
Request for Proposal

City of Carrollton

Neighborhood Stabilization Program

Residential Construction Project



City of Carrollton

315 Bradley Street - Carrollton, GA 30117

REQUEST FOR PROPOSALS
THE CITY OF CARROLLTON
NEIGHBORHOOD STABILIZATION PROGRAM
RESIDENTIAL CONSTRUCTION PROJECT

PROJECT # 80718-251

TABLE OF CONTENTS

PART I – BIDDING REQUIREMENTS

PAGES

Request for Proposals Advertisement
Instructions & General Conditions
Special Conditions
Bid Proposal

AB-1 and AB-2
GC-1 through GC-20
SC-1 through SC-4
BP-1 through BP-10

PART II – CONTRACT FORMS

Affidavit of Non-collusion
Contractor's Certification
E-Verify Contractor Affidavit
E-Verify Subcontractor Affidavit
EEO Clause
Contract Form
Bid Bond
Payment Bond
Performance Bond

AN-1
CE-1
EC-1
ES-1
EE-1 through EE-2
C-1 through C-5
BB-1 and BB-2
PM-1 through PM-4
PF-1 through PF-4



PART I

BIDDING REQUIREMENTS



REQUEST FOR PROPOSALS

CITY OF CARROLLTON, GEORGIA NEIGHBORHOOD STABILIZATION PROGRAM RESIDENTIAL CONSTRUCTION PROJECT

The City of Carrollton Neighborhood Stabilization Program is soliciting Proposals from licensed-qualified contractors for construction of affordable, single-family homes, in the areas of greatest need in Carrollton and Carroll County. ***This project is covered under the requirements of Section 3 Clause of the Housing and Urban Development (HUD) Act of 1968, as amended and as implemented by HUD regulations at 24 CFR Part 135.***

The Neighborhood Stabilization Program (NSP) provides funds to state and local governments to redevelop vacant, foreclosed, and abandoned properties into affordable housing. The Georgia Department of Community Affairs (DCA) administers these funds for the state of Georgia. In 2009, DCA approved and set aside funds for Carrollton NSP1 in the amount of \$3.4 million and in 2011, \$1.19 million for NSP3. To date, Carrollton (NSP1 & NSP3) has utilized these funds to purchase and renovate 85 foreclosed properties in Carroll County. These properties were then sold to qualified homebuyers.

Carrollton NSP1 & NSP3 received approval from the Georgia Department of Community Affairs to add new construction as an eligible activity for redevelopment of blighted properties in the areas of greatest need in Carroll County. The City of Carrollton's objective is to redevelop demolished or vacant properties by constructing new replacement homes. These homes will be affordable, energy-efficient, single-family home(s) and will be sold to families whose income is at or below 50% of Area Median Income, under the parameters of the Georgia Department of Community Affairs Neighborhood Stabilization Program. The exact number of homes built will depend upon available funds, land acquisition, and construction costs.

Proposals will be received by the City at Carrollton City Hall Second Floor Conference Room, located at 315 Bradley Street, Carrollton, Georgia 30117, until 10:00 a.m., local time, February 14, 2019, and then at said office, will be publicly opened and the bid price read aloud.

Proposals shall be evaluated by a City of Carrollton Engineering Department review committee based on the following criteria:

1. Total Bid Price – 50%
2. Quality of Work, Related Experience, examples provided and those developed by the City – 50%

A score of 1 to 10 will be given for each of the above criteria and the scores weighted based on the percentages listed above. The Contractor with the highest total score will be selected for the project.

The City reserves the right to reject any and all Bids, in whole or in part, with or without cause, and to waive informalities, technicalities or irregularities in the Bids or the Contract Documents. Also, this project is of sufficient complexity that the City reserves the right to reject any contractor who does not have previous experience with projects of a similar nature and complexity.

The City, in its sole discretion, reserves the right to select the Bidder that it deems most advantageous to the Carrollton Neighborhood Stabilization Program.

Instructions & General Conditions, Bid Form, Contract Agreement, Architectural Plans & Specifications, Bid Bond, Performance Bond and Payment Bond Forms, and other Contract Documents may be examined at <https://www.carrollton-ga.gov/> under Quick Links "Bids and Proposals" or at Carrollton City Hall, 315 Bradley Street, Carrollton, Georgia 30117

All bids shall be delivered to Carrollton City Hall, 315 Bradley Street, Carrollton, Georgia 30117, by the time and date specified above. Bids shall be submitted in triplicate, sealed and mailed or delivered to be received, no later than the aforementioned time and date.

