



**Invitation to Bid, No. 24-009**

**Citywide MUTCD Sign Replacement Program**

**Date: June 14, 2024**

**Optional Pre-Bid Conference**

**Friday, June 21, 2024, at 11:00 a.m. EST.**

**City Hall- 4362 Peachtree Rd**

**Brookhaven, GA. 30319**

**PROPOSAL DUE DATE:**

**Monday, July 15, 2024, at 4:00 p.m. EST.**

**Bids shall only be accepted online through the Bonfire Portal at:**

**<https://brookhavenga.bonfirehub.com/projects/view/143400>**

**Any bid submitted in any other format (email, paper, fax, mail, etc.) will not be accepted.**

**Instructions to Offerors:**

1. All communications regarding this solicitation must be with the Purchasing Manager, Purina Alexander, [purina.alexander@brookhavenga.gov](mailto:purina.alexander@brookhavenga.gov).
2. All questions or requests for clarification must be sent via Bonfire under Message - Opportunity Q&A: <https://brookhavenga.bonfirehub.com/projects/view/143400>. Questions are due no later than **Friday, June 28, 2024, at 4:00 p.m. EST**. Questions received after this date and time may not be answered.
3. Questions and clarifications will be answered in the form of an addendum. Any addenda, schedule changes, and other important information regarding the solicitation related to this solicitation will be posted on Bonfire website. <https://brookhavenga.bonfirehub.com/projects/view/143400> and it is the Offeror's responsibility to check the Bonfire portal for any addendum or other communications related to this solicitation.
4. The City of Brookhaven reserves the right to reject all bids and to waive technicalities and informalities, and to make award in the best interest of the City of Brookhaven.
5. The City of Brookhaven is not responsible for any technical difficulties. It is highly recommended that all potential contractors submit their quotes prior to the due date of this solicitation.

## Contract for Construction

This **CONTRACT FOR CONSTRUCTION** (hereinafter “Contract” or “Agreement”) is made and entered into this \_\_\_\_ day of **July 2024**, by and between the City of Brookhaven, (hereinafter “City”), and \_\_\_\_\_ (hereinafter “Contractor”).

**NOW THEREFORE**, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

**1. THE WORK:**

The city contracts with the Contractor as an independent contractor to provide all labor, materials, drawings, submittals, equipment, and/or services necessary or incidental to complete the work for **Project 24-009: Citywide MUTCD Sign Replacement Program** (“Project”). The Scope of work is described in further detail in Exhibit B and shall be delivered and installed in good and workman-like fashion, free of defects, and in accordance with industry standards as well as the Contract Documents, and consistent with the Project Schedule, as may change from time to time (hereinafter, the “Work”). The Contractor acknowledges and agrees that the Work includes the provision of all equipment, components, systems, materials, documentation and other services and items required to perform the Work and make it complete, functional and/or operational, notwithstanding the fact that each such service or item may not be expressly mentioned in the Contract Documents. The contractor shall obtain all required permits to perform the Work and shall furnish City with a copy of the same and shall comply with all codes, safety ordinances, local, state, and federal laws, rules, and regulations applicable to the Work. The contractor shall keep the Project site clean and free from debris resulting from Contractor’s Work. Approval of submittals or drawings proposed or submitted by Contractor for its Work by City or any person or entity acting on City’s behalf are for administrative purposes only and shall not relieve Contractor of its obligations to follow the terms of the Contract Documents.

**2. ATTACHMENTS:**

The following documents are attached and are specifically incorporated herein by reference and, along with any properly executed amendments there to constitute the Contract Documents:

- Exhibit A: General Conditions
- Exhibit B: Scope of Work
- Exhibit C: Sample Maintenance Bond Form
- Exhibit D: Specifications and Plan

The terms of the General Conditions (Exhibit “A”) are intended to expand upon, and not conflict with the, the terms in the main body of this Contract. However, in the event of any unresolvable conflict between the terms of the main body of this Contract and the terms in the General Condition, the term setting forth the more expansive scope of Work or otherwise greater obligation of the Contractor shall control.

**3. CONTRACT SUM:**

The City agrees to pay the Contractor, in exchange for the proper performance of the Work, on a Unit Price Basis up to the Contract Sum, which is \_\_\_\_\_. Periodic progress payments will be made, which reflect the quantity of work performed during the period covered as outlined in the General Conditions.

**4. BONDS:**

The contractor must procure, at its own expense payment and performance bonds with a penal amount no less than the Contract Sum. Such bonds shall be written in the AIA A312-2010 forms of such other forms as the City may approve in its sole discretion. The contractor shall also provide a maintenance bond in a substantially similar form to Exhibit C hereto.

**5. TERMINATION FOR CAUSE:**

The City may terminate this contract for cause upon (10) days prior to written notice to the Contractor of the Contractor of the default in the performance of any term of this contract. Such termination shall be without prejudice of any term of rights and remedies provided by law.

**5. TERMINATION FOR CONVENIENCE:**

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

**6. CONTRACT NOT TO DISCRIMINATE:**

During the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability which does not preclude the applicant or employee from performing the essential functions of the position. The Contractor will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subcontractor for standard commercial supplies of raw materials.

**7. ASSIGNMENT:**

The Contractor shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm, or corporation without the previous consent of the City in writing.

**8. WAIVER:**

A waiver by either party of any breach of any provision, term, covenant, or condition of this Contract shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

**10. SEVERABILITY:**

The parties agree that each of the provisions included in this Contract is separate, distinct and

severable from the other and remaining provisions of this Contract and that the invalidity of any Contract provision shall not affect the validity of any other provision or provisions of this Contract.

**11. GOVERNING LAW:**

The parties agree that this Contract shall be governed and construed in accordance with the laws of the State of Georgia. This Contract has been signed in DeKalb County, Georgia.

**12. MERGER CLAUSE:**

The parties agree that the terms of this Contract include the entire Contract between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this Contract.

**13. SMALL AND MINORITY BUSINESSES CLAUSE:**

The City of Brookhaven, in maintaining its status as a Welcoming City and City of Ethics commissioned a study of its Social Justice, Race, and Equity practices. As a result of the study, recommendations have been made to the Brookhaven City Council to enhance and improve upon its efforts in providing opportunities to small and minority businesses in procuring goods and services. With respect to openness and transparency, the City of Brookhaven encourages all businesses regardless of size and status to engage in the City's procurement process. The City gives equal attention to all submissions and will work with individual firms to ensure that their questions are answered in a timely basis.

**14. SUBSTANTIAL COMPLETION AND LIQUIDATED DAMAGES:**

(A) "Substantial Completion" means the stage in the progress of the Work when construction of the entire Work (or, for less than the entire Work, a specifically designated portion thereof) is fully completed in accordance with the terms of this Agreement, and in a good and workmanship manner, subject only to minor punch list work and final cleaning and is sufficiently complete so as to allow the City to occupy or utilize the Work (or such specifically designated portion thereof) for the use for which it is intended with all of the installations, parts and systems relating thereto functional and usable by City, and the Contractor shall have delivered to the City a certificate of occupancy or other approval necessary for legal occupancy for the Work.

(B) City and Contractor agree that the damages caused by the Contractor's failure to complete the Work timely will be difficult if not impossible to estimate accurately. Therefore, the City and Contractor agree that, if the Contractor fails to reach Substantial Completion of the entire Work within the times provided for in Exhibit B of this Agreement (or elsewhere herein as the case may be), as the times may be amended in accordance with the terms of this Agreement, Contractor agrees to pay, as Liquidated Damages, one thousand dollars (\$500.00) per calendar day for which Substantial Completion of the entire Work has not been achieved after the expiration of the deadlines set forth in Exhibit B of this Agreement (or elsewhere herein as the case may be). The City and Contractor, by their signatures hereto, agree that these Liquidated Damages are not meant to constitute or function as a penalty, but are instead a reasonable estimate of the probable loss to

be suffered upon untimely completion of the Work. Such Liquidated Damages are not the exclusive measure of monetary or other damages which may be due from Contractor to City under this Agreement and are only meant to estimate direct damages incurred by the City due to the failure of Contractor to timely reach Substantial Completion of the entire Work as noted above.

(C) In addition to any other remedies, it may have under this Agreement or at law, the City may at any time demand payment from Contractor of the then current balance of Liquidated Damages due to or incurred by the City within 10 days from such written demand. The City may, but is not required to, credit or set off the amount of unpaid Liquidated Damages against any amounts owed by the City to the Contractor.

