

BID COVER PAGE



Procurement Division
200 E University Avenue, Rm 339
Gainesville, FL 32601
 (352) 334-5021(main)
 Issue Date: 9/3/21

INVITATION TO BID: #PWDA-220015-MS
SW 62nd Blvd Resurfacing

PRE-BID MEETING: Non-Mandatory Mandatory N/A Includes Site Visit

DATE: September 17, 2021 **TIME:** 10:00 am

LOCATION: Roberta Leslie Kline Conference Room 16, City Hall, 200 East University Avenue, Gainesville, FL 32601

QUESTION SUBMITTAL DUE DATE: September 27, 2021 at 3:00 pm

DUE DATE FOR UPLOADING BID RESPONSE: October 4, 2021 at 3:00PM

SUMMARY OF SCOPE OF WORK: Milling & resurfacing of roadway, construction of sidewalks, ADA ramps, bus stops, and mid-block crosswalks along SW 62nd Blvd between SW 20th Ave and Newberry Road.

For questions relating to this bid, contact: **Diane Holder or Melanie Sowers**
holderds@cityofgainesville.org, sowersma@cityofgainesville.org

Bidder is not in arrears to City upon any debt, fee, tax or contract: Bidder is NOT in arrears Bidder IS in arrears
 Bidder is not a defaulter, as surety or otherwise, upon any obligation to City: Bidder is NOT in default Bidder IS in default

Bidders who receive this bid from sources other than City of Gainesville Procurement Division or DemandStar MUST contact the Procurement Division prior to the due date to ensure any addenda are received in order to submit a responsible and responsive offer. Uploading an incomplete document may deem the offer non-responsive, causing rejection.

ADDENDA ACKNOWLEDGMENT: Prior to submitting my offer, I have verified that all addenda issued to date are considered as part of my offer: Addenda received (list all) # _____

Legal Name of Bidder: _____

DBA: _____

Authorized Representative Name/Title: _____

E-mail Address: _____ FEIN: _____

Street Address: _____

Mailing Address (if different): _____

Telephone: (_____) _____ Fax: (_____) _____

By signing this form, I acknowledge I have read and understand, and my business complies with all General Conditions and requirements set forth herein; and,

- Bid is in full compliance with the Specifications.
 Bid is in full compliance with specifications except as specifically stated and attached hereto.

SIGNATURE OF AUTHORIZED REPRESENTATIVE: _____

SIGNER'S PRINTED NAME: _____ **DATE:** _____

PART 1 – INVITATION TO BID INFORMATION

Thank you for your interest in working with the City of Gainesville.

Pertinent information and required documents regarding this bid as part of a responsive offer are listed below:

| | |
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1.1 DISTRIBUTION OF INFORMATION

The City posts and distributes information pertaining to its procurement solicitations on DemandStar (www.demandstar.com). **The City has transitioned from accepting hard (paper) copy submittals to accepting submittals through “E-Bidding” on DemandStar.com. In order to submit a bid response to this solicitation the bidder must be registered with DemandStar.**

It is the responsibility of the bidder to monitor DemandStar. Properly registered bidders can expect to receive automatic notification of solicitations for bids and proposals, by participating purchasing entities. Bidder failure to retrieve available, required procurement information from DemandStar and include the appropriate documentation and information in solicitation responses may result in disqualification.

1.2 PRE-BID MEETING/QUESTIONS/CLARIFICATIONS

If scheduled (refer to Bid Cover Page), attending a pre-proposal meeting is strongly recommended as the project’s scope of work, procedures, and specifications will be discussed at this time. It is the only time during the bid process that bidders may ask questions directly of the end user.

NOTE: For a bidder’s attendance of a mandatory pre-proposal meeting to count, the bidder must sign-in before the Procurement Specialist calls the end of that meeting. If the bidder is not signed in by that time, they will be disqualified from bidding on the project. If the mandatory pre-proposal meeting also includes a required site visit, then bidder must sign in, both at the pre-proposal meeting, and again at the end of the site visit, in order to have their attendance count and not be disqualified from submitting a proposal.

NOTE: Failure to attend a mandatory pre-proposal meeting will result in disqualification of your proposal.

If special accommodations are needed in order to attend a pre-bid meeting or a bid opening, please contact the Procurement Division at least 72 hours in advance.

All questions that occur outside of the pre-proposal meeting must be submitted to Procurement only, and must be received by the date indicated on the Bid Cover Page to be considered. Technical and/or specification questions will not be answered over the phone; they must be submitted by email directed to the Procurement Specialist conducting the solicitation (refer to Bid Cover Page). All questions will be answered via Addendum which will be posted on DemandStar.com for vendor access. All addenda must be acknowledged by the bidder on the Bid Cover Page.

*****IMPORTANT NOTICE REGARDING PRE-BID MEETING*****

The scheduled meeting will occur in Roberta Leslie Kline, Room 16, City Hall, 200 East University Avenue, Gainesville, FL. This is a Mandatory pre-bid and attendance is required. However, due to the COVID-19 we will socially distance ourselves during this pre-bid meeting.

- Mask must be worn at all times and temperature will be checked upon entrance into the building.

AND

*****IMPORTANT NOTICE REGARDING BID OPENING*****

The scheduled bid opening will occur via Zoom; the information to join is provided below. Attendance (live viewing) of the bid opening is not required. However, to join the bid opening you must register.

You are invited to a Zoom meeting.

When: Oct 4, 2021 03:00 PM Eastern Time (US and Canada)

Register in advance for this meeting:

<https://us06web.zoom.us/join/zoom/register/tZArD-2vrTIsGN3mJWuaLxvJctgGYM0dsIWK>

After registering, you will receive a confirmation email containing information about joining the meeting.

1.3 PROHIBITION OF LOBBYING

To ensure fair consideration, consistent and accurate dissemination of information for all bidders, the City prohibits communication to or with any department, employee, or agent evaluating or considering proposals during the submission process, except as authorized by the Procurement Division representative. **Additionally, the City prohibits communication initiated by a bidder to any city official or employee evaluating or considering the proposals (up to and including the City Commissioners) before the time an award decision has been made.** Any communication between bidder and the City required to obtain information or clarification for preparing a bid or to enable a proper, accurate evaluation of a proposal will be handled solely through the Procurement Division staff. **Any communications initiated between the bidder and the City outside these parameters may be grounds for disqualifying the offending bidder from consideration for award of the bid and/or any future bid.**

1.4 CONE OF SILENCE

During the Cone of Silence (formerly called Blackout period) as defined in the next paragraph, except as pursuant to an authorized appeal, no person may lobby (as defined in section 1.3) on behalf of a competing party in a particular procurement process, City officials or employees except the Procurement designated staff contact in the Procurement Division. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

The Cone of Silence is the period between the issue date of the ITB, which allows for immediate submittals to the City of Gainesville Procurement Division for an Invitation for Bid and the time the City Officials and Employee awards the contract.

1.5 MINIMUM QUALIFICATIONS

The response to the minimum qualification requirements should address each of the qualifications set out in the section this section. Bidders must provide documentation which demonstrates their ability to satisfy all of the minimum qualification requirements. Bidders who do not meet the minimum qualification requirements or who fail to provide supporting documentation will not be further considered. If a prescribed format, or required documentation for the response to minimum qualification requirements is stated below, bidders must use said format and supply said documentation.

Bids will only be considered from firms normally engaged in providing and performing services specified herein. Bidders shall be required to show that they have had experience in construction work of the same or similar nature and that their organization has been in formal existence and engaged in a similar type work for not less than 5 years. If bidder organization does not meet the 5 year requirement, bidder is required to show to project team (project manager and superintendent or owner) experience not less than 5 years for each individual. (Complete and submit with your bid the attached Project Manager and Superintendent or Owner's Experience form).

Bidders must be FDOT pre-qualified.

1.6 DETERMINATION OF RESPONSIBILITY OF BIDDERS

The specific qualifications of bidders for this specific Invitation to Bid are included above. Bidder must also demonstrate that it is responsible as defined in the City of Gainesville's [Financial Services Procedures Manual](#), Section 41-522, as may be amended.

As a part of the bid evaluation process, City reserves the right to conduct a background investigation of bidder, including a record check by the Gainesville Police Department if the qualifications require it. Bidder's submission of a response constitutes acknowledgment of the process and consent to such investigation.

No contract will be awarded to any bidder who is in arrears to City upon any debt, fee, tax or contract, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is otherwise determined to be not responsible by City pursuant to Section 41-522, [Financial Services Procedures Manual](#), following:

These criteria consider the bidder's capability to perform:

- a) The ability of the bidder to successfully carry out a proposed contract.
- b) Past performance (including reference check), experience, business and financial capabilities, skills, technical organization, legal eligibility and reliability.
- c) Current litigation pending between the bidder and the City.
- d) Bidder has paid all debts owed to the City.
- e) Bidder possesses all required licenses.

If it is determined that the bidder is not responsible, City will notify bidder of its finding, including evidence used, and allow bidder the opportunity to come into compliance within three (3) business days of notification.

Successful Bidder must either update or complete City's vendor application, pay business tax (if applicable), and register with the State of Florida. Please be advised that the City Attorney's office will not approve a contract with any vendor unless the corporation or partnership is registered with the Division of Corporations with the State of Florida (www.sunbiz.org).

1.7 RESPONSIVENESS OF BID

Each bid response will be reviewed to determine if the bid response is responsive to the submission requirements outlined in the ITB. A responsive bid is one which follows the requirements of the ITB, includes all required documentation, is submitted in the format outlined in the ITB, is of timely submission (via upload to DemandStar.com), and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem the proposal non-responsive (see Section 41-444 of the [Financial Services Procedures Manual](#)).

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PART 2 – SCOPE OF WORK/SPECIFICATIONS

2.1 GENERAL DESCRIPTION

It is the intent of the City of Gainesville to obtain bid responses for the milling & resurfacing of roadway, construction of sidewalks, ADA ramps, bus stops, and mid- block crosswalks along SW 62nd Blvd between SW 20th Ave and Newberry Road.

2.2 SCOPE OF WORK/SPECIFICATIONS

The detailed scope of work is outlined in the documents provided in Demandstar under this solicitation including but not limited to the construction plans & drawings, utility work schedules, permits and bid addendums. The scope of work is further outlined in the Agreement provided in Part 7, which details the terms & conditions and specifications for the work. The awarded bidder shall execute an Agreement that meets the term, conditions and specifications provided in the Agreement. All work shall be done in accordance with this solicitation and in accordance with the aforementioned Agreement.

2.3 ELIGIBILITY OF EQUIPMENT OR MATERIALS

When a particular manufacturer's name and catalog number "or equivalent" is specified, consideration will be given to other manufacturers. The term "or equivalent" shall be defined to mean of similar design and performance characteristics. If a product is being bid as an equivalent, complete technical data necessary to properly evaluate such product shall be submitted with the bid.

The City reserves the right to request additional data after the bid is opened and prior to the award. Failure to supply data necessary to properly evaluate a product will constitute sufficient reason for rejection of the bid.

All information specifically requested by this Solicitation shall be furnished attached to the bid. Failure to do so may invalidate the bid.

2.4 EXAMINATION OF SITE

Before submitting the bid proposal, it shall be the bidder's responsibility to visit the site of the proposed scope of work and familiarize the bidder with the nature and extent of the work and any local conditions, either surface or subsurface, that may in any way affect the work to be done and the equipment, materials and labor required. The bidder shall also thoroughly examine all documents related to this solicitation to inform the bidder regarding any and all conditions and requirements that may in any manner affect the work to be performed under the award of this solicitation. Failure to do so will not relieve the awarded bidder of complete performance the scope of work.

2.5 QUALITY

All materials shall be new. In no case will used, reconditioned or obsolete parts be acceptable. All equipment specifications are to be considered minimum requirements.

2.6 PERMITS, APPLICATION, LICENSE FEES & COMPLIANCE

The awarded vendor shall obtain and pay for all necessary permits, permit application fees license or any fees required to complete the scope of work in accordance with this solicitation. Each bidder shall comply with all laws, ordinances, regulations and building code requirements applicable to the work contemplated in this solicitation. The bidder is presumed to be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the work. Ignorance on the part of the bidder will in no way relieve it of responsibility

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PART 3 – HOW TO SUBMIT A BID

3.1 HOW TO SUBMIT A BID

The bid response, containing all required documents, with authorized signatures, must be received by 3:00 p.m. on the due date indicated on the Bid Cover Page for this project. The bidder's complete pdf response being uploaded into DemandStar.com prior to the 3:00 p.m. deadline. This platform will not accept late submittals.

Upload the bid response as a pdf formatted document only, unless the solicitation states otherwise. The pdf document should be titled with bidder's name, bid number, and, if the response is submitted in parts, include "Part # of x".

Modifications to or withdrawal of a bidder's submittal can be made up to the deadline date. Modifications and withdrawals must be documented in DemandStar.com in order to be recognized by the City. Any bid not withdrawn will constitute an irrevocable offer, for a period of one hundred twenty (120) days, to provide the City adequate time to award the Contract for the services specified in this solicitation.

3.2 HOW TO ASSEMBLE YOUR BID

The following documents and forms must accompany any offer submitted, and will be the basis for review and award. A submittal without these documents may be deemed non-responsive. The City reserves the right to request all other missing forms and additional information from any bidder prior to award. *Please do not include items that are not specifically requested.*

- Completed Bid Cover Page
- Bid Form - (Leave no blanks; indicate N/A or No Bid where applicable)
- Drug-Free Workplace Form
- Bidder Verification Form
- Certification of Compliance with Living Wage
- Customer History
- Bidder's W-9
- Proof of Bidder's Insurability (refer to Part 7, Paragraph 8, Exhibit 6)
- Copy of any applicable, current licenses and/or certification required by City/County/State
- Documentation of Compliance with Minimum Qualifications
- Exceptions to the ITB (refer to Part 6, 6.2 Deviations)
- Proposed Subcontractor's Form
- Responsible Agent Form
- Project Manager and Superintendent or Owner's Experience form (if required as specified in Section 1.5)

The bid response must be signed by an officer of the business who is legally authorized to enter into a contractual relationship in the name of the bidder. An authorized representative who is not an officer may sign the response, but must attach a corporate resolution granting authorization to the representative to execute on behalf of the business.

The submittal of a response by a bidder will be considered by the City as constituting an offer by the bidder to perform the required services at the stated fees.