Each Bid must be accompanied by a Bid Bond in the amount of five (5) % of the lump sum bid. Bid Bonds must be duly executed by the Bidder as principal and having as surety thereon a surety company licensed to do business in the State of Georgia and listed in the latest issue of U.S. Treasury Circular 570. A letter of credit or bank guaranteed check, from a local bank, may be submitted in lieu of bond. Cash or personal checks will not be accepted.

Each Proposal shall be submitted in a sealed envelope with the Contractor's name and Georgia contractor's license number, on the outside of the envelope. The envelope shall clearly state "**Sealed Proposal for Carrollton NSP Residential Construction**".

The successful Bidder for this Contract will be required to furnish a satisfactory Performance Bond and Payment Bond each in the amount of 100 percent of the Bid.

CITY OF CARROLLTON
CARROLLTON, GEORGIA

Tommy J. Holland, P.E.
City Engineer

INSTRUCTIONS & GENERAL CONDITIONS
CITY OF CARROLLTON
NEIGHBORHOOD STABILIZATION PROGRAM
SINGLE-FAMILY RESIDENTIAL CONSTRUCTION PROJECT

The following sections contain information and instructions pertaining to the proper form and method for submission of Bids, procurement and return of Contract Documents, requirements and/or conditions which are unusual or of special importance, surety and insurance requirements, and provisions relating to the award of this contract.

SECTION 1 – PURPOSE.

The City of Carrollton Neighborhood Stabilization Program (NSP) is soliciting Proposals from Contractors licensed in the State of Georgia, for construction of affordable, single-family homes, in the areas of greatest need in Carrollton and Carroll County.

The Neighborhood Stabilization Program (NSP) provides grants to every state and certain local communities to purchase foreclosed or abandoned property. Grant funds are used to rehabilitate or demolish blighted properties and build new homes. These homes are then sold to income-qualified families to stabilize neighborhoods and stem the decline of house values. In 2009, the Georgia Department of Community Affairs approved grants for Carrollton-Carroll County NSP1 & NSP3.

Carrollton NSP1 & NSP3 recently received approval from the Georgia Department of Community Affairs to add new construction as an eligible activity for redevelopment of blighted properties in the areas of greatest need in Carroll County. The City of Carrollton's objective is to redevelop demolished or vacant properties by constructing new replacement homes. These homes will be affordable, single-family home(s) and will be sold to families whose income is below 50% of Area Median Income, under the parameters of the Georgia Department of Community Affairs. The exact number of homes built will depend upon available funds, land acquisition, and construction costs.

SECTION 2 – SCOPE OF WORK.

1. **Work included:** Contractor shall provide all materials, labor and equipment necessary to construct an affordable, energy efficient, 3-bedroom single-family infill bungalow-style home, utilizing architectural plans & specifications and site development plans provided by the City. *(See EXHIBIT A – ARCHITECTURAL PLANS & SPECIFICATIONS / SITE PLANS)*
2. **Code Compliance:** All work shall be performed in accordance with applicable Federal, State and local laws, all minimum State residential standards and any applicable City and/or County code amendments.
3. **NSP/HUD Compliance:** This project is covered under the requirements of Section 3 Clause of the Housing and Urban Development (HUD) Act of 1968, as amended and as implemented by HUD regulations at 24 CFR Part 135 *(See SPECIAL CONDITIONS- EXHIBIT B)*. New home construction using NSP3 grant funds must meet the design standards for Energy Star Qualified New Homes.
4. **Federal Labor Standards and Other Contract Requirements:** *See SPECIAL CONDITIONS- EXHIBIT B*

5. **Permits:** Contractor shall obtain and follow City of Carrollton Single Family Residential Structures Permit process and will schedule inspections for each phase of the work, as required by the Permit.
6. **Dumping/Trash Removal:** All trash and construction debris shall be discarded off-site in an approved and lawful manner. Unless otherwise stated, all material scheduled for removal or disposal becomes the property of the Contractor. Burning or burying of rubbish or construction materials on-site is prohibited. For additional information, see *Special Conditions*.
6. **Products:** All materials shall be of best quality for purpose intended and shall be manufactured by companies that regularly engage in the manufacturing of the product specified. Kitchen and bathroom cabinetry shall be of plywood construction.
7. **Workmanship:** All work shall be performed in a professional manner by skilled craftsman that are regularly engaged in work to be performed.