#### **15. COUNTERPARTS.**

This Contract or any Task Order may be executed and delivered in one or more counterparts, any one of which need not contain the signatures of more than one person, but all such counterparts taken together will constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Contract or any Task Order by electronic mail or facsimile shall be as effective as an original of the same

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

*Signatures on the following page.*

**Brookhaven, GEORGIA**

By: \_\_\_\_\_

John Park  
Mayor City of Brookhaven, Georgia

By: \_\_\_\_\_

John Funny  
Mayor Tempore City of Brookhaven, Georgia

ATTEST: \_\_\_\_\_

Sandra Bryant  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeremy Berry,  
City Attorney of Brookhaven, Georgia

**SERVICE PROVIDER:**

Signature \_\_\_\_\_

Date \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Signature

Date \_\_\_\_\_

Print Name \_\_\_\_\_

Print Title \_\_\_\_\_

**EXHIBIT A**  
**GENERAL CONDITIONS**

**1. REGULATIONS**

- 1.1 The contractor shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations pertaining to the performance of the Work.
- 1.2 The Contractor shall obtain all permits, licenses, and certificates, or any such approvals of plans or specifications as may be required by Federal, State, and local laws, ordinance, rules, and regulations, for the proper execution of the work specified herein.
- 1.3 During the performance of the Work, Contractor shall keep current and, if requested by the City, provide copies of all licenses, registrations or permits required by applicable governing agencies, The Contractor shall keep a copy of all licenses, registrations and permits on the job site while performing the Work.
- 1.4 The Contractor will comply with the City of Brookhaven's Financial Management and Purchasing Policies.
- 1.5 The Contractor will complete the Work in accordance with all applicable legal requirements, including but not limited to O.C.G.A. § 50-5-63, as applicable.

**2. CONTRACTOR'S PERSONNEL**

- 2.1 The Contractor will abide by all State and Federal regulations on wages and hours including but not limited to the Federal National Labor Relations Act, the Federal Fair Labor Standards Act, the Federal Civil Rights Act of 1964, as amended, and the Americans with Disabilities Act. Contractor will require all of its vendors or subcontractors to comply with the same.
- 2.2 The Contractor shall require all prospective employees to show proof of citizenship, or proof from the United States Immigration and Naturalization Service of valid entry permits and/or work permits for legal aliens and proof that such legal aliens are eligible to be employed in the United States. This includes any requirement for participation in the DHS E-Verify or SAVE program.
- 2.3 Should the Contractor engage employees who are illiterate in English, it will be the Contractor's responsibility and obligation to train such employees to be able to identify and understand all signs and notices in and /or around the areas that relate to them, or the services being performed by them pursuant to this Contract. In addition, the Contractor will always have someone in attendance who can communicate instructions to said employees.
- 2.4 The Contractor shall maintain a drug-free workplace within the meaning of the Georgia Drug-free Workplace Act. No employee shall be hired by a Contractor for work on the City's premises prior to such employee having tested negative for drugs. In addition, existing employees having tested negative for drugs. In addition, existing employees of the Contractor must be subject to drug testing by the Contractor upon reasonable suspicion of drug use. Results of all such drug tests are to be retained by the Contractor. Copies shall be provided to the City, if requested.
- 2.5 Contractor shall not use or engage any employee, employees, agents, subcontractors,

## **EXHIBIT A GENERAL CONDITIONS**

vendors, or other representatives (“Team Members”) on the Work that the City advises are not satisfactory. The contractor shall then replace such personnel or representative with other individuals of similar experience which shall be satisfactory to the City. The City reserves the right to accept or reject any proposed replacement team member at any time during the duration of the project, in its sole discretion. However, in no event shall the City be responsible for monitoring or assessing the suitability of any employee or agent of the Contractor.

26 The Contractor’s employees shall be instructed that no gratuities shall be solicited or accepted for any reason whatsoever from the tenants, customers or other persons in the City.

27 A valid driver license (Commercial Driver License, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around the city.

28 While working on City property all Contractor’s employees shall wear neat-appearing attire and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.

29 Contractor shall designate an experienced Project Manager (“Project Manager”) acceptable to the City for all purpose related to the Work.

2.9.1 The Project Manager shall be fully responsible for the Contractor meeting all of its obligations under this Contract. The Project Manager shall provide the City with an appropriate status report on the progress of the project.

2.9.2 The Project Manager shall be available, as reasonably required, to be on-site during necessary times. Such times shall be discussed between the Project Manager and the City, but the final required times will be at the City’s discretion.

2.9.3 In the event that the designated Project Manager terminates employment with the Contractor or is requested by the City to be removed from the role of Project Manager (as provided in Section 2.9.3), the position shall be assumed by an individual with equivalent qualifications, experience, and knowledge. Such replacement shall require the City’s prior approval.

2.10 If a Contractor replaces a proposed team member, the Contractor shall replace that team member of similar experience. The City reserves the right to accept or reject any proposed or replacement team member, with or without cause, at any time during the duration of the Work

### **3. TOOLS AND EQUIPMENT**

It shall be the sole responsibility of the Contractor to provide for all tools, parts, and equipment necessary to perform the Work.

### **4. PERFORMANCE REQUIREMENTS**



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4.1 Contractor shall (a) perform the Work in accordance with the Contract Documents and industry standards, (b) exercise the utmost reasonable care in performing the Work, and (c) adjust and coordinate its activities to the needs and requirements of the City (such duties collectively hereinafter the "Standard of Care"). Contractor shall adjust and coordinate its activities to the needs and requirements of the City and perform its activities so as not to annoy, disturb, endanger, unreasonably interfere with or delay the operations or activities of the City.

4.2 The Contractor's personnel shall perform work in compliance with all Federal, State, and City of Brookhaven regulations.

4.3 The Contractor will begin work within 10 days of receiving written notice to proceed the work. Refer to Exhibit B for calendar days in accordance with a written schedule to be submitted by Owner.

4.4 Any work required beyond that which is specified herein shall be reported in advance to the City. At no time shall work beyond the scope be performed without prior written authorization from the City.

4.5 The Contractor shall utilize maximum safety procedures. Tools and equipment will be in a good state of repair, safe to use, and be used in the way they were intended. The Contractor is required to inform all workers and concerned persons of the Material Safety Data on all products being utilized on this project. No materials or equipment will be left unattended at any time.

4.6 Reserved

4.7 Time is of the essence, all limitations of time set forth in the contract are of the essence of this contract.

**5. CONFIDENTIAL INFORMATION**

5.1 In the course of performing the Work, the Contractor may gain access to security-sensitive and other sensitive information of the city.

5.2 The Contractor agrees to hold all City data and information in confidence and to make such information known only to its employees and subcontracts who have a legitimate need to know such information and only after advising such persons of the Contractor's non-disclosure obligations.

5.3 The Contractor shall seek the City's prior written consent before using for any purpose other than the fulfillment of the Contractor's obligations hereunder, or before releasing, disclosing, or otherwise making such information available to any other person.

5.4 The Contractor shall employ such practices and take such actions to protect the City's information from unauthorized use or disclosure as the Contractor employs and takes to protect its own information, but in no event shall the Contractor use less than reasonable

**EXHIBIT A**  
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efforts to protect the City's information.

5.5 The provisions of this Section 5.5 shall survive the expiration or earlier termination of the Contract.

**6. USE OF PREMISES**

During the progress of the Work, the Contractor shall keep the premises free from accumulation of waste materials, and other debris resulting from, work and about the premises as well as tools, equipment, machinery, and surplus material, and leave the site clean and ready for occupancy by the City.

**7. SAFETY AND PROTECTION**

The Contractor shall be solely and completely responsible for initiating, maintaining, and supervising all safety precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to all employees on the worksite and other persons including, but not limited to, the public who may be affected thereby. The Contractor shall not be responsible for initiating, maintaining, and supervising any safety precautions for the City's other consultants or contractors.

**8. COMPENSATION – INVOICE AND PAYMENT FOR SERVICES**

8.1 The City shall pay the Contractor, subject to any authorized deductions, the Contract Sum in exchange for that portion of the Work delivered or performed by the Contractor to the satisfaction and acceptance, as appropriate, of the City

8.2 The Contractor shall invoice with such supporting documentation and other backup material as the City may reasonably require. The Contractor shall provide the Proof of Payment indicating all subcontractors have paid, with each invoice.

8.3 The Contractor shall deliver to the City approval and acceptance, and before eligible for final payment of any amounts due, all documents and material prepared by the Contractor for the City under this Contract.

