Notice to Proceed. Failure to complete the assigned work in the allotted time could result in liquidated damages in the amount of **\$1000.00 per** calendar day for each act of non-compliance in the execution of the contract.

The Bidder declares that he understands that the unit price quantities submitted in the bid are fixed unit price items and shall not be subject to any increase for the duration of this contract. Payment for work will be based on the actual work and quantities used in relation to the unit price provided by the bidder. Quantities for the unit price items are subject to either increase or decrease, and should the quantities of any of the items of work be increased, the Bidder proposes to do the additional work at the unit prices stated herein; and should the quantities be decreased, the Bidder also understands that payment will be made on the basis of actual quantities of the unit price bid and will make no claim for anticipated profits for any decrease in quantities; and

9.0 BID PRICING SCHEDULE FOR THE ANDOVER DRIVE SEWER EXTENSION CONTRACT

SUBMITTED BID PRICING SHEET FOR:

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
1.0	DIP Clean-Out Assembly	50 EA	\$	\$
2.0	6 inch DIP Service Lateral	1540 LF	\$	\$
3.0	8 inch DIP Gravity Sewer	4550 LF	\$	\$
	DIP-CLEAN OUT TOTAL			\$
4.0	MANHOLES			
4.1	4 FT Dia. Precast Concrete Manhole	188 VF	\$	\$
4.2	# 350 Watertight Frame & Cover	11 EA	\$	\$
4.3	# 455 Standard Frame & Cover	14 EA	\$	\$
4.4	8 inch DIP Manhole Drop	1 EA	\$	\$
5.0	Tie into Existing Manhole	3 EA	\$	\$
6.0	Remove & Replace Existing Concrete Driveway	10 SY	\$	\$
7.0	Remove & Replace Existing Concrete Curb and Gutter	370 LF	\$	\$
8.0	Remove & Replace Concrete Curb	20 LF	\$	\$
9.0	Remove & Replace Asphalt Pavement	2200 SY	\$	\$
10.0	1.5 inch Type "F" Asphalt Topping	8220 SY	\$	\$
11.0	2.0 inch Minimum Milling of Existing Asphalt	8100 SY	\$	\$
12.0	Install New Stormwater Pipe	20 LF	\$	\$
	MANHOLES TOTAL			\$
13.0	EROSION AND SEDIMENT CONTROL			
13.1	Temporary Grassing (If ordered by the Engineer)	10500 SY	\$	\$
13.2	Permanent Grassing	10500 SY	\$	\$
13.3	Type "C" Silt Fence	6150 LF	\$	\$
13.4	Sodding - All Types (If ordered by the Engineer)	3000 SY	\$	\$
13.5	Staked Hay Bales	100 EA	\$	\$
13.6	Construction Entrance/Exit	2 EA	\$	\$
13.7	Riprap	150 SY	\$	\$
13.8	"Pigs-in-a-Blanket"	50 EA	\$	\$
13.9	Dirt Bag (Silt Control Pumping System, if ordered by the Engineer)	1 EA	\$	\$
	EROSION AND SEDIMENT TOTAL			\$

SUBMITTED BID PRICING SHEET FOR: _____

ITEM	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
14.0	Tree Protection Fence - Active	6200 LF	\$	\$
15.0	Clearing and Grubbing	2 AC	\$	\$
16.0	Excavation and Removal of Rock	50 CY	\$	\$
	TOTAL TREE PROTECTION			\$
17.0	TRENCH STABILIZATION (If ordered by the Engineer)			
17.1	No. 57 Crushed Stone	50 CY	\$	\$
17.2	M-10 Sand	50 CY	\$	\$
17.3	Crusher Run	50 CY	\$	\$
18.0	Remove & Replace 6 ft High Chain-Link Fence	50 LF	\$	\$
19.0	Waste Water Line Marker Balls (3M-1424-XR-ID)	20 EA	\$	\$
	TOTAL TRENCH STABILIZATION			\$
20.0	TASK ALLOWANCES (To be used at the discretion of the Engineer)			
20.1	Soil Testing	ALL	\$ 5,000.00	\$ 5,000.00
20.2	Asphalt Testing	ALL	\$ 5,000.00	\$ 5,000.00
20.3	Construction Surveying	ALL	\$ 5,000.00	\$ 5,000.00
20.4	Blast Monitoring	ALL	\$ 10,000.00	\$ 10,000.00
20.5	Utility Conflict Resolution	ALL	\$ 20,000.00	\$ 20,000.00
20.6	Landscape Restoration	ALL	\$ 10,000.00	\$ 10,000.00

TOTAL AMOUNT FOR ANDOVER DRIVE SEWER EXTENSION	\$
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For furnishing all products and performing all labor necessary for the construction and completion of the Andover Drive Sewer Extension Project and improvements as entitled, the bidder submits a bid in the amount of:

TOTAL BID AMOUNT:

Dollars

Signed this _____ day of _____ 2006.