3.3 DISCLOSURE AND CONFIDENTIALITY

Florida's Public Records Law, Chapter 119, Florida Statutes, includes numerous exemptions to the general requirement to disclose information to the public in response to a public record's request. Exemptions are found in various provisions of the Florida Statutes, including but not limited to Section 119.071, Florida Statutes (General exemptions from inspection or copying of public records), and Section 119.0713, Florida Statutes (Local government agency exemptions from inspection or copying of public records). Section 815.045, Florida Statutes (Trade secret information), provides that trade secret information as defined in Section 812.081, Florida Statutes (Trade secrets; theft, embezzlement; unlawful copying; definitions; penalty) is confidential and exempt from disclosure because it is a felony to disclose such records. The Parties understand and agree that Florida's Public Records Law is very broad and that documents claimed by a Party to be confidential and exempt from public disclosure pursuant to the Public Records Law may in fact not be deemed such by a court of law. Accordingly, the following provisions shall apply:

- (i) Identifying Trade Secret or Otherwise Confidential and Exempt Information. For any records or portions thereof that bidder claims to be Trade Secret or otherwise confidential and exempt from public disclosure under the Public Records Law, bidder shall:
- a. Specifically identify the records or specific portions thereof that are confidential and exempt and reference the particular Florida Statute that grants such status. Provide one redacted copy of the record and one copy of the record with the confidential and exempt information highlighted as outlined in 1 and 2 on the following page. Bidder shall take care to redact only the confidential and exempt information within a record.
 - b. Provide an affidavit or similar type of evidence that describes and supports the basis for Contractor's claim that the information is confidential and exempt from public disclosure.
- (ii) Request for Trade Secret or Otherwise Confidential and Exempt Information.
- a. In the event City receives a public records request for a record with information labeled by bidder as Trade Secret or otherwise as confidential and exempt, City will provide the public record requester with the redacted copy of the record and will notify bidder of the public records request.
 - b. However and notwithstanding the above, in the event that City in its sole discretion finds no basis for bidder's claim that certain information is Trade Secret or otherwise confidential and exempt under Florida's Public Records Law, then City shall notify bidder in writing of such conclusion and provide bidder a reasonable amount of time to file for declaratory action requesting a court of law to deem the requested information as Trade Secret or otherwise as confidential and exempt under Florida's Public Records Law. If bidder fails to file for declaratory action within the reasonable amount of time provided, then City will disclose the information requested.
 - c. If a public records lawsuit is filed against CITY requesting public disclosure of the information labeled by bidder as Trade Secret or otherwise as confidential and exempt, CITY shall notify bidder and bidder shall intervene in the lawsuit to defend the nondisclosure of such information under Florida's Public Records Law.
 - d. Bidder hereby indemnifies and holds CITY, its officers and employees harmless from any and all liabilities, damages, losses, and costs of any kind and nature, including but not limited to attorney's fees, that arise from or are in any way connected with bidder's claim that any information it provided to CITY is Trade Secret or otherwise confidential and exempt from public disclosure under Florida's Public Records Law.

How to Designate Trade Secret or Otherwise Confidential and Exempt Information

If a bidder believes that its response contains trade secret or otherwise confidential and exempt information (as defined by Florida or Federal law) and should be withheld from disclosure to the public, in such cases the bidder must provide a redacted copy of the proposal for public access.

- Redacted means that the confidential/proprietary information in the proposal has been obscured so that it cannot be read.
 - Unredacted means that the entire document, including the confidential/proprietary information, has not be obscured and is visible for the evaluation team to use in their evaluation process.
1. Upload a pdf version response of the complete UNREDACTED proposal. Include "UNREDACTED, CONFIDENTIAL" in document title. This is the version that will be used by the evaluators when they are reviewing your proposal. It is essential that the items that will be redacted are highlighted in yellow to prevent the evaluation team from discussing these items after the award. The first page of the document for the **unredacted** document should provide a general description of the information bidder has designated as confidential and/or exempt, and provide a reference to the appropriate Florida or Federal statute supporting the confidential and/or exempt classification.
 2. Upload a pdf version response of the REDACTED copy of the proposal. Include "REDACTED" in the document title. This copy will be used to support any public records requests that may arise from this solicitation.

How the City will Handle Material Identified as Trade Secret or Otherwise Confidential and Exempt Information

The City's evaluators will be provided with the complete proposal, including any trade secret or otherwise confidential and exempt information. The City evaluators will maintain the confidentiality of the information through the evaluation process, including any recorded evaluation team meetings.

In the event a public record request is made to view the information which bidder claims is confidential and/or exempt, the City will notify the bidder and give the bidder a reasonable opportunity (generally 2 business days) to institute appropriate legal action to prevent the disclosure of the information claimed as confidential and/or exempt.

All public records submitted to the City, including those claimed as confidential and/or exempt, will be retained by the City and will not be returned to a bidder at the conclusion of the bidding process.

3.4 ONLY ONE BID

Only one bid from any individual, firm, corporation, organization or agency under the same or different name shall be considered. Should it appear to the City that any Bidder has a financial interest in more than one submission under this bid, all bids in which such Bidder has a financial interest will be rejected. The City considers a financial interest to include, but not be limited, to joint ventures, partnerships, and identified subcontractors.

3.5 FULLY INFORMED BIDDER

A Bidder is expected to fully inform itself as to the requirements of the Specifications and Contract terms and conditions; failure to do so will be at its own risk. A Bidder shall not expect to secure relief on the plea of error.

3.6 SUBCONTRACTORS

Bidder shall notify the City of the proposed use of subcontractors in the provision of services required herein by completing and returning the Proposed Subcontractors Form, provided in Part 8. No subcontractor shall be employed by the Contractor for the provision of these services without the written approval of the City. Bidders shall provide the estimated percentage of total dollar amount(s) as well as the total dollar amount(s) of the subcontracts.

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PART 4 – BID FORM

Bid # PWDA-220015-MS SW 62nd Blvd Resurfacing

Date: _____

The bidder hereby declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where the work is to be done, and that he has examined the plans, specifications, agreement and all documents related to the above referenced solicitation for the work and comments hereto attached. The Bidder further declares that the only persons, company or parties interested in this Bid or the Agreement to be entered into, as principals, are named herein; that this Bid is made without connection with any other person, company or parties making a Bid; and it is in all respects fair and in good faith and without collusion or fraud.

The Bidder proposes and agrees, if this Bid is accepted, to contract with City of Gainesville, Florida, through the City Commission, , in the form of Agreement specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, labor and service necessary to complete the work covered by the Bid Solicitation for: <Insert Bid Number>SW 62nd Blvd Resurfacing to furnish the prescribed Performance and Payment Bond for not less than one hundred percent (100%) of the bid price; and to furnish the required evidence of the specified insurance.

The undersigned agrees to commence work as set forth in the Notice to Proceed and to reach substantial completion within 80 Working Days from the date on which work commences with final completion within 30 calendar days thereafter.. If the Contractor fails to complete the work within the specified time, the Contractor agrees to pay the City liquated damaged in the amounts specified in the Agreement.

Attached is a list of similar projects and a list of Subcontractors as covered in the Instructions to Bidders.

The Bidder agrees to accept in full compensation for each item the prices named in the schedule incorporated herein and attached as “Bid Schedule”. The Bidder understands that the quantities shown on the “Bid Schedule” are approximate only and subject to increase or decrease. Should they be increased or decreased, work will be performed at the unit price bid herein. Actual quantities will be determined upon completion of the work.

This page must be completed and uploaded with your Submittal.

4.1 BID FORM/PAY ITEM LIST

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|--|--------------|------|------------|------------------------|
| 1 | MOBILIZATION | 1 | LS | | |
| 2 | MAINTENANCE OF TRAFFIC | 1 | LS | | |
| 3 | PREVENTION, CONTROL & ABATEMENT OF EROSION & WATER POLLUTION | 1 | LS | | |
| 4 | CLEARING & GRUBBING | 1 | LS | | |
| 5 | MOWING | 50 | AC | | |
| 6 | GRADING | 1 | LS | | |
| 7 | BORROW | 500 | CY | | |
| 8 | SUBSOIL EXCAVATION | 100 | CY | | |
| 9 | TYPE B STABILIZATION | 6900 | SY | | |
| 10 | 4" LIMEROCK BASE, LBR 100 | 6300 | SY | | |
| 11 | MILLING EXISTING ASPHALT PAVEMENT, 3" AVG DEPTH | 31,000 | SY | | |
| 12 | MILLING EXISTING ASPHALT PAVEMENT, 1 1/2" AVG DEPTH | 2600 | SY | | |
| 13 | SUPERPAVE ASPHALTIC CONC, TRAFFIC C, PG 76-22 | 3100 | TN | | |
| 14 | ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22 | 3300 | TN | | |

This page must be completed and uploaded with your Submittal.

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|---|--------------|------|------------|------------------------|
| 15 | CONCRETE CLASS NS, GRAVITY WALL | 13 | CY | | |
| 16 | INLETS, CLOSED FLUME | 1 | EA | | |
| 17 | MANHOLE, ADJUST, UTILITIES | 5 | EA | | |
| 18 | VALVE BOXES, ADJUST | 1 | EA | | |
| 19 | PEDESTRIAN/BICYCLE RAILING | 35 | LF | | |
| 20 | CONCRETE CURB & GUTTER, TYPE F | 450 | LF | | |
| 21 | CONCRETE CURB, TYPE D | 100 | LF | | |
| 22 | CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK | 200 | SY | | |
| 23 | CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK | 375 | SY | | |
| 24 | CONCRETE DITCH PAVEMENT, NON REINFORCED, 4" | 4 | SY | | |
| 25 | DETECTABLE WARNINGS (City Standard Brick) | 600 | SF | | |
| 26 | PERFORMANCE TURF, SOD | 5425 | SY | | |
| 27 | SIGNAL CABLE - NEW OR RECONSTRUCTED INTERSECTION, F&I | 119 | LF | | |
| 28 | SIGNAL CABLE, REMOVE - OUTSIDE OF INTERSECTION | 119 | LF | | |
| 29 | SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF | 3 | AS | | |
| 30 | SIGN BEACON, F&I OVERHEAD MOUNT, ONE BEACON | 2 | AS | | |

This page must be completed and uploaded with your Submittal.

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|---|--------------|------|------------|------------------------|
| 31 | SINGLE POST SIGN, RELOCATE | 7 | AS | | |
| 32 | SINGLE POST SIGN, REMOVE | 1 | AS | | |
| 33 | SIGN PANEL, FURNISH & INSTALL OVERHEAD MOUNT, 12-20 SF | 2 | EA | | |
| 34 | SIGN PANEL, FURNISH & INSTALL OVERHEAD MOUNT, 31-50 SF | 2 | EA | | |
| 35 | SIGN PANEL, REMOVE, 31-50 SF | 2 | EA | | |
| 36 | OBJECT MARKER, TYPE 2 | 2 | EA | | |
| 37 | DELINEATOR, FLEX HIGH PERFORMANCE 48" | 1 | EA | | |
| 38 | THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK AND ROUNDABOUT | 1400 | LF | | |
| 39 | THERMOPLASTIC, STANDARD, WHITE, SOLID, 18" FOR DIAGONALS AND CHEVRONS | 130 | LF | | |
| 40 | THERMOPLASTIC, STANDARD, WHITE, SOLID, 24" FOR STOP LINE AND CROSSWALK | 50 | LF | | |
| 41 | THERMOPLASTIC, STANDARD, WHITE, 2-4 DOTTED GUIDELINE/6-10 GAP EXTENSION, 6" | 0.1 | GM | | |
| 42 | THERMOPLASTIC, STANDARD, WHITE, MESSAGE OR SYMBOL | 9 | EA | | |
| 43 | THERMOPLASTIC, STANDARD, WHITE, ARROW | 31 | EA | | |
| 44 | THERMOPLASTIC, STANDARD, YELLOW, | 1425 | LF | | |

This page must be completed and uploaded with your Submittal.

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|------------------------------------|--|--------------|------|------------|------------------------|
| | SOLID, 18" FOR DIAGONAL OR CHEVRON | | | | |
| 45 | THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK | 475 | LF | | |
| 46 | THERMOPLASTIC, STANDARD-OTHER | 3.0 | GM | | |
| 47 | THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 8" | 0.3 | GM | | |
| 48 | THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SKIP, 6", 10-30 SKIP OR 3-9 LANE DROP | 0.5 | GM | | |
| 49 | THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SKIP, 6", 10-30 SKIP OR 3-9 LANE DROP | 0.1 | GM | | |
| 50 | THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6" | 3.5 | GM | | |
| 51 | THERMOPLASTIC, REMOVE EXISTING THERMOPLASTIC PAVEMENT MARKINGS, WATERBLAST ONLY | 100 | SF | | |
| TOTAL BID AMOUNT (BASE BID) | | | | | |

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|------------------------|--------------|------|------------|------------------------|
| 52 | MOBILIZATION | 1 | LS | | |
| 53 | MAINTENANCE OF TRAFFIC | 1 | LS | | |

This page must be completed and uploaded with your Submittal.