SECTION 3 – BIDDING REQUIREMENTS.

- A. Bidders Bond, Letter of Credit or Certified Check. Unless otherwise noted, each separate proposal shall be accompanied by a certified check or acceptable collateral in the amount of five (5) %. Bid bonds must be issued by a Surety licensed to do business in the home state of the City. Companies executing bonds must appear on the U.S. Treasury Department's most current list (Circular 570 as amended). A letter of credit issued from by a bank or savings and loan association, as defined by O.C.G.A. § 7-1-4, may be submitted, if the amount of any bid bond does not exceed \$300,000.
- B. Contractor's License. The Contractor shall provide the City of Carrollton, at the time of the bid, a copy of the Contractor's license as required by the State Construction Industry Licensing Board in O.C.G.A. 43-41. The scope of work for this project requires that the Contractor have at least a Residential Basic Contractor's License.

All bidders must submit proposals under the company name or individual's name of which is licensed by the State of Georgia. The licensee's name must be the same as the bidders and must be the named recipient of all required bonding. Any proposals submitted where the licensee, bidder, and bond recipient are not the same, will be rejected.

- D. Subcontractors. Company references and examples of work for subcontractors shall be evaluated with the same scrutiny as the overall contractor who is bidding the work. The quality of the subcontractor and his associated reputation and quality of work shall be a factor in the evaluation of the bidding contractor's proposal. Subcontractors shall carry the same insurance requirements as apply to the bidding contractor. Subcontractors shall not be changed after the award is granted without the express written consent of the City.
- F. Reserved Rejection of Bids. The City reserves the right to reject all Bids, in whole or in part, with or without cause, and to waive informalities, technicalities in the Bids or the Contract Documents.

SECTION 4 – COMPARISON OF BIDS.

The City shall rate and rank proposals received according to the following criteria:

1. Total Bid Price – 50%
2. Quality of Work, Related Experience, examples provided and those developed by the City – 50%

Total Bid Amount - A linear, mathematical application of points from 1 to 10 will be awarded to each Contractor based on the total price given from the attached bid sheet. Once a contractor is selected, the City reserves the right to re-negotiate if the project is believed to be overpriced. This negotiation will occur prior to award.

Quality of Work and Company References - The City of Carrollton Engineering Department review committee will examine examples of the bidder's work. The number of examples of work provided by the contractor will be a determining factor in the rating as well as the number of examples that the committee is able to obtain outside of those provided by the contractor. Work examples must be those performed in the bidding contractor's name and not work done by its employees while working for another company. Work done by a subcontractor is not valid. Work examples that require travel long distances will not be considered.

Each bidder will provide at least **three (3) references** as part of his proposal. The City may develop further references concerning the bidder's work.

The bidder will be rated on a scale of 1 to 10 based on the information provided by the references, information provided by developed references, and the ease of which the information and contact was obtained from the references. The credibility of the reference will also be a factor in the rating.

The City may ask for additional information on a contractor under consideration. This may include, but is not limited to, financial statements and/or certified audit reports prepared by a CPA. Failure to provide requested information may be grounds for rejection of the contractor's proposal or reduction in points awarded.

Incomplete, unclear, or confusing proposals are grounds for reduction in points awarded.

After the evaluation process is completed, all points awarded will be multiplied times the percentage for each category and the Bidder with the highest total points will be awarded the contract. **However, the City reserves the right to reject all bids.**

SECTION 5 – AWARDING AND EXECUTION OF CONTRACT.

The Contract will be awarded to the selected Bidder within 60 days from the date of opening of Bid Proposals.

The Bidder, to whom the award is made, shall execute the Contract and hand-deliver or mail it, together with the proper insurance certificates and bonds, to Attn: Barbara Mathews, Carrollton City Hall, 315 Bradley Street, Carrollton, GA 30117, within 10 days of the mailing thereof to the Contractor at the address provided in his/her proposal.

SECTION 6 – WITHDRAWAL OF BIDS.

Bids may be withdrawn at any time prior to the designated time for the opening of Bids. No Bid may be withdrawn within 60 days after the actual date of the opening thereof.

SECTION 7 – DEFINITIONS AND TERMS.