Contractor: _____
(Name of Company)

By: _____
(Signature of Authorized Principal)

10.0 APPENDICES

Standard Specifications for Sewer Construction, including Standard Detail Drawings

Standard Plans (most recent version)

Drawings

Sample Contract (Not to be executed prior to bid award)

Index of Articles

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**SAMPLE CONTRACT AGREEMENT
NOT BE EXECUTED BY BIDDER**

Consultant: *[Insert Consultant Name]*
Contract No.: *[Insert Project Number and Title]*
Address: *[Insert Consultant Address]*
City, State
Telephone: *[Insert Consultant telephone #]*
Facsimile: *[Insert Consultant Facsimile #]*
Contact: *[Insert Consultant Contact Name]*
[Insert Consultant Contact Title]

This Agreement made and entered into effective the _____ day of _____, 20__ by and between **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, hereinafter referred to as “**County**”, and **[Insert Consultant Company Name]** to provide professional consulting services in Georgia, hereinafter referred to as “**Consultant**”.

WITNESSETH

WHEREAS, County through its *[Insert User Department Name]* hereinafter referred to as the “**Department**”, desires to retain a qualified and experienced Consultant to perform *[Insert project description/services to be provided]*, hereinafter, referred to as the “**Project**”.

WHEREAS, Consultant has represented to County that it is experienced and has qualified and local staff available to commit to the Project and County has relied upon such representations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, County and Consultant agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

County hereby engages Consultant, and Consultant hereby agrees, to perform the services hereinafter set forth in accordance with this Agreement, consisting of the following contract documents:

- I. Form of Agreement;
- II. Addenda;
- III. Exhibit A: General Conditions;
- IV. Exhibit B: Special Conditions [where applicable];
- V. Exhibit C: Scope of Work
- VI. Exhibit D: Project Deliverables;
- VII. Exhibit E: Compensation;
- VIII. Exhibit F: Office of Contract Compliance Forms;
- IX. Exhibit G: Insurance and Risk Management Forms

The foregoing documents constitute the entire Agreement of the parties pertaining to the Project hereof and is intended as a complete and exclusive statement of promises, representations, discussions and agreements oral or otherwise that have been made in connection therewith. No modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing, conforms to Fulton County Policy and Procedure 800-6 governing change orders, is signed by the County's and the Consultant's duly authorized representatives, and entered upon the meeting minutes of the Fulton County Board of Commissioners.

If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: 1) the Agreement, 2) the RFP, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of Consultant's proposal that was accepted by the County and made a part of the Contract Documents.

The Agreement was approved by the Fulton County Board of Commissioners on *[Insert Board of Commissioners approval date and item number]*.

ARTICLE 2. SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

ARTICLE 3. DESCRIPTION OF PROJECT:

County and Consultant agree the Project is to perform *[Insert project description]*. All exhibits referenced in this agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein.

ARTICLE 4. SCOPE OF SERVICES

Unless modified in writing by both parties in the manner specified in the agreement, duties of Consultant shall not be construed to exceed those services specifically set forth herein. Consultant agrees to provide all services, products, and data and to perform all tasks described in Exhibit C, Scope of Services.

ARTICLE 5. DELIVERABLES

Consultant shall deliver to County all reports prepared under the terms of this Agreement that are specified in Exhibit D, Project Deliverables. Consultant shall provide to County all deliverables specified in Exhibit D, Project Deliverables. Deliverables shall be furnished to County by Consultant in a media of form that is acceptable and usable by County at no additional cost at the end of the project.

ARTICLE 6. SERVICES PROVIDED BY COUNTY

Consultant shall gather from County all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in Exhibit C,

Scope of Services, if required, will be performed and furnished by County in a timely manner so as not to unduly delay Consultant in the performance of said obligations. County shall have the final decision as to what data and information is pertinent.