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|---------------------------------------|--|--------------|------|------------|------------------------|
| 54 | PREVENTION, CONTROL & ABATEMENT OF EROSION & WATER POLLUTION | 1 | LS | | |
| 55 | CLEARING & GRUBBING | 1 | LS | | |
| 56 | GRADING | 1 | LS | | |
| 57 | CONCRETE CLASS NS, GRAVITY WALL | 7.0 | CY | | |
| 58 | PEDESTRIAN/BICYCLE RAILING | 59 | LF | | |
| 59 | CONCRETE CURB & GUTTER, TYPE F | 98 | LF | | |
| 60 | CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK | 5 | SY | | |
| 61 | CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK | 95 | SY | | |
| 62 | DETECTABLE WARNINGS | 107 | SF | | |
| 63 | PERFORMANCE TURF, SOD | 120 | SY | | |
| 64 | SINGLE POST SIGN, RELOCATE | 4 | AS | | |
| TOTAL BID AMOUNT (ALTERNATE 1) | | | | | |

| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|------------------------|--------------|------|------------|------------------------|
| 65 | MOBILIZATION | 1 | LS | | |
| 66 | MAINTENANCE OF TRAFFIC | 1 | LS | | |
| 67 | EROSION CONTROL | 1 | LS | | |

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| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|----------|---|--------------|------|------------|------------------------|
| 68 | CLEARING & GRUBBING | 1 | LS | | |
| 69 | GRADING | 1 | LS | | |
| 70 | CONCRETE CLASS NS, GRAVITY WALL | 65 | CY | | |
| 71 | INLETS, CLOSED FLUME | 2 | EA | | |
| 72 | PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 15" SD | 17 | LF | | |
| 73 | MITERED END SECTION, OPTIONAL ROUND, 15" SD | 1 | EA | | |
| 74 | PEDESTRIAN/BICYCLE RAILING | 329 | LF | | |
| 75 | CONCRETE CURB & GUTTER, TYPE F | 15 | LF | | |
| 76 | CONCRETE SIDEWALK AND DRIVEWAYS, 4" THICK | 197 | SY | | |
| 77 | CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK | 113 | SY | | |
| 78 | DETECTABLE WARNINGS | 123 | SF | | |
| 79 | PERFORMANCE TURF, SOD | 153 | SY | | |
| 80 | RECTANGULAR RAPID FLASHING BEACON, F & IL - SOLAR POWERED, COMPLETE SIGN ASSEMBLY | 6 | AS | | |
| 81 | SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF | 6 | AS | | |
| 82 | SINGLE POST SIGN, RELOCATE | 1 | AS | | |
| 83 | THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK | 270 | LF | | |

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| ITEM NO. | DESCRIPTION | EST QUANTITY | UNIT | UNIT PRICE | AMOUNT BID (EXT TOTAL) |
|---------------------------------------|---|--------------|------|------------|------------------------|
| 84 | THERMOPLASTIC, PREFORMED, WHITE, SOLID, 24" FOR CROSSWALK | 210 | LF | | |
| 85 | THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6" | 40 | LF | | |
| TOTAL BID AMOUNT (ALTERNATE 2) | | | | | |

| | |
|--|--|
| TOTAL BID AMOUNT (BASE BID + ALTERNATE 1 + ALTERNATE 2) | |
|--|--|

List of Unit Abbreviations:

| | | |
|-----------------|---------------------|------------------------------|
| SY Square Yards | GL Gallons | SD Side Drain |
| LS Lump Sum | MG Thousand Gallons | ED Each Day |
| CY Cubic Yards | GM Gross Miles | CD Cross Drain |
| EA Each | LF Linear Feet | AC Acre |
| TN Tons | NM Net Miles | RCP Reinforced Concrete Pipe |
| HR Hour | AS Assembly | PI Per Intersection |

Note: THE CITY RESERVES THE RIGHT TO ADD OR DELETE LOCATIONS, SERVICES, ITEMS, OR MATERIALS FROM THIS CONTRACT SHOULD IT BE IN THE BEST INTEREST OF THE CITY. THE CONTRACT PRICE MAY BE ADJUSTED UPON AGREEMENT OF THE CONTRACTOR AND THE CITY'S REPRESENTATIVE AND BASED UPON BID PRICES.

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PART 5 – AWARD

5.1 AWARD OF CONTRACT

The awards of a contract and/or purchase shall be to the lowest responsive, responsible bidder. *The City reserves the right to award based on the Base Bid or a combination of Base Bid and Alternates, at the City's discretion.*

A responsive bidder is one that provides all requested information, certifications, product information and pricing. A responsible bidder is one that has demonstrated through the past performance and the requested documentation that they have the resources and financial capability to provide the products/services identified by the City via this Invitation to Bid.

The City may reject a bid based upon past performance of a bidder. In determining the lowest responsive, responsible bidder the City will consider, but not be limited to, the items listed below:

- Price,
- The ability of the bidder to successfully carry out a proposed contract,
- Past performance (including reference checks), experience, business and financial capabilities, skills, technical organization, legal eligibility and reliability,
- Current litigation pending between bidder and City,
- All debts owed to City have been paid,
- Bidder has all required licenses,
- Bidder is authorized to do business in Florida (registered in SunBiz),
- The number and scope of conditions and/or exceptions attached to the bid,
- Proposed subcontractors
- Project Manager and Superintendent or Owner's Experience (if required as specified in Section 1.5)

The City reserves the right to make such investigations as it may deem necessary to establish the competency and financial ability of any Bidder to perform the work. If, after the investigation, the evidence of competency and financial ability is not satisfactory, the City reserves the right to reject the bid.

In the event the successful Bidder fails to execute the Contract, the City may then accept the bid of the next lowest responsive, responsible bidder or re-advertise the bid. If the bid of the next best Bidder is accepted, this acceptance shall bind such Bidder as though he were the original successful Bidder. City reserves the right to pursue such remedies as provided by law for Bidder's failure to execute the Contract.

The City of Gainesville reserves the right to accept or reject any or all bids, reserves the right to waive any or all irregularities, and to award the contract to the lowest, responsive and responsible Bidder whose bid is determined by the City to be in its best interest.

Successful Bidder must either update or complete City's vendor application, pay business tax (if applicable), and register with the State of Florida. Please be advised that the City Attorney's office will not approve a contract with any vendor unless the corporation or partnership is registered with the Division of Corporations with the State of Florida (www.sunbiz.org).

5.2 TIE BIDS

Whenever two or more bids which are equal with respect to price, quality and service are received, preference shall be given in the following order: (1) Bidders submitting the attached Drug-Free Workplace form with their bid/proposal certifying they have a drug free workplace in accordance with Section 287.087, Florida Statutes; (2) Bidders located within the City of Gainesville, if not subject to the Local Preference Ordinance; (3) Bidders located within Alachua County; (4) Bidders located within the State of Florida; and (5) coin toss.

5.3 DRUG-FREE WORKPLACE

Preference shall be given to submitters providing a certification with their qualifications certifying they have a drug-free workplace whenever two or more bids which are equal with respect to price, quality, and service are received in accordance with Section 287.087, Florida Statutes. The attached form should be filled out and returned with the qualifications in order to qualify for this preference.

5.4 CONTRACT

The Contract to be entered into with the successful bidder will designate the successful bidder as the City's Contractor. The successful bidder will be required to execute an agreement with the City in substantially the same format as found in Part 7.

5.5 BID PROTEST

Participants in this solicitation may protest Invitation to Bid specifications or award in accordance with Section 41-580 of the [Financial Services Procedures Manual](#).

5.6 ITB POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; re-advertise this ITB; postpone or cancel, at any time, this ITB process; or waive any irregularities in this ITB or in the bid responses received as a result of this ITB. See Section 41-444 [Financial Services Procedures Manual](#).

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PART 6 – GENERAL INFORMATION

6.1 PURCHASES BY OTHER AGENCIES (“PIGGYBACKING”)

All bidders submitting a response to this solicitation agree that such response also constitutes a bid to all state agencies, municipalities and political subdivisions of the state of Florida under the same terms and conditions, for the same prices and the same effective period as this bid, should the bidder deem it in the best interest of its business to do so. This provision in no way restricts or interferes with any state agency, municipality or political subdivision to rebid any or all items.

6.2 DEVIATIONS

Any deviation from the specifications must be explained in detail on sheets attached to the Bid Form and labeled “Clarifications and Exceptions”, and each deviation must be itemized by number and must specifically refer to the applicable specification paragraph and page. Otherwise, it will be considered that items offered are in strict compliance with these Specifications and the successful bidder will be held responsible for meeting the Specifications. If bidder wishes its Standard Terms and Conditions to be considered as part of its bid, such terms and conditions must be made part of the “Clarifications and Exceptions”. The City reserves the following rights: to waive clarifications and exceptions in awarding the bid in the best interest of the City; to accept or reject any or all bids; to waive any or all irregularities; and to award the contract to the most responsive responsible bidder whose bid is determined by the City to be in its best interest.

NOTE: Bidders are strongly encouraged to submit any deviations or exceptions to the City before the question submittal deadline or proposals are due, so that based upon the City’s response in the addendum, the bidder can determine if it is in their best interest to submit a response or not.

6.3 ACCEPTANCE OF TERMS

Acceptance of the Contract, Specifications, terms and conditions is a mandatory aspect of being considered responsive. Bidders wanting to challenge any of the Contract, Specifications, terms and conditions or question alternatives to any Specifications listed herein must do so in writing prior to the deadline for submitting questions. If the City does not authorize a change prior to bid closing via addendum, the Contract, Specifications and terms and conditions stand; any counter-proposal on Contract, Specifications, or terms and conditions, will be rejected, as will the bid.

6.4 BIDDER’S DECLARATION AND UNDERSTANDING

The bidder, declares that the only person or parties interested in this Bid are those named herein, that this Bid is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the Bid is made without any connection or collusion with any person submitting another Bid on this contract.

The bidder further declares that no City Commissioner, other City officer, or City employee directly or indirectly owns more than five (5) percent of the total assets or capital stock of the bidding entity, nor will directly or indirectly benefit by more than five (5) percent from the profits or emoluments of this contract. (For purposes of this paragraph, indirect ownership or benefit does not include ownership or benefit by a spouse or minor child.)

The bidder further declares that it has carefully examined the Specifications and that this Bid is made according to the provisions and under the terms of the Specifications, which Specifications are hereby made a part of this Bid. Bidder further declares that any deviation from the specifications are explained on separate sheets labeled Clarifications and Exceptions attached to this Bid Form and that each deviation is itemized by number and specifically refers to the applicable specification paragraph and page.

6.5 LOCAL PREFERENCE

In bidding of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total bid price, and in any event the cost differential should not exceed \$25,000.00. Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased and awarded by the City Commission or other authority. In the case of requests for proposals, letter of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses. Local Businesses are assigned five (5) percent of the total points of the total evaluation points.

Local business means the vendor has a valid business tax receipt, issued by the City of Gainesville at least six months prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the vendor operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, in the Bid or RFP evaluation, the vendor must provide a copy of the business tax receipt and Zoning Compliance Permit. The business tax receipt must be issued at least six months prior to bid or proposal opening date. For more information on City's Local Preference Policy: [Municipal Code Article X Local Preference Policy](#).

6.6 SMALL AND SERVICE-DISABLED VETERAN BUSINESS CERTIFIED BY THE CITY OF GAINESVILLE

Small or Service-Disabled Veteran's Business Enterprise Definition: A Small Business or a Service-Disabled Veteran's Business, which is duly licensed and authorized to engage in business and maintains a permanent principal place of operation with full time personnel within Alachua, Bradford, Columbia, Gilchrist, Levy, Putnam, or Union County and possess a current City business tax receipt as required, and is so certified by the Small and Service-Disabled Veteran's Business Program Coordinator.

It is the policy of the City of Gainesville that small and service-disabled veteran businesses as defined in the Small and Service-Disabled Veteran Business Program, have the maximum practical opportunity to participate in contracting opportunities provided by the City. In keeping with this policy, each bidder is asked to state whether it will utilize small and service-disabled veteran businesses that are eligible for assistance to perform work on the project(s) being advertised.

For bidders not yet certified by the City, a small and service-disabled veteran application may be accessed via the [Office of Equal Opportunity](#) website. To be considered as a certified small and/or service-disabled veteran business, a bidder must have a current certificate at the time of the solicitation submittal due date. For more information on certified small and service-disabled veteran businesses, please visit the [Office of Equal Opportunity](#) website.

6.7 LIVING WAGE POLICY & COMPLIANCE

Living Wage requirements, Ordinance 020663, as amended in Ordinance 030168, and in [Ordinance 180999](#), and as shown on the City's web page, applies to contracts solicited by the City after midnight on March 31, 2021.

Section 2-619. – Living Wage Requirements.

- (a) The following are requirements of each contractor/subcontractor:
- (1) A service contract or/subcontractor shall pay a living wage to each of its covered employees during the time they are providing the covered services.
 - (2) A copy of the living wage rate shall be posted by the service contractor/subcontractor in a prominent place where it can easily be seen by the covered employees and shall be supplied to any covered employee upon request.
 - (3) Each service contractor shall make all of its service subcontractors aware of the requirements of this division and shall include the contract provisions listed in the **Agreement in Part 7** under the *Living Wage* paragraph in each of its service subcontracts to ensure compliance with this article. The city shall not be deemed a necessary or indispensable party in any litigation between the service contractor and a subcontractor.
 - (4) A service contractor/subcontractor shall not discharge, reduce the compensation of, or otherwise retaliate against any covered employee for filing a complaint, participating in any proceedings or otherwise asserting the requirement to pay a living wage under this division. A covered employee who claims their employer has not paid them a living wage as required by this division may file a written complaint with the city.
 - (5) Each service contractor/subcontractor shall produce payroll records, and any other requested documentation to the city as necessary for the city to audit or investigate compliance with or a reported violation of this division.

The adjusted Living Wage for this contract will be \$13.75 per hour (Living Wage with Health Benefits) or \$15.8125 per hour if Health Benefits are not offered.

6.8 DEBARMENT, SUSPENSION, OTHERWISE EXCLUDED

By submitting this bid response, bidder agrees that it:

- Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Has not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property;
- Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission or any of the offenses enumerated in paragraph (2) of this certification; and
- Has not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

6.9 PUBLIC ENTITY CRIME INFORMATION STATEMENT

For your information, Section 287.133 (2)(a) , Florida Statutes, contains the following provisions: “A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

6.10 INVESTIGATION OF ALLEGED WRONGDOINGS, LITIGATION/ SETTLEMENTS/FINES/PENALTIES

The City Commission specifically requests that responders to this document indicate in writing any investigations of wrongdoings, litigation and/or settlements, and fines or penalties (anywhere in the U.S) involving the bidder and specific contractors listed as projected to provide services to the City. You may be required to respond to questions on this subject matter.

6.11 TAXES, CHARGES AND FEES

The Bidder agrees that any applicable Federal, State and Local sales and use taxes, which are to be paid by City of Gainesville, are included in the stated bid prices. Since the City of Gainesville is often exempt from taxes for equipment, materials and services, it is the responsibility of the Contractor to determine whether sales taxes are applicable. The Contractor is liable for any applicable taxes which are not included in the stated bid prices.

6.12 COSTS INCURRED BY BIDDERS

All expenses involved with the preparation and submission of bid responses to the City, or any work performed in connection therewith shall be borne by the bidder(s). No payment will be made for any responses received, nor for any other effort required of or made by the bidder(s) prior to commencement of work as defined by a contract approved by the City Commission (if so required).

6.13 RULES; REGULATIONS; LICENSING REQUIREMENT

The bidder shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Bidders are presumed to be familiar with all Federal, State and local laws, ordinances, codes and regulations that may in any way affect the services offered.

6.14 NON-DISCRIMINATION POLICY AND COMMERCIAL NON-DISCRIMINATION REQUIREMENT

As a condition of entering into this agreement, the company represents and warrants that it will comply with Title VI and Title VII of the Civil Rights Act of 1964 and all other federal, state or local laws prohibiting discrimination. The company shall not discriminate on the basis of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability or gender identity, or other unlawful forms of discrimination in the solicitation, selection, hiring, commercial treatment of subcontractors,

vendors, suppliers or commercial customers, nor shall the company retaliate against any person for reporting instances of such discrimination.