8.4 The City shall pay the undisputed amount of the Contractor's invoice, as it may be reduced to reflect unsubstantiated or unsatisfactory service, within thirty (30) days of the submission of such invoice. Items in dispute shall be paid upon the resolution of the dispute. No verification or payment of any amounts invoiced shall preclude the City from recovering any money paid more than that due under the terms of this Contract.

8.5 The Contractor shall be obligated to pay promptly all proper charges and costs incurred by the Contractor for labor and expenses incurred for the work performed hereunder. The City shall have the right, but not the obligation, to pay directly to third parties (including subcontractors) all past due amounts owed by the Contractor to third parties for labor and materials used for the Work, based on invoices submitted by such third party, and all such amounts paid by the City shall be applied toward, and shall reduce, amount owed to Contractor hereunder.

8.6 The Contractor shall submit all invoices with purchase order number to:

**EXHIBIT A**  
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[AccountsPayable@BrookhavenGA.gov](mailto:AccountsPayable@BrookhavenGA.gov) and [PWAdmin@BrookhavenGA.gov](mailto:PWAdmin@BrookhavenGA.gov) or .

8.7 The Contractor will agree to comply with the City of Brookhaven's Financial Policies and Purchasing Policy.

8.8 The Contractor agrees that the compensation provided herein shall be full and final settlement of all claims arising against Brookhaven for work done, materials furnished, costs incurred or otherwise arising out of this contract and shall release the City from all further claims related to the payment for services and materials furnished in connection with this Agreement.

8.9 The Contractor and City agree that in any event a provision of this Contract pertaining to the time of payment, the rate of payment, and any rates of interest differs from any provision of the Prompt Pay Act, such provision of the Prompt Pay Act is hereby waived and said Contract provision shall control. The City shall not be responsible for any interest penalty or for any late payment. Notwithstanding anything herein to the contrary, if the City has not made a payment of undisputed amounts due to the Contractor within 30 days of a request by Contractor for payment in accordance with the terms of this Agreement, the Contractor may send the City written notice of such lack of payment. If the City does not cure such lack of payment within five business days of its receipt of such written notice, the Contractor may suspend work until it has received all undisputed amounts due. The number of days that work is suspended hereunder shall be added to any schedule or deadlines for completion of the Work under this Agreement.

**9. COMPLIANCE WITH LAWS AND REGULATIONS**

9.1 The Contractor shall perform its obligations and functions here under consistent with the Standard of Care to the applicable laws of the United States, the State of Georgia, DeKalb County, the City of Brookhaven, any applicable rules, regulations, or directives of any agency thereof, and the applicable regulations of the City. OSHA rules and regulations shall always be followed. The City shall have the right (but not the obligation) to contest or challenge by any means whatsoever any law, regulation, rule or directive which in any way affects or otherwise impacts upon the Contractor's performance of its obligations and functions hereunder; the Contractor shall cooperate to the fullest extent and take whatever action (including becoming a party in any litigation) the City should reasonable request in connection with any such challenge or contest by the City.

9.2 The Contractor shall obtain and keep current all licenses, permits and authorizations, whether municipal, county, state or deferral, required for the performance of its obligations and functions hereunder and shall pay promptly when due all fees, therefore.

9.3 The Contractor shall abide by all applicable state and federal regulations pertaining to wages and hours of an employee; including but not limited to the Contractor's compliance with requirements of O.C.G.A. 13-10-91 AND Rule 300-104-1-.02.

**10. CONTRACTOR'S LIABILITY**

The Contractor shall be responsible for the prompt payment of any fines imposed on the city

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or the Contractor by any other federal, state, or local governmental agency as a result of the Contractor's, or its subcontractor's (or the officers' directors', employees' or agents' of either), failure to comply with the requirements of any law or any governmental agency rule, regulation, order or permit. The liability of the Contractor under this Section 10 is in addition to and in no way a limitation upon any other liabilities and responsibilities which may be imposed by applicable law or by the indemnification provision of Section 11 hereof, and such liability shall survive the expiration or earlier termination of this Contract.

### **11. INDEMNIFICATION**

11.1 The Contractor shall, indemnify and hold harmless the City, and the members (including, without limitation, members of the City's Council, and members of the boards and of the City), officers, employees of each, from damages, losses, or expenses arising out of or related to Contractor's performance of the Work

11.2 In addition to indemnification provisions stated above, if the City's use of any service, software, firmware, programming, or other item provided by or on behalf of the Contractor is enjoined due to infringement of another person or entity's intellectual property rights, the Contractor shall promptly, at its sole cost and expense, modify the infringing item so that it no longer infringes, procure for the City the legal right to continue using the infringing item, or procure for the City a non-infringing item, or procure for the City a non-infringing replacement item having equal or greater functional capabilities as the infringing item.

11.3 The Contractor will notify the City in writing of any claim made or suit instituted against the Contractor because of its activities in performance of the Contract.

11.4 No recourse under or upon any obligation, covenant or agreement contained in this Contract, or any other agreement or document pertaining to the work or services of the Contractor hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or any judgment obtained against the City, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Contract, shall be had against any member (including without limitation members of the City's Council, or members of the citizens advisory committees of each), any officer, employee or agent, as such, past, present, or future of the City, either directly or through the City or otherwise for any claim arising out of or in connection with this Contract or the work or services conducted pursuant to it, or for any sum that may be due and unpaid by the City. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, officer, employee, or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of or in connection with this Contract or the work or services conducted pursuant to it, or for the payment for or to the City, or any receiver therefore or otherwise, or any sum that may remain due and unpaid by the City, is expressly waived and released as a condition of and in consideration of the execution of this Contract and the promises made to the Contractor pursuant to this Contract.

11.5 In any and all claims against the City, or any of their officers, members, agents, servants or employees, by any employee of the Contractor, any subcontractor, anyone

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directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation of the Contractor under this Section 11.5 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the Contractor or any subcontractor under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.

No provisions of Section 11 herein shall be construed to negate, abridge, or otherwise reduce any other right of indemnity that the City may have as to any party or person described therein.

11.6 Contractor shall be responsible for the prompt payment of any fines imposed on the city or the Contractor by any other federal, state, or local governmental agency as a result of the Contractor's, or its subcontractor's (or the officers' directors', employees' or agents' of either), failure to comply with the requirements of any law or any governmental agency rule, regulation, order or permit. The liability of the Contractor under this Section 11 is in addition to and in no way a limitation upon any other liabilities and responsibilities which may be imposed by applicable law or by the indemnification provision of Section 11 hereof, and such liability shall survive the expiration or earlier termination of this Contract.

### **12. LIABILITY INSURANCE**

#### **12.1 Insurance**

12.1.1 General Liability and Automobile Liability. The Contractor shall purchase and maintain in force during the term of the Contract, at its own cost and expense, to protect the Contractor, the City, and the members (including, without limitation, all members of the governing City's Council and the citizens' advisory committees of each), officers agents, and employees of each, from and against any and all liabilities arising out of or in connection with the Contractor's performance of the Contract work:

(1) Commercial general liability insurance with coverage of not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence, and with contractual liability coverage for Contractor's covenants to and indemnification of the City under the Contract, and

(2) Automobile liability insurance with policy limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per accident or occurrence covering each motor vehicle operated on City property.

12.1.1.1 Self-Insured Retention. Contractor's commercial general liability insurance policies shall not be subject to a self-insured retention exceeding \$250,000, if the value of the Contract is less than \$1,000,000, and not be subject to a self-insured retention exceeding \$250,000, if the Contract is \$1,000,000 or more, unless approved by the City Manager. Contractor's automobile liability insurance policies shall not be subject to a self-insured retention exceeding \$10,000, unless approved by the City Manager.

12.1.1.2 Additional Insured Endorsement. Contractor agrees and shall cause the

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City their member (including, without limitation, members of the City's Council and members of the citizens' advisory committees of each), officers, employees, and agents to be named as additional insured under such policy or policies of commercial general and automobile liability insurance.

12.7.1.2 Workers' Compensation and Employer's Liability. If Contractor has any employee working on City property, Contractor shall procure and maintain in force during the term of the Contract (i) workers' compensation insurance, and (ii) employer's liability insurance. The policy limits of the Contractor's employer's liability insurance shall not be less than \$100,000 for "each employee." If the Contractor is self-insured, the Contractor shall provide proof of self-insurance and authorization to self-insure as required by applicable state laws and regulations.