County will appoint in writing a County authorized representative with respect to work to be performed under this Agreement until County gives written notice of the appointment of a successor. The County's authorized representative shall have complete authority to transmit instructions, receive information, and define County's policies, consistent with County rules and regulations. Consultant may rely upon written consents and approvals signed by County's authorized representative that are consistent with County rules and regulations.

ARTICLE 7. **MODIFICATIONS**

If during the course of performing the Project, County and Consultant agree that it is necessary to make changes in the Project as described herein and referenced exhibits, such changes will be incorporated by written amendments in the form of Change Orders to this Agreement. Any such Change Order and/or supplemental agreement shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes. Such modifications shall conform to the requirements of Fulton County Policy 800-6, which is incorporated by reference herein.

ARTICLE 8. **SCHEDULE OF WORK**

Consultant shall not proceed to furnish such services and County shall not become obligated to pay for same until a written authorization to proceed (Notice to Proceed) has been sent to Consultant from County. The Consultant shall begin work under this Agreement no later than five (5) days after the effective date of notice to proceed.

ARTICLE 9. CONTRACT TERM

[Insert contract term and any renewal options]

ARTICLE 10. COMPENSATION

Compensation for work performed by Consultant on Project shall be in accordance with the payment provisions and compensation schedule, attached as Exhibit E, Compensation.

The total contract amount for the Project shall not exceed *[Insert amount approved by BOC]*, which is full payment for a complete scope of services.

ARTICLE 11. PERSONNEL AND EQUIPMENT

Consultant shall designate in writing a person(s) to serve as its authorized representative(s) who shall have sole authority to represent Consultant on all matters pertaining to this contract.

Consultant represents that it has secured or will secure, at its' own expense, all equipment and personnel necessary to complete this Agreement, none of whom shall be employees of or have any contractual relationship with County. All of the services required hereunder will be performed by Consultant under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

Written notification shall be immediately provided to County upon change or severance of any of the authorized representative(s), listed key personnel or subcontractor performing services on this Project by Consultant. No changes or substitutions shall be permitted in Consultant's key personnel or subcontractor as set forth herein without the prior written approval of the County. Requests for changes in key personnel or subcontractors will not be unreasonably withheld by County.

ARTICLE 12. SUSPENSION OF WORK

Suspension Notice: The County may by written notice to the Consultant, suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Consultant must, unless the notice requires otherwise:

- 1) Immediately discontinue suspended services on the date and to the extent specified in the notice;
- 2) Place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and
- 3) Take any other reasonable steps to minimize costs associated with the suspension.

Notice to Resume: Upon receipt of notice to resume suspended services, the Consultant will immediately resume performance under this Agreement as required in the notice.

ARTICLE 13. DISPUTES

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Fulton County Board of Tax Assessors designated representative. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Consultant. The Consultant shall have 30 days from date the decision is sent to appeal the decision to the County Manager or his designee by mailing or otherwise furnishing to the County Manager or designee, copy of the written appeal. The decision of the County Manager or his designee for the determination of such appeal shall be final and conclusive. This condition shall not be pleaded in any suit involving a question of fact arising under this Agreement, unless the same is fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, Consultant shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending any final decision of a dispute hereunder, Consultant shall proceed diligently with performance of the Agreement and in accordance with the decision of the Tax Assessors designated representative.

ARTICLE 14. TERMINATION OF AGREEMENT FOR CAUSE

- (1) Either County or Consultant may terminate work under this Agreement in the event the other party fails to perform in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party.
- (2) Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender.
- (3) **TIME IS OF THE ESSENCE** and if the Consultant refuses or fails to perform the work as specified in Exhibit C, Scope of Services and maintain the scheduled level of effort as proposed, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, or any extension or tolling there of, or fails to complete said work within such time. The County may exercise any remedy available under law or this Agreement. Failure to maintain the scheduled level of effort as proposed or deviation from the aforesaid proposal without prior approval of County shall constitute cause for termination
- (4) The County may, by written notice to Consultant, terminate Consultant's right to proceed with the Project or such part of the Project as to which there has been delay. In such event, the County may take over the work and perform the same to completion, by contract or otherwise, and Consultant shall be required to provide all copies of finished or unfinished documents prepared by Consultant under this Agreement to the County as stated in Exhibit D, "Project Deliverables".
- (5) Consultant shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by the County.