The City reserves the right to investigate any claims of illegal discrimination by the Contractor and in the event a finding of discrimination is made and upon written notification thereof, the Contractor shall take all necessary steps to cure and rectify such action to the reasonable satisfaction of the City. The company understands and agrees that a violation of this clause shall be considered a material breach of this agreement and may result in termination of this agreement, disqualification of the company from participating in City contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

For more information on this policy and requirement, please visit the [Office of Equal Opportunity](#).

6.15 NON-WARRANTY OF INVITATION TO BID

Due care and diligence have been used in preparing this solicitation, The City does not guarantee that the conditions described within this solicitation are the conditions that will be found in the field when actual construction is commenced. The City shall not be responsible for any error or omission in these specifications, nor for the failure on the part of the bidders to determine the full extent of the request. It is the sole responsibility of the bidders to ensure that they have all information necessary for the submittal of bids.

6.16 INTERPRETATION OF ESTIMATED QUANTITIES

The estimated quantities of work to be done and materials to be furnished under this solicitation, given in the bid form, shall be considered as approximate only and shall be used solely for the comparison of Bids received. The City does not guarantee that the quantities represented will be the actual quantities required for completion of the work, nor shall the bidder plead misunderstanding or deception because of such estimate of quantities or of the character, location or other conditions pertaining to the work. Payment to the awarded bidder shall be made only for the actual quantities of work performed or materials furnished in accordance with the plans and the final Agreement, and it is understood that the quantities may be increased or decreased as provided in the Agreement without invalidating any of the unit or lump sum prices bid.

6.17 SUBCONTRACTS

With the bid proposal, the successful bidder will have submitted to the City, for acceptance, a list of the names of proposed Subcontractors (see Proposed Subcontractors Form – Part 8 – Exhibits). Prior to the execution and delivery of the Agreement, the City will notify the successful Bidder in writing if either the City, after due investigation, has reasonable objection to any Subcontractor, person or organization on such list. The failure of the City to make objection to any Subcontractor, person or organization on the list prior to the execution and delivery of the Agreement shall constitute an acceptance of such Subcontractor, person or organization. Acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the City to reject work, material or equipment that is either defective or not in conformance with the requirements of the Agreement.

If prior to the execution and delivery of the Agreement, the City has reasonable objection to and refuses to accept any Subcontractor, person or organization on such list, the successful Bidder may, prior to such execution and delivery, either (i) submit an acceptable substitute without an increase in his Bid price, or (ii) withdraw his Bid and forfeit any Bid security. If, after the execution and delivery of the Agreement, the City refuses to accept any Subcontractor, person or organization on such list, the Contractor will submit an acceptable substitute, the Contract Amount shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. No such increase in the Contract Amount shall be allowed if the disputed Subcontractor was not identified on the Subcontractor list submitted prior to award of the Agreement.

6.18 RESPONSIBLE AGENT

The bidder shall designate and submit a responsible agent and alternate as necessary, for all dealings, communications, notices or contracts between the City and the bidder. Any notice or communication to or from the responsible agent shall be deemed to be a communication to the bidder.

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PART 7 – CONTRACT TERMS AND CONDITIONS

CONSTRUCTION AGREEMENT

BID NO. PWDA PWDA-220015-MS – PROJECT NO. PW3006-0-EN-SW-RW

SW 62nd BLVD RESURFACING THIS AGREEMENT entered into and effective this _____ day of _____, 20____, between, <VENDOR NAME> (“Contractor”) and City of Gainesville, Florida, a Florida municipal corporation (“City”). Collectively, the City and Contractor are hereinafter referred to as the “Parties”.

WITNESSETH:

In consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties hereby agree as follows:

- 1 **THE WORK.** The Contractor shall furnish all labor, material, equipment, and services covered by all documents attached as exhibits and incorporated by reference in this Agreement, hereinafter collectively referred to as “Contract Documents”, which shall include all necessary work and all work incidental thereto (the “Work”). All Work shall be performed and completed in accordance with the Contract Documents. The Contract Documents are made part of this Agreement as set forth herein. Receipt of the Contract Documents are herein acknowledged by the Contractor.

- 2 **CONTRACT PRICE.**
 - 2.1 The Work includes both Lump Sum and Unit Price pay items. For performing the Work, the Contractor shall be paid a sum that SHALL NOT EXCEED <Bid Price written out> (\$<Bid price numerical>) (the “Contract Price”), unless a Change Order, Field Order or Amendment is issued in accordance this Agreement. Invoices and payments shall be allocated as provided in the Schedule of Values, attached hereto and incorporated by reference as **Exhibit 1**. The Contractor shall invoice the City at the prices set forth in **Exhibit 1**, and the City shall pay the Contractor only for the actual quantities of Work performed or materials furnished in accordance with this Agreement. The Estimated Quantities set forth in **Exhibit 1** may be increased or decreased as provided in this Agreement without, in any way, changing or invalidating any of the Unit or Lump Sum prices set forth in **Exhibit 1**.

 - 2.2 In order to efficiently and timely address any unknown or unanticipated conditions that are within the scope of the Work and are otherwise reimbursable without duplication as a cost of the Work, but excluding all items that are to be reimbursed under the Contract Price, the Parties have agreed to establish a contingency within an amount not to exceed <max of 10% of bid price> (\$<numerical>) (the “Contingency”).

2.2.1 Contingency funds shall be used to cover costs that may result from incomplete design and unanticipated costs that arise during construction that are not identified by the Construction Documents. Contractor shall not proceed with any portion of the Work which it intends to charge against the Contingency without first obtaining the City's written approval to proceed.

2.2.2 Any Work to be charged against the Contingency that does not receive prior written approval from the City shall be deemed to be part of Contractor's Work compensable within the Contract Price and not compensable against the Contingency. The City reserves the right, at its sole discretion, to withhold its consent on Contingency expenditures. Further, any Contingency expenditure becomes part of the Contract Documents and is incorporated by reference herein. City approved, but unused Contingency remaining at the end of the job shall not be payable to the Contractor. The Contractor has no entitlement to any unused Contingency.

3 **COMPLIANCE WITH REGULATIONS.**

3.1 The Contractor shall comply with all laws, ordinances, regulations and building code requirements applicable to the Work. The Contractor shall be familiar with all state and local laws, ordinances, code rules and regulations that may in any way affect the Work. Ignorance on the part of the Contractor will in no way relieve the Contractor of responsibility. The Contractor shall abide by and conduct its programs and provide its services in compliance with the provisions of the Civil Rights Act of 1866, Civil Rights Act of 1871, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination and Employment Acts of 1967, Rehabilitation Act of 1973, 1990 Americans with Disabilities Act, 1991 Federal Civil Rights Act, 1992 Florida Civil Rights Act, and all other applicable ordinances, statutes, laws and amendments thereto.

3.2 Section 448.095, Florida Statute states the statute shall be construed in a manner so as to be fully consistent with any applicable federal laws or regulations. The Contractor shall (1) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract; and (2) shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Alternatively, Contractor shall provide proof that one of the exceptions to the E-Verify federal contractor rule applies.

3.3 **Living Wage.** The definitions, terms and conditions of the City's living wage requirements set forth in Division 2 of Article IX of Chapter 2 of the City's Code of Ordinances shall apply to this Agreement. These requirements include that the Consultant:

3.3.1 Shall pay a living wage to each covered employee during the term of this Agreement, including any extension(s) to this Agreement;

3.3.2 Shall maintain records sufficient to demonstrate compliance with the living wage requirements;

- 3.3.3 Shall not discharge, reduce the compensation of, or otherwise retaliate against any covered employee for filing a complaint, participating in any proceedings or otherwise asserting the requirement to pay a living wage; and
- 3.3.4 Shall cooperate with any city audit or investigation concerning compliance with or a reported violation of the living wage requirements, including providing all requested documentation.
- Failure to comply with the City's living wage requirements shall be a material breach of this Agreement, enforceable by the City through all rights and remedies at law and equity.

4 CONTRACT TIME AND DAMAGES.

- 4.1 **TIME IS OF THE ESSENCE** for the completion of the Work. The Contract Time shall begin as set forth in the Notice to Proceed to the Contractor by the City. Contract Time for Substantial Completion, as defined in the Contract Documents, is 80 Working Days from the date set forth within the Notice to Proceed. Contract Time for Final Completion is thirty (30) calendar days after Substantial Completion is met, unless extended in accordance with §218.735(7)(c), Florida Statutes.
- 4.2 Inasmuch as failure to complete the Work within the time herein fixed will result in substantial injury to the City and whereas damages arising from such failure cannot be calculated with any degree of certainty, it is hereby agreed that if such Work has not reached Substantial Completion within the time required by this Agreement, the Contractor shall pay the City as liquidated damages and not as a penalty the sum outlined in the Technical Specifications for each and every calendar day after the date fixed for Substantial Completion. It is further agreed that if such Work has not reached Final Completion within the time required by this Agreement, the Contractor shall pay the City as liquidated damages and not as a penalty the sum outlined in the Technical Specifications for each and every calendar day after the date fixed for Final Completion.
- 4.3 Within 15 business days after obtaining Substantial Completion of the Work as defined herein, or if not defined upon reaching beneficial occupancy or use, the Contractor and City will develop a single list (the "List") of items required to the Work render complete, satisfactory and acceptable. The City shall provide the Contractor a draft of the List within 5 days after attaining Substantial Completion. Contractor will notify the City of acceptance of the List or proposed changes to the List within 5 days of receipt of the City's proposed List. If the Contractor accepts the List, it shall be deemed delivered upon receipt of said acceptance by the City. If the Contractor proposes any changes, the City shall review said changes and shall deliver the List to the Contractor within 5 days of receipt of Contractor's proposed changes. Delivery of the List does not relieve the Contractor of the responsibility for corrective Work or for pending items not yet completed for the Work and any items that are identified after development of the List that are required to correct or complete the Work. The Contractor shall attain Final Completion, including all items outlined in the List, within the timeframe outlined in **Paragraph 4.1.**

- 4.4 If the City fails to develop the List in the time specified, the Contractor may request payment for all retainage held by the City, less any amounts withheld for incomplete or uncorrected Work, and the City shall pay any remaining undisputed Contract Price, less any amount withheld pursuant to the Agreement for incomplete or uncorrected work, in accordance with Florida's Prompt Payment Act. Furthermore, the time for Final Completion shall be extended in accordance with §218.735(7)(c), Florida Statutes.
- 4.5 If the Contractor fails in whole or part to cooperate with the City in developing the List, or obligations under the List, the City shall notify the Contractor in writing of its failure to cooperate in developing the List, and the City shall then not be obligated to pay the retainage.
- 4.6 The City shall not be obligated pay the Contractor for amounts that are subject of, or release retainage related to, a good faith dispute or a claim brought pursuant to §255.05, Florida Statutes.
- 4.7 In cases of a dispute as to completion of an item on the List, the City may withhold an amount not to exceed 150% of the total cost to complete disputed items.
- 4.8 If the City make payment of retainage to the Contractor under this Section which is attributed to the labor, services, or materials supplied by one or more subcontractors or suppliers, the Contractor shall timely remit payment of such retainage to those subcontractors and suppliers.

5 **PERFORMANCE AND PAYMENT BONDS.**

- 5.1 Within ten (10) business days after signature of this Agreement by the Parties, Contractor shall provide the City with Payment and Performance Bonds, in the forms prescribed as **Exhibits 2 & 3**, in the amount of 100% of the total sum of the Contract Price, the costs of which are to be paid by the Contractor.
- 5.2 If the surety for any bond furnished by the Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, the Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to the minimum requirements noted above and City's approval.

5.3 In accordance with §255.05(1)(a), Florida Statutes, the Contractor shall record a copy of the Performance and Payment Bonds in the Public Records of Alachua County, Florida, prior to performing any Work under this Agreement. The Contractor shall deliver a certified copy of the recorded Performance and Payment Bonds to the City at least five (5) days prior to performing any Work. The timely delivery of the certified copy of the recorded Performance and Payment Bonds is a condition precedent to City's obligation to make any payments to the Contractor hereunder.

5.4 If at any time after the execution of this Agreement and the surety bonds hereto attached for its faithful performance and payment, the City shall deem the surety or sureties upon such bond to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the performance of the Work, the Contractor shall, at its own expense, within five (5) days after the receipt of notice from the City to do so, furnish an additional bond or bonds in such form and amount, and with surety or sureties as shall be satisfactory to the City. In such event, no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in a manner and form satisfactory to the City.

6 **NOTICES.** Except as otherwise provided in this Agreement, any notice of default or termination from either party to the other party must be in writing and sent by certified mail, return receipt requested, by personal delivery with receipt or by electronic mail to the email addresses below. Notices shall be deemed delivered two (2) business days after mailing, unless made by personal delivery in which case delivery shall be deemed to occur upon actual receipt by the other party or by electronic mail in which case delivery shall be deemed to occur upon sending the communication. For purposes of all notices, Contractor and City representatives and addresses are:

City:

City of Gainesville Public Works

PO Box 490

MS 58

Gainesville, FL 32627-0490

Attn: Brian Singleton, P.E., Public Works Director

singletonbm@cityofgainesville.org

Contractor:

<Contractors responsible agent including mailing and email address>

7 **WAIVER OF CLAIMS AND CONTINUING OBLIGATIONS.**

7.1 It is agreed that when all Work has reached Final Completion and has been inspected and approved by the City, or the City's authorized representatives, the Contractor shall furnish to the City the Contractor's Final Affidavit in the form attached hereto as **Exhibit 4**, or other such release as provided for in §255.05, Florida Statutes, and agreed to by the City. Submission of the Contractor's invoice for final payment shall further constitute the Contractor's representation to the City that all obligations of the Contractor to others, including but not limited to its consultants, subcontractors, and suppliers, incurred in connection with the Work have been paid in full. Contractor shall include, with its invoice for final payment, executed and notarized Waivers of Right to Claim against the Payment Bond, in the form attached hereto as **Exhibit 5**, from all laborers, materialmen and subcontractors defined in §713.01, Florida Statutes, who furnished labor, services, or materials for the prosecution of the Work provided for in this Agreement, unless the Contractor provides the City with a written consent from the surety regarding the Work or the payment in question.