12.7.1.3 Professional Liability Insurance. The Contractor shall purchase and maintain in force during the term of the Contract, Professional Liability insurance which will pay for damages arising out of errors or omissions in the rendering, or failure to render professional services under the Contract in the amount of at least ONE MILLION DOLLARS (\$1,000,000.00) per claim. Such insurance must contain nose and tail coverage to include work performed by the Contractor from the project's inception date and until such time as the statute of Limitations has run for the work done on the project.

12.7.4 Health Insurance. Not applicable.

12.7.5 Garage Liability Insurance. Not applicable.

12.7.6 Garage Keeper's Legal Liability Insurance. Not applicable.

12.7.7 Crime Coverage. Not applicable.

12.7.8 Pollution Liability Insurance. Not applicable.

12.7.9 Other Insurance Requirements. All insurance policies required by this Section Shall provide that they are primary insurance with respect to any other valid insurance the City may possess and that any other insurance the City does possess shall be considered excess insurance only. All such insurance shall be carried out with a company or companies which meet the requirements of Section 12 of these General Conditions and said policies shall be in a form satisfactory to the City. A properly completed and executed Certificate of Insurance on a form provided or approved by the City (such as a current ACORD certificate of insurance) evidencing the insurance coverage required by this Section shall be furnished to the City upon the Contractor shall provide the City with at least thirty (30) days' prior written notice of any adverse material change in the Contractor's required insurance coverage except that ten (10) days' notice of cancellation for non-payment is required. For purposes of this Section 12.7.9, and "adverse material change" shall mean any reduction in the limits of the insurer's liability, any reduction, non-renewal or cancellation of any insurance coverage, or any increase in the Contractor's self-insured retention. Prior to the expiration of any such policy, the Contractor shall file with the City a certificate of insurance showing that such insurance coverage has been renewed. If the insurance coverage is canceled or reduced, the Contractor shall, within five (5) days after such cancellation or

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reduction in coverage, file with the City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies approved by the City. If the Contractor fails to obtain or have such insurance reinstated, the City may, if it so elects, and without waiving any other remedy it may have against the Contractor, immediately terminate this Contract upon written notice to the Contractor. The City Manager shall have the right to alter the monetary limits or coverage herein specified from time to time during the term of this Contract, and the Contractor shall comply with all reasonable requests of the City Manager with respect thereto.

12.1.2 Liability Insurance Companies furnishing insurance coverage required by these General Conditions shall (a) be approved to issue insurance policies in the State of Georgia, and  
(b) must have no less than a "B+" Financial Rating and a Financial Size Category of "Class VI" or higher according to the most current edition of A.M. Best's Insurance Reports. If the liability insurer is rated by A.M. Best's Insurance Reports at an "A- Financial Rating and a Financial Size Category of "Class VIII" or higher that the City Manager may waive the requirement for the insurer to be approved by the State of Georgia.

### **13. CONTRACT ADJUSTMENTS**

13.1 Notwithstanding any provision herein to the contrary, the City reserves the right to modify at any time the nature, method, scope, frequency, or timing of the Contractor's obligations under this Contract (Contract Adjustments) in whatever manner it determines to be reasonably necessary for the proper completion of the Contractor's Work. Both parties agree that should any Contract Adjustments be made, the Contractor's compensation will be adjusted accordingly, in such amount or amounts as will be mutually agreed to by means of good faith negotiation by the City and Contractor and, to the extent possible, by reference to any unit costs already established in the Proposal. Without exception, all deletions, or additions to the scope of work will be set forth in a Change Order written Amendment to this Contract executed by both parties.

13.2 If the Contractor is delayed at any time in the commencement or progress of the Work by any of the following causes, the Contractor shall be entitled to an equitable extension of the time for completion of the Project : acts or omissions of the City or other contractor for which the City is responsible; material changes in the Work or the sequencing of the Work ordered by the City or arising from decisions of the City that materially impact the time of performance of the Work; transportation delays not reasonably foreseeable; labor disputes not involving the Contractor; general labor disputes impacting the Project but not specifically related to the worksite; fire; terrorism, epidemics, adverse governmental actions for which the Contractor is not responsible; adverse weather conditions which the Contractor could not have reasonably anticipated; encountering hazardous materials of which Contractor did not have actual or constructive knowledge; and concealed or unknown conditions which would not to be reasonably expected in projects of this type in this location and which the Contractor could not have discovered upon a reasonably diligent inspection prior to executing this Agreement.

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133 Notwithstanding the foregoing, there shall be no upward adjustment of the compensation on account of any Contract Adjustment made necessary or appropriate because of the mismanagement, improper act, or other failure of the Contractor, its employees, agents, or its subcontractors to properly perform its obligations and functions under this Contract.

**14. SUBCONTRACTORS**

14.1 The Contractor shall perform the Work by means of its own employees, or by a duly qualified subcontractor which is approved in advance by the City. Such subcontractor which is an affiliate, parent, or subsidiary company; or had principal owners, relative, management, or employees common to the Contractor; or any other party that can significantly influence the management or daily business operations of the subcontractor must be disclosed in writing to the City Manager. Goods and services provided by subcontractors which are reimbursed by the City must be bona fide arm's-lengths transactions. In the event a subcontractor is employed, the Contractor shall continuously monitor the subcontractor's performance, shall remain fully responsible to ensure that the subcontractor performs as required and itself perform or remedy any obligations or functions which the subcontractor fails to perform properly. Nothing contained herein shall be construed to prevent the Contractor from using the services of a common carrier for delivering goods to the City. The City approves the sub-contractors listed in the Request for Proposals.

14.2 This Contract shall be referred to and incorporated within any contractual arrangement between the Contractor and a subcontractor and, in such contractual arrangement; the subcontractor shall give its express written consent to the provisions of this Section 14.2. To the extent feasible, the provisions of this Contract shall apply to any such subcontractor in the same manner as the apply to the Contractor. However, such application shall neither make any subcontractor a party to this Contract, nor make such subcontractor a third-party beneficiary hereof.

14.3 In the event that the Contractor employs a subcontractor, then the City may require that copies of invoices for all work (including invoices submitted to the Contractor for work performed by a subcontractor) shall be submitted to the City by the Contractor and the City shall pay all compensation to the Contractor. It shall be the sole responsibility of the Contractor to deal with a subcontractor with respect to the collection and submission of invoices and the payment of compensation. In no event shall the City have any obligation or liability hereunder to any subcontractor, including any obligations of payment.

**15. DEFAULT AND TERMINATION**

15.1 In the event that:

15.1.1 the Contractor shall fail to keep, perform, or observe any of the promises, covenants or agreements set forth in this Contract (if notice of the first failure shall have been given to the Contractor, but whether or not the Contractor shall have remedied any such failure); or

15.1.2 the Contractor shall fail to keep, perform, or observe any promise, covenant, or agreement set forth in this Contract, and such failure shall continue for a period of more than five (5) days after delivery to the Contractor of a written notice of such breach or



## EXHIBIT A GENERAL CONDITIONS

default; or

15.1.3 the Contractor's occupational or business license shall terminate, or the Contractor shall fail to provide the City with any bond, letter of credit, or evidence of insurance as required by the Contract Documents, for any reason; or

15.1.4 the Contractor fails for any reason to provide the City with an acceptable renewal or replacement bond or letter of credit within the time period specified by a provision for this Contract; or

15.1.5 the Contractor shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditor, or file a voluntary petition in bankruptcy or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the Federal Bankruptcy laws, or under any other law or statute of the United States or any State thereof, or shall consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property; or

15.1.6 the Contractor shall have a petition under any part of the Federal Bankruptcy laws, or an action under any present or future insolvency laws or statute filed against it, which petition is not dismissed within thirty (30) days after the filing thereof; or

15.1.7 there is any assignment by the Contractor of this Contract or any of the Contractor's rights and obligations hereunder for which the City has not consented in writing; or

15.1.8 the Contractor shall default on any other agreement entered by and between Contractor and the City, then, in its discretion, the City shall have the right to terminate this Contract for default, which termination shall be effective upon delivery of written notice of such termination to the Contractor. In the event that the City terminates this Contract for default, or the Contractor abandons or wrongfully terminates the Contract, the Contractor shall be paid for compensation earned to the date of termination or abandonment (but the City shall have the right to reduce by off-set any amounts owed to the Contractor hereunder or under any other Contract or obligation by the amount of the City's damages and any amounts owed by the Contractor to the City), but the Contractor shall not be compensated for any profits earned or claimed after the receipt of the City's notice of termination by default or after abandonment or wrongful termination. The City's election to terminate or not to terminate this Contract in part or whole for the Contractor's default shall in no way be construed to limit the City's right to pursue and exercise any other right or remedy available to it pursuant to the terms of the Contract or otherwise provided by law or equity.