- (6) Whether or not the Consultant's right to proceed with the work has been terminated, the Consultant shall be liable for any damage to the County resulting from the Consultant's refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with the County obtaining the services of another Consultant to complete the project.

ARTICLE 15. **TERMINATION FOR CONVENIENCE OF COUNTY**

Notwithstanding any other provisions, the County may terminate this Agreement for its convenience at any time by a written notice to Consultant. If the Agreement is terminated for convenience by the County, as provided in this article, Consultant will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by Consultant which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

ARTICLE 16. **WAIVER OF BREACH**

The waiver by either party of a breach or violation of any provision of this Agreement, shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

ARTICLE 17. **INDEPENDENT CONTRACTOR**

Consultant shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with such relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute Consultant or any of its agents or employees to be the agent, employee or representative of County.

ARTICLE 18. **PROFESSIONAL RESPONSIBILITY**

Consultant represents that it has, or will secure at its own expenses, all personnel appropriate to perform all work to be completed under this Agreement;

All the services required hereunder will be performed by Consultant or under the direct supervision of Consultant. All personnel engaged in the Project by Consultant shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such services.

None of the work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Consultant without the prior written consent of the County.

ARTICLE 19. **COOPERATION WITH OTHER CONSULTANTS**

Consultant will undertake the Project in cooperation with and in coordination with other studies, projects or related work performed for, with or by County's employees, appointed committee(s) or other Consultants. Consultant shall fully cooperate with such other related Consultants and County employees or appointed committees. Consultant shall provide within his schedule of work, time and effort to coordinate with other Consultants under contract with County. Consultant shall not commit or permit any act, which will interfere with the performance of work by any other consultant or by County employees. Consultant shall not be liable or responsible for the delays of third parties not under its control nor affiliated with the Consultant in any manner.

ARTICLE 20. **ACCURACY OF WORK**

Consultant shall be responsible for the accuracy of his work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the County will not relieve Consultant of the responsibility of subsequent corrections of any errors and the clarification of any ambiguities. Consultant shall prepare any plans, report, fieldwork, or data required by County to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to Consultant. Consultant shall give immediate attention to these changes so there will be a minimum of delay to others.

ARTICLE 21. **REVIEW OF WORK**

Authorized representatives of County may at all reasonable times review and inspect Project activities and data collected under this Agreement and amendments thereto. All reports, drawings, studies, specifications, estimates, maps and computations prepared by or for Consultant, shall be available to authorized representatives of County for inspection and review

at all reasonable times in the main office of County. Acceptance shall not relieve Consultant of its professional obligation to correct, at its expense, any of its errors in work. County may request at any time and Consultant shall produce progress prints or copies of any work as performed under this Agreement. Refusal by Consultant to submit progress reports and/or plans shall be cause for County, without any liability thereof, to withhold payment to consultant until Consultant complies with County's request in this regard. County's review recommendations shall be incorporated into the plans by Consultant.

ARTICLE 22. INDEMNIFICATION

The Consultant shall indemnify, defend and hold harmless the County, its officers, agents, employees and successors and assigns from and against any and all liability, loss, damages, claims, suits, liens, and judgments including attorneys fees, of whatever nature, including claims for contributions and/or indemnification, for injuries to or death or any person or persons, or damage to property or other rights of any person or persons caused by (1) any failure by the Consultant to perform its obligations under this Agreement; (2) the negligent, intentional or willful misconduct of the Consultant or any of its officers, directors, employees, representatives, agents or Subcontractors in connection with this Agreement; (3) Consultant's fault; or (4) the performance of the Consultant's obligations under this Agreement. The Consultant shall also indemnify the County to the extent provided elsewhere in this Agreement. To the extent there is a determination that Consultant has acted as an agent of the County, the Consultant is specifically excluded from the term "agent" mentioned in the previous sentence, such that Consultant will be required to comply with the requirements of this Article. Consultant's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove, shall also included but not limited to any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of produce or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations. Consultant shall not indemnify or hold harmless the County for the sole acts or omissions of employees or officers of the County. Consultant further agrees to protect, defend, indemnify and hold harmless County, its officers, agents and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employees of Consultant. These Consultant indemnities shall not be limited by reason of the listing of any insurance coverage.

These indemnity provisions are for the protection of the County indemnities only and shall not establish, of themselves, any liability to third parties. The provisions of this article shall survive termination of this Agreement.