7.2 The Contractor's obligations to perform the Work and complete the project in accordance with the Contract Documents shall be absolute. Neither approval of any progress, nor approval of any payment by the City, nor the issuance of a certificate of substantial completion, nor any use or occupancy of the project or any part thereof by the City, nor any act of acceptance by the City, nor any failure to do so, nor any correction of faulty or defective work by the City shall constitute an acceptance of Work not in accordance with the Contract Documents.

7.3 The making and acceptance of final payment shall constitute:

7.3.1 A waiver of all claims by the City against the Contractor, other than those arising from unsettled liens, from faulty or defective work appearing after final payment, or from failure to comply with the requirements of the Contract Documents or the terms of any special guarantees specified therein, and

7.3.2 A waiver of all claims by the Contractor against the City, other than those previously made in writing and still unsettled.

8 **INSURANCE.** Throughout the term of this Agreement, the Contractor shall provide insurance of the types and in the amounts set forth below. The Contractor shall also require any subcontractors to provide insurance as set forth below. A current copy of the Contractor Certificate of Insurance showing coverage of the types and in the amounts required is attached hereto as **Exhibit 6**. The Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by the contractor/vendor, its agents, representatives, employees or subcontractors

8.1 **COMMERCIAL GENERAL LIABILITY.** Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate, \$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

8.2 **AUTOMOBILE LIABILITY.** Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

8.3 **WORKERS COMPENSATION AND EMPLOYER'S LIABILITY.** Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act. Employer's Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

8.4 **BUILDER'S RISK / INSTALLATION FLOATERS (when applicable). Check box if applicable:**

8.4.1 When this contract or agreement includes the construction of and/or the addition to a permanent structure or building; including the installation of machinery and/or equipment, the following insurance coverage must be afforded:

8.4.1.1 Coverage Form: Completed Value, All Risk in an amount equal to 100% of the value upon completion or value of equipment to be installed.

8.4.1.2 When applicable: Waiver of Occupancy Clause or Cessation of Insurance clause. Flood Insurance as available under the National Flood Insurance Program.

8.5 **EMPLOYEE FIDELITY COVERAGE (only applicable to vendors who's employees handle funds):** Employee Dishonesty coverage must be afforded for not less than \$500,000 Blanket all employees ISO Form.

8.6 **OTHER INSURANCE PROVISIONS.** The policies are to contain, or be endorsed to contain, the following provisions:

8.6.1 **Commercial General Liability and Automobile Liability Coverages.**

8.6.1.1 The City of Gainesville, Florida, a Municipal Corporation, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities performed by or on behalf of the Contractor/Vendor; to include Products and/or Completed Operations of the Contractor/Vendor; Automobiles owned, leased, hired or borrowed by the Contractor.

8.6.1.2 The Contractor's insurance coverage shall be considered primary insurance as respects the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be excess of Contractor/Vendor's insurance and shall be non-contributory.

8.6.2 **All Coverages.** The Contractor/Vendor shall provide a Certificate of Insurance to the City with a thirty (30) day notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under claims made from the certificate will show a retroactive date, which should be the same date of the contract (original if contact is renewed) or prior.

8.7 **CERTIFICATE HOLDER.** City of Gainesville, Florida, a Municipal Corporation

9 **INCORPRATIONS BY REFERENCE AND GOVERNING ORDER OF DOCUMENTS.**

9.1 All documents listed below, if not contained herein, are hereby incorporated by reference in this Agreement. In cases of discrepancy, the governing order of the documents is as follows:

- 9.1.1 Amendments, Change Orders and Field Orders;
- 9.1.2 This Agreement;
- 9.1.3 Bid Addendums;
- 9.1.4 Technical Specifications prepared by the City, signed and sealed on 6/29/2021;
- 9.1.5 Invitation to Bid No., ???;
- 9.1.6 Contract Plans, prepared by HNTB Corporation, signed and sealed on 4/20/2021;
- 9.1.7 Contractor's Bid Submittal.
- 9.1.8 Schedule of Values
- 9.1.9 Schedule of Completion

10 **INDEMNIFICATION.**

10.1 To the maximum extent permitted by Florida law, the Contractor shall indemnify and hold harmless the City, and their officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor or anyone employed or utilized by the Contractor in the performance of this Agreement. Contractor agrees that indemnification of the City shall extend to any and all Work performed by the Contractor, its subcontractors, employees, agents, servants or assigns.

10.2 The Contractor obligation to indemnify under this Article will survive the expiration or earlier termination of this Agreement.

10.3 This obligation shall in no way be limited in any nature whatsoever by any limitation on the amount or type of the Contractor's insurance coverage, or by limitation on the amount or type of damages, compensation or benefits

payable by or for the Contractor or any Subcontractor under workers' compensation acts, disability benefit acts or employee benefit acts.

10.4 Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the City's sovereign immunity or the provisions or limits of liability of §768.28, Florida Statutes.

11 **PUBLIC RECORDS.**

11.1 **General Provisions:**

11.1.1 Any document submitted to the City may be a public record and is open for inspection or copying by any person or entity. "Public records" are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency per §119.011(12), Florida Statutes. Any document is subject to inspection and copying unless exempted under Chapter 119, Florida Statutes, or as otherwise provided by law.

11.1.2 Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the City, Contractor must:

11.1.3 Keep and maintain public records required by the City to perform the service.

11.1.4 Upon require from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

11.1.5 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

11.1.6 Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provide to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

11.1.7 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING**

TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT E-MAIL clerks@cityofgainesville.org PHONE (352-334-5015 OR PO BOX 490, STATION 19, GAINESVILLE, FL, 32627-0490

11.2 Confidential Information

11.2.1 During the term of this Agreement, the Contractor may claim that some or all of Contractor's information, including, but not limited to, software documentation, manuals, written methodologies and processes, pricing, discounts, or other considerations (hereafter collectively referred to as "Confidential Information"), is, or has been treated as confidential and proprietary by Contractor in accordance with §812.081, Florida Statutes, or other law, and is exempt from disclosure under the Public Record Act. Contractor shall clearly identify and mark Confidential Information as "Confidential Information" or "CI" and the City shall use reasonable efforts to maintain the confidentiality of the information properly identified by the Contractor as "Confidential Information" or "CI."

11.2.2 The City shall promptly notify the Contractor/Professional in writing of any request received by the City for disclosure of Contractor's Confidential Information and the Contractor may assert any exemption from disclosure available under applicable law by seeking a protective order against disclosure from a court of competent jurisdiction. Contractor shall protect, defend, indemnify, and hold the City, its officers, employees and agents free and harmless from and against any claims or judgments arising out of a request for disclosure of Confidential Information. Contractor shall investigate, handle, respond to, and defend, using counsel chosen by the City, at Contractor's sole cost and expense, any such claim, even if any such claim is groundless, false, or fraudulent. Contractor shall pay for all costs and expenses related to such claim, including, but not limited to, payment of attorney fees, court costs, and expert witness fees and expenses. Upon completion of this Agreement, the provisions of this paragraph shall continue to survive. Contractor releases City from claims or damages related to disclosure by City.

11.2.3 **Project Completion:** Upon completion of the Work, or in the event this Agreement is terminated, the Contractor, when acting on behalf of the City as provided under §119.011(2), Florida Statutes, shall transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion or termination of the Agreement, it must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon the completion or termination of the Agreement all applicable requirements for retaining public records shall be met. All records stored electronically shall be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

11.3 **Compliance:** The Contractor may be subject to penalties under §119.10, Florida Statutes, if the Contractor fails to provide the public records to the City within a reasonable time.

12 STARTING THE WORK

12.1 Schedule

Within ten (10) days after execution of the Agreement, the Contractor will submit to the City Engineer for approval an estimated progress schedule indicating the starting and completion dates of the various stages of the Work and a schedule of Shop Drawings submissions.

12.2 Pre-Construction Conference

Before starting Work, a conference will be held to review the schedules and submittal package (See 12.5 Submittals), to establish procedures for handling Shop Drawings and other submissions, to establish procedures for processing applications for payment, and to establish a working understanding between the parties as to the project. Present at the conference will be the City Engineer, and/or authorized representatives, the Contractor, and utility company representatives.

12.3 Notice to Proceed

Upon execution of the Agreement, the City Engineer will give the Contractor a written Notice to Proceed stating date by which the Contractor must start the Work; but such date shall not be more than forty-five (45) days after the date of execution of the Agreement. No work shall be done prior to receipt of the Notice to Proceed.

12.4 Commencement of Time

The Contract Time shall commence on the date when the Work is actually started but no later than the date provided in the Notice to Proceed.

12.5 Submittals

The Contractor's submittal package for the Pre-Construction meeting shall include: the Surveyor's License Confirmation on a form provided by the City, Maintenance of Traffic Plan, Erosion & Sedimentation Control Plan, and Stormwater Pollution Prevention Plan to be accepted by the City prior to any construction activities along with any other requirements or permits and other submittal required by this Agreement. All submittals must be accepted by the City prior to implementation.

13 OWNERSHIP AND COPIES OF DOCUMENTS; RECORD

DOCUMENTS

13.1 All Specifications, Drawings and copies thereof furnished by the City shall remain the property of the City. They shall not be used on another project, and with the exception of those sets of Contract Documents which have been signed in connection with the execution of the Agreement, shall be returned to the City on request upon completion of the project.

13.2 The Contractor will keep one record copy of all Specifications, Drawings, Addenda, Modifications, and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. These shall be available to the City Engineer.

14 WORK BY OTHERS

14.1 The City may perform additional work related to the project by itself, or may enter other contracts for work on the project. The Contractor shall afford the City and/or other contractors reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate the Contractor's work with theirs.

14.2 If any part of the Contractor's Work depends for proper execution or results upon the work of any such other contractor (or the City), the Contractor will inspect and promptly report to the City Engineer in writing any defects or deficiencies that render it unsuitable. The Contractor's failure to so report shall constitute an acceptance of the other work as to be fit and proper for the relationship of their Work, except as to defects and deficiencies which may appear in the other work after the execution of their Work.

14.3 The Contractor will do all cutting, fitting and patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the City Engineer.

14.4 If the performance of additional work by other contractors or the City is not noted in the Contract Documents, written notice thereof shall be given to the Contractor prior to starting any such additional work. Contractor work schedules shall be adjusted to allow for any necessary utility adjustments identified prior to start of work. If the Contractor believes that the performance of such additional work by the City or others causes the Contractor additional expense or entitles it to an extension of the Contract Time, it may make a claim as provided in Paragraphs 24 to 26.

15 **RESPONSIBLE AGENT**

15.1 The Contractor shall designate and submit a responsible agent and alternate as necessary, for all dealings, communications, or notices or contracts between the City and the Contractor.

15.2 The City Engineer will be the responsible agent for the City. Any notice or communication to or from the responsible agent shall be deemed to be a communication to the Contractor.

16 **ACCIDENT PREVENTION**

16.1 Precaution shall be exercised at all times for the protection of employees, other persons and property.

16.2 Contractor's employees shall report to their superintendent any hazardous conditions or items in need of repair noted during the performance of work. Said superintendent shall thereupon notify the responsible agent of such conditions.

17 **SUBCONTRACTS**

17.1 The Contractor will not employ any Subcontractor (whether initially or as a substitute) against whom the City or the City Engineer may have reasonable objection, nor will the Contractor be required to employ any Subcontractor against whom he has reasonable objection. The Contractor will not make any substitution for any Subcontractor who has been accepted by the City and the City Engineer, prior to written concurrence by the City Engineer.

17.2 The Contractor will be fully responsible for all acts and omissions of its Subcontractors and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that the Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in the Agreement shall create any contractual relationship between any Subcontractor and the City or any obligation on the part of the City to pay or to see to the payment due any Subcontractor, except as may otherwise be required by law. The City Engineer may furnish to any Subcontractor, to the extent practicable, evidence of amounts paid to the Contractor as compensation for specific Work performed.

17.3 The Specifications and Drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any trade.

17.4 The Contractor agrees to specifically bind every Subcontractor to all of the applicable terms and conditions of the Agreement. Every Subcontractor, by undertaking to perform any of the Work, will thereby be contractually bound to the Contractor by such terms and conditions.

18 PHYSICAL AND SUBSURFACE CONDITIONS

18.1 The City Engineer will, upon request, furnish to the Contractor copies of all available boundary surveys and subsurface tests.

18.2 The Contractor will promptly notify the City Engineer in writing of any subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents. The City Engineer will promptly investigate those conditions and determine if further surveys or subsurface tests are necessary. Promptly thereafter, the City Engineer will obtain the necessary additional surveys and tests and furnish copies to the Contractor. If the City Engineer finds that the results of such surveys or tests indicate subsurface or latent physical conditions differing significantly from those indicated in the Contract Documents, a Change Order or Field Order shall be issued incorporating the necessary revisions.

19 CITY ENGINEER'S STATUS DURING CONSTRUCTION.

19.1 The City Engineer (such as, City Architect, Facilities Director, or WSPS Director)>, acting directly or through duly authorized representatives (Project Managers, Inspectors and Consultants) shall be the City's

representative during the construction period. All instructions of the City to the Contractor shall be issued through the City Engineer.

19.2 The City Engineer will make periodic visits to the site to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The City Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work, nor will the City Engineer be responsible for the construction means, methods, techniques, sequences, procedures or the safety precautions incident thereto. The City Engineer's efforts will be directed toward providing assurance for the City that the completed project will conform to the requirements of the Contract Documents, but City Engineer will not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents. On the basis of the City Engineer's on-site observations as an experienced and qualified construction professional, the City Engineer will keep the City informed of the progress of the Work and will endeavor to guard the City against defects and deficiencies in the Work of the Contractor.

19.3 The City Engineer will have authority to disapprove of or reject Work which is defective; i.e., it is unsatisfactory, faulty or defective, does not conform to the requirements of the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in Paragraph 21. The City Engineer will also have authority to require special inspection or testing of the Work as provided in Paragraph 23.3, whether or not the Work is fabricated, installed or completed.

19.4 Neither the City Engineer's authority to act under Paragraph 19 nor any decision made by the City Engineer in good faith to exercise or not exercise such authority, shall give rise to any duty or responsibility of the City to the Contractor and Subcontractor, any of their agents or employees or any other person performing any of the Work.

20 CITY ENGINEER'S INTERPRETATIONS AND DECISIONS.

20.1 The City Engineer will issue with reasonable promptness such written clarifications or interpretations (in the form of drawings or otherwise) as necessary for the proper execution of the Work. Such clarifications and interpretations are to be consistent with or reasonably inferable from the overall intent of the Contract Documents. If the Contractor believes that a written clarification and interpretation entitles it to an increase in the Contract Price, it may make a claim therefore as provided in Paragraph 25.