152 Notwithstanding anything else herein contained, the City may terminate this Contract in whole or in part at any time for its convenience by giving the Contractor thirty (30) days written notice. In that event, the Contractor shall proceed to complete any part of the work, as directed by the City, and shall settle all its claims and obligations under the Contract, as directed by the City. The Contractor shall be compensated by the City in accordance with the provisions hereof provided, however, that in no event shall Contractor be entitled to compensation for work not performed or for anticipatory profits. The contractor shall justify its claims, as requested by the City, with accurate records and data.

153 Bankruptcy and Liquidation – In the event the Contractor (1) makes an assignment

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for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for all or a substantial part of its assets; (2) commences any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction whether now or hereafter in effect; (3) has had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made, and which remains undismissed for a period of sixty (60) days or more; (4) takes any corporate action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver, or trustee for all or substantial part of its assets; or (5) permits any such custodianship, receivership, or trusteeship to continue undischarged for a period of sixty (60) days or more causing the Contractor or any third party, including, without limitation, a trustee in bankruptcy, to be empowered under state or federal law to reject this Contract or any agreement supplementary hereto, the City shall have the following rights:

(i) In the event of a rejection of this Contract or any agreement supplementary hereto, the City shall be permitted to retain and use any backup or archival copies of the software licensed hereunder under this Agreement to enable it to mitigate damages caused to the City because of the rejection of this Contract. The City shall exert reasonable efforts to mitigate such damage by use of such backup or archival copies.

(ii) In the event of rejection of this Contract or any agreement supplementary hereto, the City may elect to retain its rights under this Contract or any agreement supplementary hereto as provided in Section 365(n) of the Bankruptcy Code. The Contractor or such bankruptcy trustee or receiver shall not interfere with the rights of the City as licensee as provided in this Contract or in any agreement supplementary hereto to obtain the Source Material(s) from the bankruptcy trustee and shall, if requested, cause a copy of such Source Material (s) to be available to the City.

(iii) In the event of rejection of this Contract or any agreement supplementary hereto, the City may elect to retain its rights under this Contract or any agreement supplementary hereto as provided in section 365(n) of the Bankruptcy Code without prejudice to any of its rights of setoff with respect to this Contract under the Bankruptcy Code or applicable non-bankruptcy law; or In the event of a rejection of this Contract or any agreement supplementary hereto, the City may retain its rights under this Contract or any agreement supplementary hereto as provided in section 365(n) of the Bankruptcy Code without prejudice to any of its right under section 503(b) of the Bankruptcy Code.

### **16. CITY'S AUTHORIZED REPRESENTATIVE**

During the term of this Contract, the City Manager or designee may from time to time designate an individual to serve as the City's Authorized Representative (CAR) and an Assistant CAR designated to serve in that capacity in the absence of the CAR, who shall have such authority to act on the City's behalf as the City Manager may from time to time actually delegate to such person, but in no event shall the CAR have authority to modify or

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terminate this Contract, or make final decisions with respect to amendments, time extensions, assignments, cost or payment adjustments or payment disputes.

**17. ASSIGNMENT**

Neither this Contract nor any of the Contractor's rights or obligations hereunder may be assigned by the Contractor without the City's prior written consent, which consent may be granted or withheld at the City's sole discretion. Any transfer of this Contract by merger, consolidation or liquidation (unless the stock of the Contractor is traded on a national stock exchange or in a generally recognized over the counter securities market) any change in ownership of a power to vote a majority of the outstanding voting stock or ownership interests of the Contractor shall constitute an assignment of this Contract for purposes of this Section. In the event the Contractor assigns or subcontracts or attempts to assign or subcontract any right or obligation arising under this Contract without City's prior written consent, the City shall be entitled to terminate this Contract pursuant to the provisions hereof.

**18. NOTICES**

18.1 Unless otherwise stated herein, all notices or other writings which the City is required or permitted to give to the Contractor may be hand delivered, mailed via U.A Certified Mail or sent next- day delivery by a nationally recognized overnight delivery service to the Contractor's address set forth in the Proposal. Any such notice shall be deemed to have been delivered upon actual delivery, or one (1) day following submission to a nationally recognized overnight delivery service for next day delivery to the Contractor, or three (3) days following submission to the Contractor by U.S. Certified Mail.

18.2 Unless otherwise stated herein, all notices or other writings which the Contractor is required or permitted to give to the City may be hand delivered to the City Manager, mail via U.S. Certified Mail. Or sent next-day delivery by a nationally recognized overnight delivery service for next day delivery to City, or three (3) days following submission to the City by U.S. Certified Mail. Any such notice shall be sent to:

City of Brookhaven, GA ATTN: City Manager 4362 Peachtree Road NE Brookhaven, GA 30319

Contractor: \_\_\_\_\_  
\_\_\_\_\_

18.3 Either party may change its notice address by written notice to the other given as provided in this section.

**19. NONDISCRIMINATION**

19.1 During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest agrees as follows:

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19.1.1 Compliance with Regulations. The Contractor shall comply with the Law and Regulations as they may be amended from time to time (hereafter referred to as the “Regulations”), which are herein incorporated by reference and made a part of this Contract.

19.1.2 Nondiscrimination. The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of any subcontractor, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by the Regulations.

19.1.3 Solicitations for Subcontracts, Including Procurement of Materials and Equipment. In all solicitations either by competitive proposing or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this Contract and the Regulation relative to nondiscrimination on the grounds of race, color or national origin.

19.1.4 Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources or information, and its facilities as may be determined by the City to be pertinent to ascertain compliance with such Regulations, orders and instructions, the Contractor shall so certify to the City, as appropriate, and shall set forth what efforts it has made to obtain the information.

19.1.5 Sanctions for Noncompliance. In the event of the Contractor’s noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such Contract Sanctions as it may determine to be appropriate, including but not limited to:

19.1.5.1 Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or

19.1.5.2 Cancellation, termination, or suspension of the Contract, in whole or in part.

19.1.6 Incorporation of Provisions, The Contractor shall include the provisions of this subsections

19.1.1 through 19.1.5 in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interest of the City and, in addition, the Contractor may request the interest of the City and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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192 The Contractor assures the City that it will comply with the pertinent statutes, Executive Orders, and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin sex, age, marital status, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision shall bind the Contractor from the period beginning with the initial solicitation through the completion of the Work.

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**20. COPYING DOCUMENTS**

The Contractor hereby grants the City and its agent's permission to copy and distribute all materials and documents contained in, comprising, or which are otherwise submitted to the City with or in connection with the Contractor's Proposal or which are contained in the Contract Documents (the "Submittals"). The permission granted by the Contractor shall be on behalf of the Contractor and all other parties who claim any rights to any of the materials or documents comprising the Submittals. Such permission specifically authorizes the City and its agents to make and distribute such copies of the Submittals or portions thereof as may be deemed necessary or appropriate by the City for its own internal purposes or for responding to requests for copies from any member of the public regardless of whether the request is specifically characterized as public records request pursuant to Georgia Cod. This provision shall survive the expiration or termination of the Contract.

**21. GENERAL PROVISIONS**

21.1 The Contract Documents are as defined in the Contract.

21.2 This Contract represents the entire agreement between the parties in relation to the subject matter hereof and supersedes all prior agreements and understandings between such party's relation to such subject matter, and there are no contemporaneous written or oral agreements, terms or representation made by any party other than those contained herein. No verbal or written representations shall be relied upon outside the Contract terms and amendments. Without exception, all deletions, or additions to the scope of work will be set forth in a written amendment to this Contract. No amendment, modification, or waiver of this Contract, or any part thereof, shall be valid or effective unless in writing signed by the party or parties sought to be bound or charged therewith; and no waiver of any breach or condition of this Contract shall be deemed to be a waiver of any other subsequent breach or condition, whether of a like or different nature.

21.3 The Contractor shall, during the term of this Contract, repair any damage caused to real or personal property of the City and/or its tenants, wherever situated, caused by the intentional, reckless, or negligent acts or omissions of the Contractor's officers, agents, or employees, and any subcontractors and their officers, agents, or employees, or, at the option of the City, the Contractor shall reimburse the City for the cost of repairs thereto and replacement thereof accomplished by or on behalf of the City.