ARTICLE 23. CONFIDENTIALITY

Consultant agrees that its conclusions and any reports are for the confidential information of County and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to County, and will only discuss the same with it or its authorized representatives, except as required under this Agreement to provide information to the public. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by Consultant pursuant thereto and any equipment paid for by County as a result of this Agreement, shall become the property of County and be delivered to the Chief Appraiser, County Board of Tax Assessors.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior approval in writing of County.

It is further agreed that if any information concerning the Project, its conduct results, or data gathered or processed should be released by Consultant without prior approval from County, the release of the same shall constitute grounds for termination of this Agreement without indemnity to Consultant, but should any such information be released by County or by Consultant with such prior written approval, the same shall be regarded as Public information and no longer subject to the restrictions of this Agreement.

ARTICLE 24. OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION

Consultant agrees that Fulton County is the sole owner of all information, data, and materials that are developed or prepared subject to this Agreement. Consultant or any subcontractor is not allowed to use or sell any information subject to this contract for educational, publication, profit, research or any other purpose without the written and authorized consent of the [Insert User Department Representative for project]. All electronic files used in connection to this Agreement, which are by definition, any custom software files used in connection to this Agreement, (collectively, the “Software”), shall be turned over to the County for its use after termination hereof and Consultant shall have no interest of any kind in such electronic files. Any required licenses and fees for the Software or other required materials shall be purchased and/or paid for by Consultant and registered in the name of the [Insert User Department Representative for project], if possible. The Software as defined hereunder, specifically excludes all software, documentation, information, and materials in which Consultant has pre-existing proprietary rights and/or has otherwise been licensed to Consultant prior to this Agreement, and any upgrades, updates, modifications or enhancements thereto. Consultant agrees to provide at no cost to County any upgrades to any software used in connection with this Agreement which may be subsequently developed or upgraded for a period of three (3) years from the date of completion of the work under the Agreement, except in the case of commercial Software licensed to the County or [Insert User Department Representative for project]. Any information developed for use in connection with this Agreement may be released as public domain information by the County at its sole discretion.

ARTICLE 25. COVENANT AGAINST CONTINGENT FEES

Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees maintained by Consultant for the purpose of securing business and that Consultant has not received any non-County fee related to this Agreement without the prior written consent of County. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Contract Price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 26. INSURANCE

Consultant agrees to obtain and maintain during the entire term of this Agreement, all of the insurance required as specified in the Agreement documents, Exhibit G, Insurance and Risk

Management Forms, with the County as an additional insured and shall furnish the County a Certificate of Insurance showing the required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

ARTICLE 27. **PROHIBITED INTEREST**

Section 27.01 **Conflict of interest:**

Consultant agrees that it presently has no interest and shall acquire no interest direct or indirect that would conflict in any manner or degree with the performance of its service hereunder. Consultant further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

Section 27.02 **Interest of Public Officials:**

No member, officer or employee of County during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE 28. **SUBCONTRACTING**

Consultant shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of County.

ARTICLE 29. **ASSIGNABILITY**

Consultant shall not assign or subcontract this Agreement or any portion thereof without the prior expressed written consent of County. Any attempted assignment or subcontracting by Consultant without the prior expressed written consent of County shall at County's sole option terminate this Agreement without any notice to Consultant of such termination. Consultant binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

ARTICLE 30. **ANTI-KICKBACK CLAUSE**

Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. Consultant hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

ARTICLE 31. **AUDITS AND INSPECTORS**

At any time during normal business hours and as often as County may deem necessary, Consultant shall make available to County and/or representatives of the County for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit County and/or representative of the County to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Consultant's records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by Consultant. To the extent County audits or examines such Information related to this Agreement, County shall not disclose or otherwise make available to third parties any such Information without Consultant's prior written consent unless required to do so by a court order. Nothing in this Agreement shall be construed as granting County any right to make copies, excerpts or transcripts of such information outside the area covered by this Agreement without the prior written consent of Consultant. Consultant shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for three years from the date of final payment under the Agreement, for inspection by County or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to County.

Consultant agrees that the provisions of this Article shall be included in any Agreements it may make with any subcontractor, assignee or transferee.

ARTICLE 32. **ACCOUNTING SYSTEM**

Consultant shall have an accounting system, which is established, and maintaining in accordance with generally accepted accounting principles. Consultant must account for cost in a manner consistent with generally accepted accounting procedures, as approved by Fulton County.