20.2 The City Engineer will be the initial interpreter of the terms and conditions of the Contract Documents and the judge of the performance thereunder. In this capacity, the City Engineer will exercise best efforts to insure faithful performance by both the City and the Contractor. The City Engineer will not show partiality to either and shall not be liable for the result of any interpretation or decision rendered in good faith. Claims, disputes and other matters relating to the execution and progress of the Work or the interpretation of or performance under the Contract Documents shall be referred initially to the City Engineer for decisions, which shall render in writing within a reasonable time.

20.3 The Contractor may appeal any written decision made by the City Engineer within fourteen (14) days in accordance with Paragraph 36.

21 TESTS AND INSPECTIONS.

21.1 If the Agreement, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any Work to be inspected, tested or approved by someone other than the Contractor, the Contractor will give the City Engineer timely notice of readiness therefor. The Contractor will furnish the City Engineer the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials or such other applicable organization as may be required by law or the Agreement. The cost of all such inspections, test and approvals shall be borne by the Contractor unless otherwise provided. If any such Work required so to be inspected, tested or approved is covered up without written approval or consent of the City Engineer, it must, if directed by the City Engineer, be uncovered for observation at the Contractor's expense.

21.2 Any Work which fails to meet the requirements of any such test, inspection or approval, and any Work which meets the requirements of any such test or approval but does not meet the requirements of the Contract Documents, shall be considered defective. Such defective Work may be rejected, corrected or accepted as provided in Paragraph 28.

21.3 Neither observations by the City Engineer nor inspections, tests, or approvals by persons other than the Contractor shall relieve the Contractor from its obligations to perform the Work in accordance with the Agreement requirements of the Contract Documents.

22 CONTRACTOR'S SUPERVISION AND SUPERINTENDENCE.

22.1 The Contractor shall supervise and direct the Work efficiently and with its best skill and attention. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. Before undertaking the Work, the Contractor shall carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. The Contractor will at once report in writing to the City Engineer any conflict, error or discrepancy which it may discover. The Contractor will be responsible to see that the finished Work complies accurately with the Contract Documents.

22.2 The Contractor shall maintain, at all times during its progress, a resident superintendent satisfactory to the City Engineer. The superintendent shall not be replaced without the consent of the City Engineer, except under extraordinary circumstances. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor and shall constitute notice under the applicable clauses of this Agreement.

22.3 The Contractor will provide competent, suitably qualified personnel and perform construction as required by the Contract Documents. Survey and layout work shall be performed under direction of a Florida Registered Land Surveyor. The surveyor is required to sign, seal and return a form provided by the City certifying the surveyor will be responsible for providing layout. The Contractor will at all times maintain good discipline and order among its employees at the site.

22.4 The City will not be responsible for the acts or omissions of the Contractor, any Subcontractors, any of their agents or employees or any other persons performing any of the Work.

22.5 The Contractor shall have a responsible person or persons available on a 24-hour basis seven (7) days a week in order that contact can be made in emergencies and in cases where immediate action must be taken to maintain traffic or to overcome any other problem that might arise. The furnishing of a telephone number where such person or persons can be reached outside of normal working hours will constitute compliance with this provision.

23 ACCESS TO THE WORK: UNCOVERING FINISHED WORK.

23.1 The City Engineer and its representatives and other representatives of the City will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

23.2 If any Work is covered contrary to the request of the City Engineer, it must, if requested by the City Engineer, be uncovered for observation and replaced at the Contractor's expense.

23.3 If any Work has been covered which the City Engineer has not specifically requested to observe prior to its being covered, or if the City Engineer considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the City Engineer's request, will uncover, expose or otherwise make available for observation, inspection or testing, that portion of Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services. If, however, such Work is found to be non-defective and meets the requirements of the Contract Documents, the Contractor will be allowed an increase in the Contract Price or extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction if Contractor makes a claim therefore as provided in Paragraph 25 and 26.

24 CHANGES IN THE CONTRACT WORK.

24.1 Without invalidating the Agreement, the City may, at any time or from time to time, order additions, deletions, or revisions in the Work. These will be authorized by Change Order or Field Order. Upon receipt of written authorization, the Contractor will proceed with the Work involved. All such Work shall be executed under the applicable conditions of the Contract Documents. If any changes in the Work cause an increase or decrease in the Contract Price, addition of Pay Items, or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Paragraphs 25 and 26 under a Change Order.

24.2 The Director or City Engineer may authorize minor changes or alterations in the Work not involving extra cost and not inconsistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order. If the Contractor believes that any minor change or alteration authorized by the Director or City Engineer entitles the Contractor to an increase in the Contract Price or Contract Time, it may make a claim as provided in Paragraphs 25 and 26.

24.3 Additional work performed by the Contractor prior to written authorization will not automatically entitle it to additional compensation, an increase in the Contract Price, or an extension of the Contract Time.

24.4 It is the Contractor's responsibility to notify its surety of any changes affecting the general scope of the Work or change in the Contract Price, and the amount of the applicable Bonds shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the City.

25 CHANGE OF CONTRACT PRICE.

25.1 The Contract Price constitutes the total compensation payable to the Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by the Contractor shall be at its expense without change in the Contract Price.

25.2 The Contract Price may only be changed by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an increase in the Contract Price, notice of intent to file a claim shall be delivered to the City Engineer in writing within ten (10) days of the occurrence of the event giving rise to the claim. The claim shall then be delivered to the City Engineer in writing within twenty (20) days after the conclusion of the event giving rise to the claim unless City Engineer allows additional period of time to ascertain accurate cost data. IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. Change orders will be approved by the following procedure:

25.2.1 The City Manager, Assistant City Manager, Public Works Director or City Engineer may approve Change Orders that, either cumulatively or individually, increase the Contract Price within the limits of the Contingency, provided that such Change Orders do not expand the size (project limits), function (project type) or intended use of the project contained in the Contract Documents and do not exceed the following monetary limits per Change Order:

25.2.1.1 City Engineer - \$20,000

25.2.1.2 Public Works Director - \$50,000

25.2.1.3 Assistant City Manager - \$100,000

25.2.2 The City Manager may approve Change Orders that, either cumulatively or individually, increase Contract Price within the limits of the Contingency; or Change Orders that, either cumulatively or individually, increase the Contract Price by up to ten percent of the original Contract Price plus Contingency [10% x (Contract Price + Contingency)], provided that such Change Orders do not expand the size, function or intended use of the project contained in the contract documents.

25.2.3 The City Commission has the sole authority to approve Change Orders that increase the Contract Price by more than the limits set forth herein or Change Orders that expand the size, function or intended use of the project contained in the contract documents.

25.3 The value of any Work covered by a Change Order, for any claim for an increase in the Contract Price, shall be determined in the following ways:

25.3.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.

25.3.2 Mutual acceptance of a lump sum or unit price.

25.3.3 Cost and a mutually acceptable fixed amount for overhead and profit.

25.3.4 If none of the above methods is agreed upon, the value shall be determined on the basis of costs necessarily incurred and paid by the Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the City, these cost shall be in amounts no higher than those prevailing in the City, shall not include any costs itemized in Paragraph 25.3.5 and shall include only the following:

25.3.4.1 Payroll cost for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the City and the Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spend on the Work. Payroll costs shall include, but not limited to, salaries and wages plus and costs of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

25.3.4.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refund and all returns from sale of surplus materials and equipment shall accrue to the City and the Contractor shall make provisions so that they may be obtained.

25.3.4.3 Supplemental Costs including the following:

25.3.4.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work

25.3.4.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the City, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work

25.3.4.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.

25.3.4.3.4 Royalty payments and fees for permits and licenses.

25.3.4.3.5 The cost of utilities, fuel, and sanitary facilities at the Work site.

25.3.4.3.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work

25.3.4.3.7 Cost of premiums for additional bonds and insurance required because of changes in the Work.

25.3.4.4 The maximum percentage which shall be allowed for the Contractor's combined overhead and profit, shall be as follows:

25.3.4.4.1 For all such Work done by the Contractor's own forces, the Contractor may add up to 5% (five percent) of its actual increase in cost; and

25.3.4.4.2 For all such Work done by Subcontractors, each Subcontractor may add up to 5% (five percent) of its actual net increase in cost for combined overhead and profit; and the

Contractor may add up to 5% (five percent) of the Subcontractor's total for its combined overhead and profit.

25.3.4.4.3 No fee shall be made payable on the basis of cost itemized under Paragraphs E1-15.3.5.

25.3.4.4.4 The amount of credit to be allowed by the Contractor to the City for any such change which results in a net decrease plus a deduction in Contractor's fee by an amount equal to 5% (five percent) for the net decrease.

25.3.4.4.5 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed 5% (five percent) of the agreed compensation. Profit will not be paid on any Work not performed.

25.3.5 Changes in Contract Price shall not include the following:

25.3.5.1 Payroll cost and other compensation of the Contractor's officers, executives, principals (of partnership and sole proprietorship), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 25.3.4.1, all of which are to be considered administrative costs covered by the Contractor's fee.

25.3.5.2 Expenses of the Contractor's principal and branch offices other than the Contractor's office at the site.

25.3.5.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.

25.3.5.4 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

25.3.5.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 25.3.4.

25.3.5.6 In the event of a delay of construction, regardless of the reason of the delay, and regardless of the claim or allegation or who caused the delay, there will be no entitlement for any direct or indirect financial damages or losses for corporate overhead impact, project overhead impacts, project support services, or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature.

25.4 Except for as provided in a Change Order or Field Order, no financial claim for delay to the project resulting from the Change Order or Field Order approval process will be allowed.

25.5 Pay factor adjustments shall be in accordance with details outlined in project manual/technical specifications.

25.6 Whenever the cost of any Work is to be determined pursuant to this section, the Contractor shall submit in a form acceptable to the City an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-change-in-cost, the Contractor shall submit an estimate substantiated by complete itemized breakdown:

25.6.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of costs.

25.6.2 Whenever a change involves the Contractor and one (1) or more subcontractor and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.

26 CHANGE OF THE CONTRACT TIME.

26.1 Contract Time changes shall be by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an extension in the Contract Time, notice of intent to file a claim shall be in writing delivered to the City Engineer within ten (10) days of the occurrence of the event giving rise to the claim. The claim shall then be delivered to the City Engineer in writing within fifteen (15) days after the conclusion of the event giving rise to the claim. IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME SHALL BE WAIVED IF NOT SUBMITTED IN STRICT

ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. The City Manager, Director or designee may approve any extension in Contract Time. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

26.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor, if it makes a claim therefore as provided in Paragraph 26.1. Such delays shall only include acts of neglect by any separate contractor employed by the City, fires, floods, labor disputes, epidemics, abnormal weather conditions, acts of God or other delays at the sole discretion of the City.

26.2.1 Process for tracking and granting Weather Days shall be in accordance with the project manual/technical specifications. If the project manual/technical specifications is silent on Weather Days then Contract Time shall not be extended for weather. Requests for Weather Days shall be submitted monthly with the Contractor's application for payment. The Contractor's failure to submit a monthly request for Weather Days shall constitute a waiver of Contract Time extensions for weather for all dates prior to submission of the application for payment.

26.3 All time limits stated in the Contract Documents are of the essence in the Agreement. The provisions of Paragraph 26 shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

26.4 Except as provided in a Change Order or Field Order, no financial claim for delay to the project resulting from the Change Order or Field Order approval process will be allowed.

27 **NEGLECTED WORK.**

27.1 If the Contractor should neglect to prosecute the Work in accordance with the Agreement, including any requirements of the progress schedule, after three (3) days written notice to the Contractor, the City may, without prejudice to any other remedy it may have, make good such deficiencies, and the cost thereof (including compensation for additional professional services) shall be charged against the Contractor. In this case a Change Order shall be issued incorporating the necessary revisions in the Agreement, including an appropriate reduction in the Contract Price. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor will pay the difference to the City.

28 WARRANTY AND GUARANTEE; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK.

28.1 The Contractor warrants and guarantees to the City that all materials and equipment will be new unless otherwise specified; that all Work will be of good quality and free from faults or defects and in accordance with the requirements of the Contract Documents. All unsatisfactory Work, all faulty or defective Work and all Work not conforming to the requirements of the Contract Documents or of such inspections, tests or approvals shall be considered defective. Prompt notice of all defects shall be given to the Contractor. All defective Work, whether or not in place, may be rejected.

28.2 If required by written notice of the Director or the City Engineer prior to approval of final payment, the Contractor will promptly, without cost to the City, either correct any defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by the City Engineer, remove it from the site and replace it with non-defective Work. If the Contractor does not correct such defective Work or remove and replace such rejected Work within a reasonable time, the City may have the deficiency corrected or the rejected Work removed and replaced. All direct or indirect cost of such correction or removal and replacement, including compensation for additional professional services, shall be paid by the Contractor, and an appropriate Change Order shall be issued deducting all such costs from the Contract Price. The Contractor will also bear the expenses of making good all Work of others destroyed or damaged by the correction, removal or replacement of the Contractor's defective Work.

28.3 If, after the approval of final payment and prior to the expiration of one year after the date of substantial completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, the Contractor will promptly without cost to the City and in accordance with the City's written instructions either correct such defective Work, or, if it has been rejected by the City, remove it from the site and replace it with non-defective Work. If the Contractor does not promptly comply with the terms of such instructions, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, will be paid by the Contractor.

28.4 If, instead of requiring correction or removal and replacement of defective Work, the City prefers to accept it, the City may do so. In such case, the appropriate reduction in the bid item amount shall be negotiated by the Contractor and City with the appropriate reductions submitted in the application for final payment. In the event the appropriate reduction cannot be negotiated, the provisions of Paragraph 25.3.4 shall prevail.

29 APPLICATIONS FOR PROGRESS PAYMENTS.

29.1 Not more than once a month, the Contractor will submit to the City Engineer for review the application for payment, covering the Work completed as of the date of the application. If payment is requested by the Contractor on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the request for payment shall also be accompanied by such supporting data, satisfactory to the City Engineer, as will establish 100% of invoice cost. Such payment to the Contractor shall not exceed seventy-five percent (75%) of the Unit Bid Price. Materials missing or damaged, for which partial or total payment has been made, shall be replaced by the Contractor at its expense.

29.2 The Contractor warrants and guarantees that title to all Work, materials and equipment covered by an application for payment, whether incorporated in the project or not, will have passed to the City prior to making the application for payment, free and clear of all liens, claims, security interests and encumbrances (hereafter referred to as "liens"). The Contractor further warrants and guarantees that no Work, materials or equipment covered by an application for payment will have been acquired by the Contractor or by any other person performing the Work at the site or furnishing materials and equipment for the Project subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person. Non-payment of Subcontractors and suppliers will be referred to the Contractor's Surety for resolution.