21.4 The Contractor warrants to the City that no work performed or materials purchased pursuant to the Contract, whether by, from, or through the Service Provider or a subcontractor, shall cause any claim, lien or encumbrance to be made against any property of

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the City, and the Contractor shall indemnify and hold the City harmless from and against any and all losses, damages and costs, including attorneys' fees, with respect thereto. If any such claim, lien or encumbrance shall be filed, the Contractor shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. This provision shall survive the expiration or termination of the Contract.

21.5 This Contract shall be deemed to be made, construed, and performed according to the laws of the State of Georgia. Any suit or proceeding initiated for the purpose of interpreting or enforcing any provision of this Contract or any matter in connection therewith shall be brought exclusively in a court of competent jurisdiction in DeKalb County, Georgia, and the Contractor waives any venue objection, including, but not limited to, any objection that a suit has been brought in an inconvenient forum. The Contractor agrees to submit to the jurisdiction of the Georgia courts and irrevocably agrees to acknowledge service of process when requested by the City.

21.6 The section headings herein are for the convenience of the City and the Contractor and are not to be used to construe the intent of this Contract or any part hereof, or to modify, amplify, or aid in the interpretation or construction of any of the provisions hereof.

21.7 The use of any gender herein shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.

21.8 The delay or failure of the City at any time to insist upon a performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of that breach or any subsequent breach or default in the terms, conditions, or covenants of this Contract. The Contractor shall not be relieved of any obligation hereunder on account of its failure to perform by reason of any strike, lockout, or other labor disturbance.

21.9 The City shall have the right to recover from the Contractor all of the City's costs and expenses incurred in enforcing the provisions of this Contract including, but not limited to, (1) the cost of administrative investigation and enforcement (including, without limitation, audit fees and costs, attorneys' fees) and (2) the cost of any trial, appellate or bankruptcy proceeding (including, without limitation, investigation costs, audit fees and costs, attorney's fees, court costs, paralegal fees and expert witness fees). This provision shall survive the expiration or termination of the Contract.

21.10 The Contractor shall not during the term of the Contract knowingly hire or employ (on either a full-time or part-time basis) any employee of the City.

21.11 The Contractor shall be required, during the term of the Contract at no additional cost to the City, to take such reasonable security precaution with respect to its operations at City Hall as the City in its discretion may from time to time prescribe. The Contractor shall comply with all regulations, rules and policies of any governmental authority, including the City, relating to security issues.

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21.12 The City may, but shall not be obligated to, cure, at any time, upon five (5) days written notice to the Contractor (provided, however, that in any emergency situation to the City shall be required to give only such notice as is reasonable in light of all the circumstances), any default by the Contractor under this Contract; whenever the City so cures a default by the Contractor, all costs and expenses incurred by the City in curing the default, including but not limited to, reasonable attorneys' fees, shall be paid by the Contractor to the City on demand.

21.13 The City shall, in its discretion, be entitled to deduct from the compensation to which the Contractor is otherwise entitled hereunder, an amount equal to any liabilities of the Contractor to the City which are then outstanding. In the event that additional work beyond the scope of this Contract is requested by the City Manager and it results in any extra charges to the City, the Contractor shall so advise the City in writing of the amount of the extra charges. The City is not required to pay any extra charges for additional work unless such work and the charges therefore have been approved in advance and have been confirmed in writing within twenty-four (24) hours by the City Manager, in his or her exclusive discretion.

21.14 The Contractor is an independent Contractor, and nothing contained herein shall be construed as making the Contractor an employee, agent, partner or legal representative of the City for any purpose whatsoever. The Contractor acknowledges that it does not have any authority to incur any obligations or responsibilities on behalf of the City and agrees not to hold itself out as having any such authority. Nothing contained in this Contract shall be construed to create a joint employer relationship between the City and the Contractor with respect to any employee of the Contractor or of its subcontractors.

21.15 The Contractor and its subcontractors if any, shall maintain complete and accurate books and records in accordance with generally accepted accounting principles, consistently applied, and shall be in a form reasonable acceptable to the City Manager or designee. The Contractor and its subcontractors shall account for all expenses of any nature related to transactions in connection with the Contract in a manner which segregates in detail those transaction from other transactions of the Contractor and subcontractors and which support the amounts reported and /or invoiced to the City. At a minimum, the Contractor's and subcontractor's accounting for such expenses and transactions shall include such records in the form of electronic media compatible with or convertible to a format compatible with computers utilized by the City at its offices; a computer run hard copy; or legible microfilm or microfiche, together with access to the applicable reader. All such books and records and computerized accounting systems shall upon reasonable notice from the City be make available in Dekalb County, Georgia, for inspection, examination, audit and copying by the City, at its sole expense, through and by its duly authorized representatives at any time for up to four (4) years after the year to which books and records pertain. Such inspection, examination, or audit may include, but is not limited to a review of the general input, processing, and output controls of information systems, using read only access, for all computerized applications used to record financial transactions and information. The Contractor and subcontractor shall freely lend its own assistance in a timely manner in making such inspection, examination, audit, or copying and, if such records are maintained

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in electronic and other machine-readable format, shall provide the City and/or its representative such assistance as may be required to allow complete access to such records. The City Manager may require the Contractor and subcontractors to provide other records the City Manager, in his or her sole discretion, deems necessary to enable the City to perform an accurate inspection, examination or audit of expenses incurred in and transactions related to performance of this Contract. Such records shall be provided within thirty (30) days or requested thereof. If expenses incurred or reimbursed are found by such inspection, examination, or audit to have been overpaid, the Contractor and its subcontractors agree that such amounts shall be payable to the City. If, prior to the expiration of the above-state four (4) year record retention period, any audit or investigation is commenced by the City, or any claim is made or litigation commenced relating to this Contract by the City, the Contractor, or third party, the Contractor shall continue to maintain all such records, and the City shall continue to have the right to inspect such records in the manner stated above, until the inspection, examination, audit, claim, or litigation is finally resolved (including the determination of any and all appeals or the expiration of time for an appeal). This provision shall survive the expiration or earlier termination of this Contract. In the event of any conflict between any provision of this Contract and generally accepted accounting principles or generally accepted auditing standards, the provisions of this Contract shall control even where this Contract references such provisions or standards. Without limitation, the Contractor and subcontractors shall maintain all records required under this Contract to the full extent required hereunder, even if some or all such records would not be required under such generally accepted accounting principles or auditing standards. If as a result of an inspection, examination or audit, it is established that amounts are due from the Contractor to the City, the Contractor shall forthwith, upon written demand from the City, pay the City such amount, together with interest on the amount due at the rate of twelve (12%) percent per annum, or if less, the maximum rate of interest allowed by law, from the date such additional amounts were overpaid by the City. Further if such inspection, examination, or audit establishes that the Contractor has over billed such amounts for any Contract period by two (2%) percent or more, then the entire expense of such inspection, examination or audit shall be paid by the Contractor.

21.16 The Contractor and subcontractors shall prepare and provide the City with all detailed reports as required under the Contract on a timely basis. The City reserves the right to modify the reporting procedures or the form and content of any report as it deems necessary.

21.17 There are no third-party beneficiaries to this Contract, and nothing contained herein shall be construed to create such.

21.18 In computing any period established under this Contract, except as otherwise specified herein the word "days" when referring to a period of time is ten (10) days or less means business days, and when referring to a period of time that is more than ten (10) days means calendar days. The day of the event, from which the designated period begins to run shall not be included. A business day is any day other than Saturday, Sunday, or Federal, State of Georgia or City holidays.

21.19 The Contractor agrees to perform all acts and execute all supplementary instruments



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or documents which may be reasonably necessary to carry out or complete the transaction(s) contemplated by this Contract.

21.20 The City reserves the right to further develop, improve, repair and alter the facilities and all roadways, and parking areas, as it may reasonably see fit, free from any and all liability to the Contractor for loss of business or damages of any nature whatsoever to the Contractor occasioned during the making of such improvements, repairs, alterations and additions, including, but not limited to, any damages resulting from negligence of the City or its employees, agents or Contractors.

21.21 The Contractor and the City hereby mutually waive any claim against each other and their respective members, officials, officers, agents and employees for damages ( including damages for loss of anticipated profits) caused by any suit or proceedings brought by either of them or by any third party directly or indirectly attacking the validity of this Contract or any part thereof, or any addendum or amendment hereto, or the manner in which this Contract was solicited, awarded or negotiated, or arising out of any judgment or award in any suit or proceeding declaring this Contract, or any addendum or amendment hereto, null, void or voidable or delaying the same, or any part thereof, from being carried out.