ARTICLE 33. **VERBAL AGREEMENT**

No verbal agreement or conversation with any officer, agent or employee of County either before, during or after the execution of this Agreement, shall affect or modify any of the terms of obligations herein contained, nor shall such verbal agreement or conversation entitle Consultant to any additional payment whatsoever under the terms of this Agreement. All changes to this shall be in writing and the form of a change order in supplemental agreement, approved by the County, and entered on the Minutes of the Board of Commissioners.

ARTICLE 34. **NOTICES**

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to County, shall be addressed as follows:

[Insert User Department Representative Position for project]

[Insert User Department Address]

Atlanta, Georgia 30303

Telephone:

Facsimile:

Attention: **[Insert User Department Representative for project]**

With a copy to:

Fulton County Department of Purchasing
Purchasing Director
130 Peachtree Street, Suite 1168
Atlanta, Georgia 30303
Telephone: (404) 730-5800
Facsimile: (404) 893-6273
Attention: Jerome Noble

Notices to Consultant shall be addressed as follows:

[Insert Consultant Representative for project]

[Insert Consultant Address]

Telephone:

Facsimile:

Attention: **[Insert Consultant Representative for project]**

ARTICLE 35. JURISDICTION

This Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in that state. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

ARTICLE 36. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, Consultant agrees as follows:

Section 36.01 Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 36.02 Consultant will, in all solicitations or advertisements for employees placed by, or on behalf of, Consultant state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 36.03 Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 37. FORCE MAJEURE

Neither County nor Consultant shall be deemed in violation of this Agreement if either is

prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation, provided however, that nothing herein shall relieve or be construed to relieve Consultant from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

ARTICLE 38. OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq., applies to this Agreement. The Consultant acknowledges that any documents or computerized data provided to the County by the Consultant may be subject to release to the public. The Consultant also acknowledges that documents and computerized data created or held by the Consultant in relation to the Agreement may be subject to release to the public, to include documents turned over to the County. The Consultant shall cooperate with and provide assistance to the County in rapidly responding to Open Records Act requests. The Consultant shall notify the County of any Open Records Act requests no later than 24 hours following receipt of any such requests by the Consultant. The Consultant shall promptly comply with the instructions or requests of the County in relation to responding to Open Records Act requests.

ARTICLE 39. CONSULTANT'S COMPLIANCE WITH ALL ASSURANCES OR PROMISES MADE IN RESPONSE TO PROCUREMENT

Where the procurement documents do not place a degree or level of service relating to the scope of work, M/FBE participation, or any other matter relating to the services being procured, should any Consultant submit a response to the County promising to provide a certain level of service for the scope of work, M/FBE participation, or any other matter, including where such promises or assurances are greater than what is required by the procurement documents, and should this response containing these promises or assurances be accepted by the County and made a part of the Contract Documents, then the degree or level of service promised relating to the scope of work, M/FBE participation, or other matter shall be considered to be a material part of the Agreement between the Consultant and the County, such that the Consultant's failure to provide the agreed upon degree or level of service or participation shall be a material breach of the Agreement giving the County just cause to terminate the Agreement for cause, pursuant to ARTICLE 14 of the Agreement.

ARTICLE 40. INVOICING AND PAYMENT

Consultant shall submit monthly invoices for work performed during the previous calendar month, in a form acceptable to the County and accompanied by all support documentation requested by the County, for payment and for services that were completed during the preceding phase. The County shall review for approval of said invoices. The County shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by the County, are reasonably in excess of the actual stage of completion.

Time of Payment: Invoices for payment shall be submitted to County by the first (1st) calendar day of the month to facilitate processing for payment in that same month. Invoices received after the first (1st) calendar day of the month may not be paid until the last day of the following month. The County shall make payments to Consultant by U.S. mail approximately thirty (30)

days after receipt of a proper invoice. Parties hereto expressly agree that the above contract term shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. 13-11-1 et seq., pursuant to 13-11-7(b), and the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Agreement; parties further agree that the County shall not be liable for any interest or penalty arising from late payments.

Submittal of Invoices: Consultant shall submit all invoices in original and one (1) copy to:

[Insert User Department Representative Position for project]

[Insert User Department Address]

Atlanta, Georgia 30303

Telephone:

Facsimile:

Attention: *[Insert User Department Representative for project]*

Consultant's cumulative invoices shall not exceed the total not-to-exceed fee established for this Agreement.