29.3 Five percent (5%) of the amount earned through each progress payment will be withheld as retainage.

29.4 Each application for payment shall be incomplete and not authorized for payment unless accompanied by the following documents:

29.4.1 A certification of payment to Subcontractors on a form provided by the City that all Subcontractors having an interest in the Agreement were paid for satisfactory performance of their Agreements and that the retainage is returned to Subcontractors within 30 days after satisfactory completion of the Subcontractor's work.

29.4.2 A waiver of claims, on a form provided by the City, for any and all Subcontractors or materialmen that have furnished a notice of non-payment. The City will honor an exception to this clause when the Contractor

demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the City and the affected Subcontractor.

29.5 The City Engineer will, within ten (10) days after Contractor concurrence of each application for payment, indicate in writing approval of payment, less any retainage as specified by the Agreement, and present the application to the City's Budget & Finance Department for payment. The City will pay the Contractor the amount approved by the City Engineer in accordance with Florida's Prompt Payment Act.

30 APPROVAL OF PAYMENTS.

30.1 The City Engineer's approval of any payment requested in an application for payment shall constitute a representation to the City, based on the City Engineer's on-site observations of the work in progress as an experienced and qualified construction professional and on its review of the application for payment and the supporting data, that the Work has progressed to the point indicated; to the best of its knowledge, information and belief, that the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning project upon substantial completion, to the results of any subsequent tests called for in the Contract Document and any qualifications stated in its approval); and that the Contractor is entitled to payment of the amount approved. However, by approving any such payment, the City Engineer shall not thereby be deemed to have represented that exhaustive or continuous on-site inspections were made to check the quality or the quantity of the Work; that the means, methods, techniques, sequences and procedures of construction were reviewed; or that any examinations were made to ascertain how or for what purpose the Contractor has used the monies paid or to be paid to it.

30.2 The City Engineer's approval of final payment shall constitute an additional representation to the City that the conditions precedent to the Contractor's being entitled to final payment, as set forth in Paragraph 31.3, have been fulfilled.

30.3 The City Engineer may refuse to approve the whole or any part of any payment if, in their opinion, the City Engineer is unable to make the foregoing representations to the City. The City Engineer may also refuse to approve any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, may nullify any such payment previously approved, to such extent as may be necessary in their opinion to protect the City from loss because:

30.3.1 The Work is defective.

30.3.2 Claims have been filed, or there is reasonable evidence indicating the probable filing thereof.

30.3.3 The Contract Price has been reduced.

30.3.4 The City has been required to complete neglected Work in accordance with Paragraph 27.

30.3.5 The City has been required to correct defective Work or complete the Work in accordance with Paragraph 28.

30.3.6 Unsatisfactory prosecution of the Work, including failure to clean up as required by Paragraph 32.

31 FINAL PAYMENT.

31.1 Upon notification from the Contractor that the project is complete, the City Engineer will make a final inspection with the Contractor and will notify the Contractor in writing of any particulars in which this inspection reveals that the Work is incomplete or defective. The Contractor shall immediately make such corrections as are necessary to remedy such defects.

31.2 After the Contractor has completed any such corrections to the satisfaction of the City Engineer and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection and other documents, all as required by the Contract Documents, the Contractor may receive final payment pursuant to the procedure for progress payments. The final application for payment shall be accompanied by the Contractor's Final Payment Affidavit, Subcontractor/Materialman Waiver of Claims, and Final Payment Certification to Subcontractors, utilizing forms provided by the City. Nothing in this section waives the rights of the Contractor under Section 255.05(11), Florida Statutes. The City Engineer will execute a Certificate of Completion and recommend final payment.

31.3 If, on the basis of the City Engineer's observation and review of the Work during construction, their final inspection and review of the final application for payment, all as required by the Contract Documents, the City

Engineer is satisfied that the Work has been completed and the Contractor has fulfilled all of its obligations under the Contract Documents, the City Engineer will, within ten (10) days after Contractor's concurrence of the final application for payment, indicate in writing the City Engineer's approval of payment and present the application to the City Budget & Finance Department for payment. The City will pay the Contractor the amount approved by the City Engineer in accordance with Florida's Prompt Payment Act.

31.4 If after substantial completion of the Work, final completion thereof is materially delayed through no fault of the Contractor, and the City Engineer so confirms, the City shall, upon certification by the City Engineer, make payment of the balance due for that portion of the work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the City Engineer prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claim.

32 CLEANING UP.

32.1 The Contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work, and, at the completion of the Work, it shall remove all waste materials, rubbish and debris from and about the premises, as well as all tools, construction equipment and machinery and surplus materials, leaving the site clean and ready for occupancy by the City. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents.

33 CITY'S RIGHT TO STOP OR SUSPEND WORK.

33.1 If the Work is defective, if the Contractor fails to supply sufficient skilled workmen or suitable materials or equipment, if the Contractor fails to comply with the Contract Documents or Specifications, or if the Contractor fails to make prompt payments to Subcontractors for labor, materials or equipment, the City may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The Contractor will be allowed no increase in Contract Price or extension of the Contract Time.

33.2 The City may, at any time and without cause, suspend the Work, or any portion thereof, for a period of not more than ninety (90) days by notice in writing to the Contractor, and shall determine the date on which the Work will resume. The Contractor shall resume the work on the date so determined. The Contractor may be allowed an increase in the Contract Price or an extension of the Contract Time directly attributable to any suspension provided the Contractor makes a claim as provided in Paragraphs 25 and 26.

34 **DEFAULT AND CITY'S RIGHT TO TERMINATE.**

34.1 The failure of the Contractor to comply with any provision of this Agreement will place the Contractor in default. Prior to terminating the Agreement, the City will notify the Contractor in writing. This notification will make specific reference to the provision which gave rise to the default. The City will give the Contractor seven (7) days to cure the default or develop a plan and time line acceptable to the City to cure the default. The City Engineer is authorized to provide written notice of default on behalf of the City, and if the default situation is not corrected within the allotted time, the Public Works Director is authorized to provide final termination notice on behalf of the City to the Contractor.

34.2 If the Contractor is adjudged bankrupt or insolvent, or makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Contractor or for any of its property, or if the Contractor files a petition to take advantage of any debtors' act, or to reorganize under the bankruptcy or similar laws, or repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment, or repeatedly fails to make prompt payments to Subcontractors or for labor, materials, or equipment, or disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction, or disregards the authority of the Director of City Engineer, or Contractor otherwise violates any provisions of the Contract Documents, then the City may, without prejudice to any other right or remedy and after giving the Contractor and its surety seven (7) days written notice, terminate the service of the Contractor and take possession of the project and of all materials related the Work and finish the Work by whatever method the City may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is finished.

34.3 Upon thirty (30) days written notice to the Contractor, the City may, without cause and without prejudice to any other right or remedy, elect to abandon the project and terminate the Agreement. In such case, the Contractor shall be paid for all Work executed and any expense sustained plus a reasonable profit. The Public Works Director is authorized to provide written notice of termination on behalf of the City.

34.4 If funds to finance this Agreement become unavailable, the City may terminate the Agreement with no less than twenty-four (24) hours' notice in writing to the Contractor. The City will be the final authority as to the availability of funds. The City will pay the Contractor for all work completed prior to any notice of termination.

34.5 Where the Contractor's services have been terminated by the City, said termination shall not affect any rights of the City against the Contractor then existing or which may thereafter accrue. Any retention or payment of monies by the City due the Contractor will not release the Contractor from liability.

35 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE.

35.1 If, through no act or fault of the Contractor, the Work is suspended for a period of more than ninety (90) days by the City or an order of court or other public authority, or if the City Engineer fails to act on any application for payment within thirty (30) days after it is submitted, or if the City fails to pay the Contractor any sum approved by the City Engineer within thirty (30) days of its approval and presentation, then the Contractor may, upon seven (7) days written notice to the City, terminate the Agreement and recover from the City payment for all Work executed in accordance with the Agreement plus fair and reasonable overhead and profit. In addition and in lieu of terminating the Agreement, if the City Engineer has failed to act on an application for payment or the City has failed to make payment as aforesaid, the Contractor may, upon seven (7) days' notice to the City and the City Engineer, stop Work until it has been paid all amounts then due.

36 DISPUTE RESOLUTION.

36.1 Initial Administrative Resolution: The Contractor may appeal to the Director within fourteen (14) days of a written decision made by the City Engineer. Failure of the Contractor to appeal any decision within this timeframe shall constitute the Contractor's acceptance of the City Engineer's decision and render any claims or disputes related to the decision waived. Such appeals to the Director shall detail the Contract Document provisions that conflict with the City Engineer's decision. The Director shall review each appeal and the Director and Contractor will seek to resolve the appeal through exchange of information and direct negotiations. The Director shall render its decision in writing within thirty (30) days of submission of the appeal; failure of the Director to render a decision within this timeframe shall render the appeal denied.

36.2 Secondary Administrative Resolution: The Contractor may appeal to the City Manager within fourteen (14) days of a written decision made by the Director. Failure of the Contractor to appeal any decision within this timeframe shall constitute the Contractor's acceptance of the Director's decision and render any claims or disputes related to the decision waived. Such appeals to the City Manager shall detail the Contract Document provisions that conflict with the Director's decision. The City Manager and Contractor will seek to resolve the appeal through

exchange of information and direct negotiations. The City Manager shall render its decision in writing within forty-five (45) days of submission of the appeal; failure of the City Manager to render a decision within this timeframe shall render the appeal denied. The City Manager's decision shall be the final administrative decision and is a necessary condition precedent for exhaustion of administrative remedies in order to initiate mediation and a lawsuit based on this Agreement.

36.3 Mediation: For any disputes which remain unsolved and have not been waived, within sixty (60) calendar days after Final Completion of the Work, the parties shall participate in mediation in Alachua County, Florida to address all unresolved disputes. If the Contractor wishes to contest any decision made by the City Manager, Contractor shall request mediation by providing written notice to the City Engineer within thirty (30) days of the City Manager's written decision. Such notice shall detail the Contract Document provision that conflict with the City Manager's decision. Failure of the Contractor to provide such notice shall constitute the Contractor's acceptance of the City Manager's decision and render any claims or disputes related to the decision waived. The Parties shall submit the dispute to mediation prior to filing, and as a condition precedent to, an action in court, which must be filed within thirty (30) days of conclusion of mediation, or the dispute shall be waived. The City shall provide the Contractor a list of three mediators and the Contractor shall select a mediator from the list. The Parties shall each pay one-half of the mediator's fees and costs. Should any dispute not be resolved in mediation, the parties retain all their legal rights and remedies under applicable law, to extent not waived in accordance with this Agreement.

37 **WORKPLACE VIOLENCE.**

37.1 Employees of the Contractor are prohibited from committing any act of workplace violence. Violation may be grounds for termination of the Agreement. Workplace violence means the commission of any of the following acts by a Contractor's employee:

37.1.1 Battery: intentional offensive touching or application of force or violence to another.

37.1.2 Stalking: willfully, maliciously and repeatedly following or harassing another person.

38 **DUTIES AND OBLIGATIONS.** The rights and remedies available hereunder, and in particular without limitation, the warranties, guarantees and obligations imposed upon the Contractor by this Agreement and the rights and remedies available to the City thereunder, shall be in addition to and not a limitation of any otherwise imposed or available by law, special guarantee, or other provisions of this Agreement.

39 **APPRENTICE AND DISADVANTAGED WORKER REQUIREMENTS.** Contractor shall comply with the requirements of the Apprentice and Disadvantaged Worker Ordinance, Article XI, Chapter 2, Gainesville Code of Ordinances. Failure of the contractor to comply with the ordinance may result in termination of the contract.

- 40 **POLLUTION ABATEMENT.** The Contractor shall comply with all federal, state and local laws and regulations controlling pollution of the environment. The Contractor shall take necessary precautions to prevent pollution of soils, creeks, streams, lakes, wetlands and ponds with fuels, oils, bitumens, chemicals and other harmful materials and shall take necessary measures to minimize soil erosion.
- 41 **INJURY OR DAMAGE TO PEOPLE OR PROPERTY.** Should the City or the Contractor suffer injury or damage to its person or property because of any error, omission or act of the other or of any of their employees or agents or others for whose acts they are legally liable, claims shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.
- 42 **HEALTH CONSIDERATIONS.** The Contractor shall provide and maintain, in a neat and sanitary condition, such accommodations for the use of its employees as are necessary to comply with the requirements and regulations of the State and Local Boards of Health. The Contractor shall commit no public nuisance.
- 43 **SEVERABILITY.** It is understood and agreed by the Parties that if any provision of the Agreement shall contravene, or be invalid under the laws of the State of Florida, such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the Parties shall be construed and enforced accordingly.
- 44 **AMENDMENT.** This Agreement may be amended only by written amendment, change order or field order.
- 45 **INDEPENDENT CONTRACTOR.** In the performance of this Agreement, the Contractor will be acting in the capacity of an independent Contractor, and not as an agent, employee, partner, joint venture, or associate of the City. The Contractor shall be solely responsible for the means, methods and techniques, sequences and procedures utilized by the Contractor in the full performance of this Agreement. Neither Contractor nor anyone employed by Contractor shall represent, act, purport to act, or to be deemed to be the agent, representative, employee or servant of the City.
- 46 **GOVERNING LAW AND VENUE.** The laws of the State of Florida, notwithstanding its conflict of laws provisions, shall govern this Agreement. Sole and exclusive venue for all actions arising under this Agreement shall be in Alachua County.
- 47 **COMPLETE AGREEMENT.** This Agreement contains the sole and entire agreement between the City and the Contractor and supersedes any other written or oral agreements between them not incorporated herein.
- 48 **NON WAIVER.** The failure of any party to exercise any right in this Agreement will not waive such right in the event of any further default or non-compliance.
- 49 **SUCCESSORS AND ASSIGNS.** The Contractor shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the City. Subject to the provisions of the preceding sentence, each party hereto binds itself, its successors, assigns and legal representatives to the other and to the successors, assigns and legal representatives of such other party. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City.
- 50 **NO THIRD PARTY BENEFICIARIES.** Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party.

THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

<CONTRACTOR’S NAME>

CITY OF GAINESVILLE, FLORIDA

Print Name: _____

Title: _____

Date: _____

Lee R. Feldman, City Manager

Date: _____

APPROVED AS TO FORM AND LEGALITY

City Attorney

EXHIBIT 1: SCHEDULE OF VALUES

EXHIBIT 2: PAYMENT BOND FORM

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: City of Gainesville, Florida, Municipal Corporation

PRINCIPAL BUSINESS ADDRESS: 200 E University Avenue, Gainesville, Florida 32601

TELEPHONE NUMBER: 352-334-5000

CONTRACT DETAILS

CONTRACT NO.:

DATE EXECUTED:

AMOUNT:

GENERAL DESCRIPTION:

STREET ADDRESS OF PROJECT:

PO NO., RFP, OR BID NO.:

BOND

BOND NUMBER:

DATE:

AMOUNT:

KNOW ALL MEN BY THESE PRESENTS:

That Principal, hereinafter called Contractor, and Surety, as identified above, are bound to City of Gainesville, Florida, as Oblige, and hereinafter called the City, in the amount identified above, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

This payment bond is executed pursuant to §255.05, Florida Statutes, and claimants must comply with the notice and time limitations of §255.05(2) and §255.05(10), Florida Statutes.

WHEREAS, Contractor has by written Contract entered into a Contract, identified above, with the City, which Contract Documents are by reference made part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract."

THE CONDITION OF THIS BOND is that if Contractor promptly makes payments to all persons defined in §713.01, Florida Statutes, who furnish labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract; then CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT.

The surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect surety's obligation under this bond.

The provisions of this bond are subject to the notice and time limitations of §255.05(2) and §255.05(10). In no event will the Surety be liable in the aggregate to claimants for more than the penal sum of this Payment Bond, regardless of the number of suits that may be filed by claimants.

SIGNATURES NEXT PAGE

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

Signed, sealed and delivered

in the presence of:

By: _____

Witnesses as to Contractor

Name: _____

Title: _____

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ___ day of _____, 20___, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification.

Notary Public (Signature) : _____

Printed Name:

My Commission Expires: _____

(AFFIX NOTARY SEAL)

SURETY

SIGNATURE: _____

SEAL

PRINTED NAME AND TITLE: ATTORNEY IN FACT

EXHIBIT 3: PERFORMANCE BOND FORM

CONTRACTOR (PRINCIPAL)

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

SURETY

COMPANY (LEGAL NAME):

PRINCIPAL BUSINESS ADDRESS (No PO Box):

TELEPHONE NUMBER:

OWNER (OBLIGEE)

NAME: City of Gainesville, Florida, Municipal Corporation

PRINCIPAL BUSINESS ADDRESS: 200 E University Avenue, Gainesville, Florida 32601

TELEPHONE NUMBER: 352-334-5000

CONTRACT DETAILS

CONTRACT NO.:

DATE EXECUTED:

AMOUNT:

GENERAL DESCRIPTION:

STREET ADDRESS OF PROJECT:

PO NO., RFP, OR BID NO.:

BOND

BOND NUMBER:

DATE:

AMOUNT:

KNOW ALL MEN BY THESE PRESENTS:

That Principal, hereinafter called Contractor, and Surety, as identified above, are bound to City of Gainesville, Florida, as Oblige, and hereinafter called the City, in the amount identified above, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written Contract entered into a Contract, identified above, with City, which Contract Documents are by reference made a part hereof, and for the purposes of this Bond are hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. performs the Contract between Contractor and City, at the times and in the manner prescribed in the Contract;
and
2. pays City all losses, damages, including liquidated damages and damages caused by delay, expenses, costs and attorney's fees including appellate proceedings, that City sustains as a result of default by Contractor under the Contract;
and
3. performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract; then THIS BOND IS VOID, OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever Contractor shall be, and is declared by City to be, in default under the Contract, and City having performed City's obligations there under, the Surety may promptly remedy the default, or shall promptly:

1. complete the Contract in accordance with its terms and conditions; or
2. obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if City elects, upon determination by City and Surety jointly of the lowest responsible bidder, arrange for a Contract between such Bidder and City, and make available as work progresses sufficient funds, paid to City, to pay the cost of completion and other costs and damages for which the Surety may be liable hereunder.

No right of action shall accrue on this bond to or for the use of any person of corporation other than City named herein.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other Work to be performed hereunder, or the specifications referred to therein shall in any way affect its obligations under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to Work or to the specifications.

This instrument shall be construed in all respects as a common law bond. It is expressly understood that the time provisions and statute of limitations under §255.05, Florida Statutes, shall not apply to this bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penal sum of this Performance Bond regardless of the number of suits that may be filed by Obligee.

Signed and sealed this _____ day of _____, 20_____.

CONTRACTOR (PRINCIPAL)

Signed, sealed and delivered in the presence of:

_____ By: _____

Witnesses as to Contractor Name: _____ Title: _____

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20____, by _____, as _____ of _____, a _____

corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____
as identification.

Notary Public (Signature) _____

Printed Name: _____

My Commission Expires: _____

(AFFIX NOTARY SEAL)

SURETY

SIGNATURE: _____

SEAL

PRINTED NAME AND TITLE:

EXHIBIT 4: CONTRACTOR'S FINAL PAYMENT AFFIDAVIT FORM

STATE OF FLORIDA

CITY OF _____

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) He or she is the (title) _____, of _____, which does business in the State of Florida, hereinafter referred to as the "Contractor."

(2) Contractor, pursuant to that certain Contract No. <XX> ("Contract") with the City of Gainesville, Florida, a municipal corporation and political subdivision of the State of Florida, hereinafter referred to as the "Owner," has furnished or caused to be furnished labor, materials, and services for *Bid No. ; Project No. PW3006-0-EN-SW-RW, SW 62nd Blvd Resurfacing*, as more particularly set forth in said Contract.

(3) This affidavit is executed by the Contractor in accordance with §713.06 of the Florida Statutes for the purposes of obtaining final payment from the Owner in the amount of \$_____.

(4) Contractor certifies, represents and warrants that it has paid all persons defined in §713.01, Florida Statutes, who furnished labor, services, or materials for the prosecution of the Work provided for in the Contract ("Claimants"), all amounts owed them from any previous payments received by Contractor from the Owner and has not withheld any such amounts.

(5) Contractor certifies, represents and warrants that all Work to be performed under the Contract has been fully completed, and all Claimants have been paid in full.

(6) In accordance with the Contract Documents and in consideration of \$_____ paid, Contractor releases and waives for itself and all Claimants, including their successors and assigns, all claims demands, damages, costs and expenses, whether in contract or in tort, against Owner relating in any way to the performance of the Contract.

(7) Contractor certifies, represents and warrants for itself and its subcontractors, materialmen, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which Owner might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

Contractor:

By: _____

Its: _____

Date: _____

Witnesses

[Corporate Seal]

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20__, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification.

Notary Public (Signature) _____

Printed Name: _____

My Commission Expires: _____

(AFFIX NOTARY SEAL)

EXHIBIT 5: FINAL PAYMENT BOND WAIVER FORM

WAIVER OF RIGHT TO CLAIM AGAINST THE PAYMENT BOND (FINAL PAYMENT)

OWNER: City of Gainesville, Florida, a municipal corporation and political subdivision of the State of Florida

CONTRACTOR:

PROJECT: Contract No. <XX> (“Contract”) for labor, materials, and services for *Bid No. <XX>; Project No. PW3006-0-EN-SW-RW, SW 62nd Blvd Resurfacing.*

The undersigned Claimant, for itself and its successors and assigns, and in consideration of the final payment made in the amount of \$ _____, hereby waives and releases its right to claim against the payment bond, and further waives, releases and discharges the Owner and Contractor from any and all claims, demands, obligations, damages, actions, and causes of action, direct or indirect, in law or in equity, for labor, services or materials furnished through _____ (insert date) to _____, on the job of the City of Gainesville, Florida, a municipal corporation and political subdivision of the State of Florida, for improvements associated with the above referenced Project.

DATED ON _____.

Claimant: _____

By: _____

(Name)

Title: _____

(Print Title)

STATE OF _____

CITY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 20 ____, by _____, as _____ of _____, a _____ corporation, on behalf of the corporation. He/she is personally known to me **OR** has produced _____ as identification.

Notary Public (Signature) _____

Printed Name: _____

My Commission Expires: _____

(AFFIX NOTARY SEAL)

EXHIBIT 6: CERTIFICATE OF INSURANCE

PART 8 – EXHIBITS

The following documents/forms are included in this section:

- Drug-Free Workplace Form
- Bidder Verification Form
- Customer History
- Responsible Agent Form
- Proposed Subcontractor's Form
- Project Manager and Superintendent or Owner's Experience form (if required as specified in Section 1.5)

DRUG-FREE WORKPLACE FORM

The undersigned bidder in accordance with Florida Statute 287.087 hereby certifies that

_____ does:

(Name of Bidder)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for the drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this bidder complies fully with the above requirements.

Bidder's Signature

Date

In the event of a tie bid, bidders with a Drug Free Workplace Program will be given preference. To be considered for the preference, this document must be completed and uploaded to DemandStar.com with your Submittal.

BIDDER VERIFICATION FORM

LOCAL PREFERENCE (Check one)

Local Preference requested: YES NO

A copy of the following documents must be included in your submission if you are requesting Local Preference:

- Business Tax Receipt
- Zoning Compliance Permit

QUALIFIED SMALL BUSINESS AND/OR SERVICE DISABLED VETERAN BUSINESS STATUS (Check one)

Is your business qualified, in accordance with the City of Gainesville's Small Business Procurement Program, as a local Small Business? YES NO

Is your business qualified, in accordance with the City of Gainesville's Small Business Procurement Program, as a local Service-Disabled Veteran Business? YES NO

REGISTERED TO DO BUSINESS IN THE STATE OF FLORIDA

Is Bidder registered with Florida Department of State's, Division of Corporations, to do business in the State of Florida?

YES NO (refer to Part 1, 1.5, last paragraph)

If the answer is "YES", provide a copy of SunBiz registration or SunBiz Document Number (# _____)

If the answer is "NO", please state reason why: _____

DIVERSITY AND INCLUSION (Applies to solicitations above \$50,000)

Does your company have a policy on diversity and inclusion? YES NO

If yes, please attach a copy of the policy to your submittal.

Note: Possessing a diversity and inclusion policy will have no effect on the City's consideration of your submittal, but is simply being requested for information gathering purposes.

Bidder's Name

Printed Name/Title of Authorized Representative

Signature of Authorized Representative

Date

CUSTOMER HISTORY

Name of Bidder: _____

Provide a list of prior customers for similar services that your bidder has provided within the last five (5) years. Copy form as necessary.

| | |
|-------------------|---------------|
| Customer Name: | |
| Address: | |
| City, State, Zip: | |
| Point of Contact: | Phone Number: |
| E-mail: | |

| | |
|-------------------|---------------|
| Customer Name: | |
| Address: | |
| City, State, Zip: | |
| Point of Contact: | Phone Number: |
| E-mail: | |

| | |
|-------------------|---------------|
| Customer Name: | |
| Address: | |
| City, State, Zip: | |
| Point of Contact: | Phone Number: |
| E-mail: | |

| | |
|-------------------|---------------|
| Customer Name: | |
| Address: | |
| City, State, Zip: | |
| Point of Contact: | Phone Number: |
| E-mail: | |

| | |
|-------------------|---------------|
| Customer Name: | |
| Address: | |
| City, State, Zip: | |
| Point of Contact: | Phone Number: |
| E-mail: | |

This page must be completed and uploaded to DemandStar.com with your Submittal.

RESPONSIBLE AGENT FORM

RESPONSIBLE AGENT: _____

ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

EMAIL ADDRESS: _____

ALTERNATE RESPONSIBLE AGENT: _____

ADDRESS: _____

PHONE NO.: _____

FAX NO.: _____

EMAIL ADDRESS: _____

PROPOSED SUBCONTRACTORS FORM

Name of Bidder: _____

This form is for all Subcontractors being utilized on this project.

Name of Contractor: _____

Address: _____

Scope of Work to be Performed: _____

Total \$ Value: \$ _____ % of Total BID/RFP: _____ %

Name of Contractor: _____

Address: _____

Scope of Work to be Performed: _____

Total \$ Value: \$ _____ % of Total BID/RFP: _____ %

Name of Contractor: _____

Address: _____

Scope of Work to be Performed: _____

Total \$ Value: \$ _____ % of Total BID/RFP: _____ %

Name of Contractor: _____

Address: _____

Scope of Work to be Performed: _____

Total \$ Value: \$ _____ % of Total BID/RFP: _____ %

Name of Contractor: _____

Address: _____

Scope of Work to be Performed: _____

Total \$ Value: \$ _____ % of Total BID/RFP: _____ %

If additional space is required for your subcontractor listing, make copies of this form and submit with you bid package.

This page must be completed and uploaded to DemandStar.com with your Submittal, if the Living Wage Ordinance applies to bidder.

PROJECT MANAGER AND SUPERINTENDENT OR OWNER'S EXPERIENCE

| <u>NAME AND TITLE</u> | <u>ROLE IN THIS PROJECT</u> | <u>YEARS EXPERIENCE</u> | |
|--|-----------------------------|------------------------------|----------------|
| | | TOTAL | WITH THIS FIRM |
| <u>RELEVANT PROJECTS</u> | | | |
| 1. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |
| 2. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |
| 3. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |
| 4. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |
| 5. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |
| 6. <u>PROJECT TITLE AND LOCATION</u> (city and state) | | <u>YEAR COMPLETED</u> | |
| <u>BRIEF DESCRIPTION</u> (Brief scope, size, costs, etc.) and SPECIFIC ROLE <input type="checkbox"/> Check if project completed with current firm | | | |

PART 9 – NO BID SURVEY

GENERAL GOVERNMENT PROCUREMENT DIVISION SURVEY BID INFORMATION

INVITATION TO BID #: PWDA-220015-MS

DUE DATE: October 4, 2021
@ 3:00 p.m., local time

BID TITLE: SW 62nd Blvd Resurfacing

IF YOU DO NOT BID

Please check the appropriate or explain:

- _____ 1. Not enough bid response time.
- _____ 2. Specifications not clear.
- _____ 3. Do not submit bids to Municipalities.
- _____ 4. Current work load does not permit time to bid.
- _____ 5. Delay in payment from Governmental agencies.
- _____ 6. Do not handle this item.
- _____ 7. Other: _____

Bidder Name: _____

Address: _____

Are you a small business? YES NO

Are you a service-disabled veteran business? YES NO

If you choose to not bid, complete this form, and either upload it into DemandStar.com or email to the procurement specialist.