21.22 At the option of the Contractor, the products and/or services provided under the Contract resulting from this solicitation may be provided to other governmental agencies, including the State of Georgia, its agencies, political subdivisions, counties and cities under the same terms and conditions, including price, as such products and/or services are provided under this Contract. Each governmental agency allowed by the Contractor to purchase products and/or services in connection with this Contract shall do so independent of the City or any other governmental entity. Each agency shall be responsible for its own purchases and shall be liable only for goods and services ordered, received, and accepted by it. The City shall have no liability to the Contractor or any governmental agency resulting from the purchase by that agency of products and /or services from the Contractor in connection with this Contract.

## **22. GRATUITIES, REBATES, OR KICKBACKS**

22.1 GRATUITIES. It shall be unethical for any person to offer, give or agree to give any employee or official of the City or for any employee or official of the City to solicit, demand, accept from another person, a gratuity, rebate, loan, offer of employment or other services or property of value in connection with any decision, approval, disapproval, recommendation or preparation of any part of a program requirement or a purchase request including the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any particular matter, pertaining to any program requirement or a Contract or subcontract, or to any solicitation or proposal therefore in any manner inconsistent with the State of Georgia's Department of Administrative Services Gratuity Policy. Rebates normally or routinely offered to customers in the ordinary course of business for the purchase of goods and services are acceptable and are the property of the City.

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**22.2 KICKBACK AND REBATES**

It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor to this Contract to the prime contract or higher tier subcontractor, or any person associated therewith, as an inducement for a subcontractor or order.

**23. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT.**

Contractor hereby verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify (or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-60120) in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Contractor further agrees that it will continue to use the federal work authorization program throughout the Contract Period, and for the Work of Task Order subject to the Contract, will only retain subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b). The contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Brookhaven within five (5) business days after any subcontractor(s) is/are retained to perform the Work of any Task Order.

**24. Further O.C.G.A. § 13-10-91(B)(3) Compliance.**

Contractor warrants that it is in compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with Contractor on behalf of the City of Brookhaven has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, Contractor pledges that it will continue to use the federal work authorization program throughout the Contract Period and will contract for the physical performance of services comprising the Work only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, Contractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the City of Brookhaven within five business days of receipt. If Contractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five business days of receipt, a copy of such notice to the City of Brookhaven. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

**EXHIBIT A  
GENERAL CONDITIONS**

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

**25. DRUG FREE WORKPLACE.**

The contractor hereby warrants that it will comply in full of the provisions of Code Sections 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the “Drug-free Workplace Act”. The contractor further warrants that:

- (1) A drug-free workplace will be provided for the Contractor’s employees during the performance of the Contract; and
- (2) The Contractor shall secure from any of its subcontractors the following written certification:

“As part of the subcontracting agreement with (Contractor), \_(subcontractor) certifies to the Contractor that a drug-free workplace will be provided for the subcontractor’s employees during the performance of this Contract pursuant to paragraph (7) of subsection (b) of Code Section 50-24-03.”

**26. DISPUTE RESOLUTION**

26.1 If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute through direct discussions. Within thirty (30) business days, the parties' representatives who shall possess the necessary authority to resolve such matter and who shall record the date of the first discussions shall conduct direct discussions and make a good faith effort to resolve such dispute.

26.2 Disputes between the City and Contractor not resolved by direct discussion shall be submitted to mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association (AAA). The parties shall select the mediator within fifteen (15) days of the request for mediation. Engaging in mediation is a condition precedent to any litigation or other form of binding dispute resolution.

26.3 If neither direct discussions nor mediation successfully resolves the dispute, either party may pursue litigation in any court having jurisdiction of the matter in the location of the Project.

26.4 The costs of any litigation and reasonable attorneys’ fees shall be borne by the non-prevailing party.

**EXHIBIT A**  
**GENERAL CONDITIONS**

265 The venue of any binding dispute resolution procedure shall be the location of the Project unless the parties agree on a mutually convenient location.

**END OF EXHIBIT A**

## **EXHIBIT B SPECIFICATIONS AND SCOPE OF WORK**

### **Contract Duration**

365 days from Written Notice to Proceed. The contract may be renewed annually for five (5) years.

### **Project Description**

Blanket replacement of existing standard and custom traffic/highway signs, street name sign blades, and community “sign toppers,” as listed in the Bid Form over a five-year or less Contract / Task Order period. The project will enhance safety, improve visibility, and ensure compliance with current versions of the Federal Highway Administration (FHWA) Manual on Uniform Traffic Control Devices (MUTCD), Standard Highway Signs standards, and City of Brookhaven “Sign Topper” standards and other relevant regulations. The scope includes the removal of old signs and installation of new signs using GDOT/MUTCD-approved materials and hardware.

Signs in designated communities within the City will be replaced each year according to the schedule provided in Attachment 2. Note: The City may choose a timeframe of less than five years to complete the sign replacement program.

### **Scope**

In accordance with the specifications, local permits (City and/or GDOT Right-of-Way Encroachment Permits), the project schedule, and the bid schedule, each bidder shall provide unit costs for each bid item, which when extended and summed, equals the full and total cost of the following Scope of Work.

#### **1. Design and Fabrication:**

- Signs must meet the latest GDOT and MUTCD standards, including size, color, legend, background, lettering size, and retro-reflectivity.
- Sheeting shall be diamond grade retroreflective.
- Custom signs may need to be replaced and GDOT / MUTCD standards may not apply to these signs.
- Street name signs shall display the Explore Brookhaven Logo (Attachment 4).
- After issuance of the contract, the contractor shall provide a mock-up of standard street signs with the Brookhaven logo and typeface that can be used to standardize replacements going forward.
- D3 signs should include no-outlet / dead-end warnings, where applicable.
- .
- Existing white on green street name blades for private streets shall be replaced with white on blue blades to designate those streets as private.

#### **2. Removal and Installation:**

- Coordinate with relevant authorities to obtain necessary permits or approvals for sign installation.
- Removal of existing road signs:
  - Properly Dispose:
    - Signs not meeting current MUTCD or FHWA retroreflectivity standards
    - Corroded, bent, torqued, or otherwise unsuitable mounts and posts
  - City Option: Provide to the City up to 50 signs of each type that meet

## **EXHIBIT B SPECIFICATIONS AND SCOPE OF WORK**

- current retro-reflectivity standards for future replacement inventory.
  - Replace corroded or damaged posts and hardware in-kind.
  - Signposts shall be replaced if they are in poor condition, not breakaway, or located in an unsafe location.
  - Ensure all posts are plumb and offset the proper distance from the roadway including any cable mounted, mast arm mounted, wall mounted, or any other sign display/anchor hardware.
  - Install new road signs at designated locations using proper mounting hardware and techniques.
  - Verify alignment and orientation.
  - GIS Inventory. Provide the following:
    - Marking on the back side of the sign. Scannable sign identification coding (barcode / QR Symbol)
    - Sign ID
    - Installation date
    - Sign type
    - Sign size
    - Sign legend
    - GPS location
  - 1,000 additional unique sign inventory markers
  - Template to print / create additional sign inventory markers.
- 
- Ensure that all signs are securely anchored and positioned for maximum visibility to motorists.
  - Ensure signs are installed per GDOT and MUTCD standards. Signs should also be installed in accordance to the Americans with Disability Act (ADA) and AASHTO Roadside Design Guide.

All materials used in the process of completion of the work included in the Contract will be furnished only from Georgia Department of Transportation certified suppliers. There is no City furnished equipment to be installed by the Contractor.

### **Time and Liquidated Damages**

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

The Contractor shall pay the City the sum of \$250.00 per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for

## **EXHIBIT B SPECIFICATIONS AND SCOPE OF WORK**

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

### **Substantial Completion**

For the purposes of this Project, Substantial Completion shall mean that all Pay Items have been installed and completed and the only remaining work to complete the project include minor punch list activities.

### **Time is of the Essence**

*All limitations of time set forth in the Contract Documents are of the essence of this Contract.*

### **Conflicts within the Contract Documents**

The City's Project Manager will resolve any conflicting information. The goal is to determine a resolution which best promotes the health, safety, and welfare of the public, property, structures, the environment, the design intent, and/or the City's best interests. The City's Project Manager's decision shall be final.

### **Project Scope shall also include the following:**

1. Contractor to provide a written schedule **seven days** prior to commencement of work. Schedule is to be monitored on a regular basis and updated copies, if required, are to be provided to the City monthly.
2. The Contractor is responsible for calling for utility location in accordance with State Law before work requiring digging or placement of hardware in the ground is performed. It shall be the Contractor's responsibility to coordinate his work with any utility owner whom maybe in conflict with his work. No claims will be considered for extra compensation. A utility locate shall be completed for any new sign posts installed that aren't in the same hole as an old sign post.