Optional: [A narrative of one (1) page only, listing the scope of services billed for shall accompany each invoice.]

County's Right to Withhold Payments: The County may withhold payments for services that involve disputed costs, involve disputed audits, or are otherwise performed in an inadequate fashion. Payments withheld by the County will be released and paid to the Consultant when the services are subsequently performed adequately and on a timely basis, the causes for disputes are reconciled or any other remedies or actions stipulated by the County are satisfied. The County shall promptly pay any undisputed items contained in such invoices.

Payment of Sub-consultants/Suppliers: The Consultant must certify in writing that all sub-consultants of the Consultant and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime Consultant is unable to pay sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime Consultant shall pay all sub-consultants or supplier funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County and in no event later than fifteen days as provided for by State Law.

Acceptance of Payments by Consultant; Release. The acceptance by the Consultant of any payment for services under this Agreement will, in each instance, operate as, and be a release to the County from, all claim and liability to the Consultant for work performed or furnished for or relating to the service for which payment was accepted, unless the Consultant within five (5) days of its receipt of a payment, advises the County in writing of a specific claim it contends is not released by that payment.

ARTICLE 41. NON-APPROPRIATION

This Agreement states the total obligation of the County to the Consultant for the calendar year of execution. Notwithstanding anything contained in this Agreement, the obligation of the County to make payments provided under this Agreement shall be subject to annual

appropriations of funds thereof by the governing body of the County and such obligation shall not constitute a pledge of the full faith and credit of the County within the meaning of any constitutional debt limitation. The Director of Finance shall deliver written notice to the Consultant in the event the County does not intend to budget funds for the succeeding Contract year.

Notwithstanding anything contained in this Agreement, if sufficient funds have not been appropriated to support continuation of this Agreement for an additional calendar year or an additional term of the Agreement, this Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year of its execution and at the close of each succeeding calendar year of which it may be renewed, unless a shorter termination period is provided or the County suspends performance pending the appropriation of funds.

ARTICLE 42. WAGE CLAUSE

Consultant shall agree that in the performance of this Agreement the Consultant will comply with all lawful agreements, if any, which the Consultant had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

IN WITNESS THEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as attested and witnessed and their corporate seals to be hereunto affixed as of the day and year date first above written.

OWNER:

CONSULTANT:

FULTON COUNTY, GEORGIA

*[Insert Consultant Company Name
& Title]*

Karen Handel, Commission Chair
Board of Commissioners

ATTEST:

ATTEST:

Mark Massey
Clerk to the Commission (Seal)

Secretary/
Assistant Secretary

(Affix Corporate Seal)

APPROVED AS TO FORM:

Office of the County Attorney

APPROVED AS TO CONTENT:

Rosalind Ray, Chief Appraiser
County Board of Tax Assessors

ADDENDA

Instructions for Users: Acknowledgement(s) of any addenda should be inserted behind this cover sheet.

EXHIBIT A

GENERAL CONDITIONS

Instructions for Users: Insert any General Conditions that were in the solicitation document behind this cover sheet.

Example: “Fulton County Purchasing Department Request For Proposal (RFP) General Requirements”.

EXHIBIT B

SPECIAL CONDITIONS

Instructions for Users: Insert any Special Conditions that were in the solicitation document behind this cover sheet. If no Special Conditions were required, on a separate page behind this cover page please use the following language:

EXHIBIT C

SCOPE OF WORK

Instructions for Users: Insert the detailed Scope of Work to be provided by the Consultant behind this cover sheet.

EXHIBIT D

PROJECT DELIVERABLES

Instructions for Users: Insert any Project Deliverables to be provided by the Consultant behind this cover sheet.

EXHIBIT E

COMPENSATION

Instructions for Users: Insert the detailed Compensation to Consultant (payment to consultant providing service) behind this cover sheet.

EXHIBIT F

OFFICE OF CONTRACT COMPLIANCE FORMS

Instructions for Users: Insert the Contract Compliance forms submitted by the Consultant. Please contact Contract Compliance to insure you have the correct forms. Insert forms behind this cover sheet.

EXHIBIT G

INSURANCE AND RISK MANAGEMENT FORMS

Instructions for Users: Insert the following information behind this cover sheet.

1. Insurance and Risk Management Provisions from Solicitation Document

The following information should be inserted after you have received submittals from the Consultant:

2. Certificate of Insurance
3. Payment Bonds (if applicable)
4. Performance Bonds (if applicable)