### **GENERAL NOTES:**

1. As noted above, signs in designated communities will be replaced based on the schedule provided in Attachment 2. The attached Bid Schedule includes the total quantity of sign and supports located within the City. The contractor shall complete the Bid Schedule so that it reflects the cost associated with replacing all signs within the City for the duration of the project. However, the Schedule of Values will reflect the costs to replace signage for the specific year of the contract and according to the schedule in Attachment 2.

**EXHIBIT B**  
**SPECIFICATIONS AND SCOPE OF WORK**

2. Attachment 1 should be used to assist with costs associated with street name and custom signs. An estimated cost should be used for “Other Custom Signs” in the attached Bid Schedule. Signs located within private communities and on private streets will not be replaced; however, street name signs located at the entrance of private communities / streets will be blue.
3. At the end of each year, signs that were removed shall be assessed for reuse and may be reused for subsequent years. The remainder of the signs that are not up to standard shall be disposed of or recycled. However, the cost to replace all signs shall be included in the Bid Schedule.
4. Hardware and labor costs to replace signage shall be included in the sign costs on the attached Bid Schedule.
5. The contractor shall keep vehicles, trailers, or other equipment on the street pavement and coordinate any flagging or other traffic control activities.
6. Any areas damaged by the contractor shall be restored to the condition existing immediately prior to the contractor mobilizing to the work area within 7 days of the damage.
7. Contractor to provide a written schedule seven days prior to commencement of work. Schedule is to be monitored on a regular basis and updated copies, if required, are to be provided to the City monthly.
8. The City’s Right-of-Way Coordinator will work with the contractor to develop a city-wide Right-of-Way Encroachment Permit with generic traffic control scenarios, specific requirements, e.g. when will police reference be required will be determined.
9. A City-wide Traffic Control Plan shall be submitted to the City’s Right-of-Way Coordinator two weeks prior to commencement of work for review and approval.
10. GDOT approval will be necessary for all work on State routes.
11. The Contractor is responsible for coordinating with adjacent property owners, if applicable, regarding irrigation systems and landscaping. Damage incurred to irrigation systems or landscaping shall be the responsibility of the Contractor. No claims will be considered for extra compensation.
12. The City of Brookhaven does not warrant or guarantee the accuracy of the quantities depicted within this bid. The contractor is responsible for the verification of all quantities prior to submittal of their bid.
13. Any item which must be removed during the construction work and is not specially called for shall be removed by the Contractor. The cost shall be included in the unit cost for the bid items. No claims will be considered for extra compensation.
14. It is the intent of this contract for each unit price bid to include all labor, materials, equipment, tools, transportation, traffic control, police presence, flagging, supplies, etc., as necessary, to complete the work in accordance with the contract documents. No additional unit costs shall be allowed for clearing, grubbing and/or grading activities unless otherwise specified.
15. Contractor shall have all vehicles marked with their company name.



**EXHIBIT B**  
**SPECIFICATIONS AND SCOPE OF WORK**

16. Working hours are expected to be Monday through Friday, 7:00 A.M. to 7:00 P.M., and Saturdays from p:00 A.M. to 4:30 P.M., except where otherwise noted. Lane closures are limited to the hours of 9:00 A.M to 4:00 P.M. No work is permitted on City-observed holidays.
17. The Contractor will participate in one overall contract pre-construction meeting at a location to be determined by the City shortly after award of the contract and other meetings as required. The City may at its discretion require meetings between the Contractor, superintendent and the Engineer to be held on a regular recurring basis or additional meetings to ensure project execution.
18. Any quantities of any of the pay items in the bid schedule of the contract that exceed the plan quantities will be installed on an as needed basis, as directed by the engineer.
19. The Contractor will provide georeferenced photographs of the project areas periodically during the annual project. The final deliverable each year shall be a complete set of photographs and the geodatabase created with the installation of each sign
20. The geodatabase design shall be coordinated with the City's GIS Manager to ensure proper compatibility with the City's existing GIS sign inventory.
21. The Contract shall perform project housekeeping/clean-up daily. A 24-hour contact must be provided to the City of Brookhaven Call Center for all issues as needed regarding the project for any safety, signage, erosion control, or other emergency as needed.
22. This is a project with limited area for storage of materials. The contractor is responsible for the coordination of stockpiled materials with any affected property owner. No storage will be allowed in areas that could impact the traffic flow or in areas that could reduce or impede site visibility.
23. The Contractor's performance will be measured based on the following:
  - Compliance with the Scope of Work;
  - Meeting the agreed upon schedule dates; and
  - Submission of all deliverables as specified.

**SAFETY**

1. Safety & Protection: Initiate, maintain, and supervise safety precautions and programs in connection with the Work. Take necessary precautions for the safety of, and provide the necessary protection to prevent damage, injury, or loss to employees on the job and other persons or organizations.
2. Control traffic during operations on existing streets. Erect and maintain barricades, fences, and other physical blockages sufficient to exclude the public from construction areas.
3. Ensure compliance with relevant laws, codes, and standards governing road sign installation, including ADA requirements and MUTCD guidelines.

**PROTECTION LANDS OF ADJACENT**

1. Limit work to areas immediately adjacent to each sign / post / mount and/or as designated by the Owner. Protect areas beyond the construction that are subject to the effect or byproduct of the construction effort.

**EXHIBIT B**  
**SPECIFICATIONS AND SCOPE OF WORK**

2. Make a special effort to prevent soil erosion and sediment transport onto adjacent lands. Restore disturbance to areas outside the designated construction limits to a satisfactory condition, as determined by the Owner or governing authority, at no cost to the Owner.
3. Take precautionary measures to prevent damage to the adjoining public street system. Clean mud or debris deposited because of this construction.
4. Perform construction on the right-of-way or other properties not in the possession of the Owner in strict accordance with the terms of the permits or easements. Obtain copies of permit and easement conditions affecting the work.

**Cost Escalators and Total Contract Cost**

1. Initially, the project is envisioned to be completed over five years. Each year an annual Task Order will be written to cover one of the areas depicted on Exhibit 2. Therefore, except for Year 1, an annual cost escalator may be provided for each subsequent year.
2. Total Contract Cost will be calculated based on performing 1/5 of each line item bid quantity each year. No escalator will be used in Year 1. The Bid Form will allow a separate cost escalator for each subsequent year. In Year 2, the Year 2 escalator will be applied to the Year 1 cost to determine the Year 2 Contract Price. In Year 3, the Year 3 escalator will be applied to the Year 1 total cost to determine the Year 3 Contract Price. This will be repeated for Years 4 and 5. The sum of all five year's costs will be the Total Contract Cost.
3. ***The Total Contract Cost will be the value used to determine the apparent low bidder.***
4. In practice, the City may accelerate the project into a shorter period.
5. To determine Actual Contract Costs, the annual cost escalators will be applied to the work performed each subsequent year after the anniversary date of the Notice to Proceed.
6. All Contract Costs will be determined by the sum of the actual number of unit bid items installed times the unit bid price, or the annual escalated unit bid price after Year 1.

***END OF EXHIBIT B***

**EXHIBIT C  
MAINTENANCE BOND**

PROJECT NO: \_\_\_\_\_ BOND NO: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS that we, as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto the CITY OF BROOKHAVEN, GEORGIA, as Obligee in the sum of one-third of the contract bid for the payment of which said Principal and Surety bind themselves, their heirs, administrators, executors, successors, and assigns jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into an agreement with the City of Brookhaven for the Recreation and Parks Restroom Project. Said work has now been completed and the Obligee desires a maintenance bond guarantee of said streets and improvements for a period of one year beginning and ending.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall fully indemnify and save harmless the City of Brookhaven from any loss, costs, expenses, or damages, for any repairs or replacements required because of defective workmanship or materials in said construction, then this obligation shall be null and void; otherwise to be and remain in full force and effect as to any such claim arising within one year from the completion of said construction as outlined in said agreement.

**Signed, sealed, and dated this \_\_ day of, 2024**

Witness:

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(Name of Surety Company)

\_\_\_\_\_  
(Attorney-in-fact)

***END OF EXHIBIT C***

**EXHIBIT D  
SPECIFICATIONS AND PLANS**

**REFER TO THE ATTACHMENTS ON THE BONFIRE WEBSITE**