- A. Parts of Contract Documents. The following documents and drawings, collectively referred to as the Contract Documents, are all made parts of this Contract and supplement each other for all purposes related to the Project:

1. Bids for the City of Carrollton NSP Residential Construction Project, including all addenda issued prior to the time of the opening of the bids;
 2. Plans and specifications;
 3. Bid Proposals submitted by the Contractor in response to the RFP;
 4. Instructions and General Conditions;
 5. Special Conditions;
 6. Contract;
 7. E-Verify Forms;
 8. Notice to Proceed Form;
 9. All approved change orders;
 10. Performance Bond;
 11. Payment Bond;
 12. Certificates of Insurance Coverage;
 13. Section 3 Certification of Compliance.
- B. Titles Not to Limit Text. The titles of headings of the various sections, divisions, paragraphs, subparagraphs, drawings, table of contents, and/or indexes used in any part of the Contract Documents hereinbefore listed as a part of this Contract are for convenience of reference only and are not intended to limit and shall not be construed as in any way limiting, the application or meaning of the text.
- C. Questions Regarding Contract Documents. In general, no answer will be given to an oral question if the answer involves an interpretation of the Contract Documents or Plans, or the equality or use of products or methods other than those designated or described in the Plans or Specifications. Any information given to Bidders other than by means of the Plans and Contract Documents or by Addenda as described below, is given informally and shall not be used as the basis of a claim against the City.

To receive consideration, such questions shall be submitted in writing as detailed below at least seven (7) business days before the advertised date of the Bids. In general, the City will neither approve or disapprove particular products prior to opening of the Bids; such products will be considered when offered by the Contractor for incorporation into the work. Written requests may be submitted to the attention of Barbara Mathews, NSP Coordinator as follows:

Mail: City of Carrollton NSP
ATTN: Barbara Mathews
PO Box 1949
Carrollton, GA 30112

Fax: 770-830-2025
E-Mail: bmathews@carrollton-ga.gov

SECTION 8 - CONTRACT PRICE.

- A. Lump Sum Contract Amount. The Contractor agrees to fully and faithfully perform all work required or necessary to complete construction of the Project as set forth in the Contract Documents for the lump sum price set forth in the contract agreement between the City and the Contractor.
- B. Change Orders. The City reserves the right to negotiate and issue change orders to the Contractor, without the necessity of obtaining any additional bids, when appropriate or necessary in the performance of the Contract and completion of the Project. The final Contract price may be increased or decreased based on approved change orders negotiated between the parties and executed in writing by both parties hereto.

SECTION 9 – CONTRACT TERM.

- A. Notice to Proceed. The Contractor shall commence performance of work under the Contract within ten (10) days of receipt of the written Notice to Proceed from the City.
- B. Time for Performance. The Contractor shall have one-hundred-eighty (180) consecutive calendar days from the date specified in the Notice to Proceed to complete the Project.
- C. Time is of the Essence. Time is of the essence of the Contract. The Contractor shall faithfully, continuously, and expeditiously undertake all work required under the Contract until completion and acceptance of the Project by the City and in such a manner as to complete the Project within the 180-day construction period.
- D. Extension of Time. Extension of time may be granted in the sole discretion of the City for ordinary delays, inclement weather, and accidents; however, the Contractor expressly acknowledges that the occurrence of such will generally not relieve the Contractor from the necessity of maintaining the required rate of progress to timely complete the Project.

If delays are caused by acts of God, acts of government, strikes, extra work, floods, war, terrorism, or other contingencies clearly beyond the control or responsibility of the Contractor, the Contractor shall be entitled to a reasonable time extension to perform and complete this Contract.

- E. Liquidated Damages. If the Contractor fails to satisfactorily complete the entire work contemplated and provided for under the Contract on or before the date of completion determined as described above, the City shall be entitled to deduct from the payment due the Contractor the amount of \$500.00 per day for each calendar day (Sundays and legal holidays excluded) of delay, which sum is agreed upon not as a penalty, but as fixed and liquidated damages for each day of such delay. If the payments due to the Contractor are less than the amount of such liquidated damages, said damages shall be deducted from any other moneys due or to become due the Contractor and the balance, if any, paid to the Contractor. If the liquidated damages exceed the amount of all moneys due or to become due to the Contractor, then the Contractor or his surety shall pay the excess balance to the City.

SECTION 10 – PERFORMANCE AND PAYMENT BONDS.

- A. Bonding Requirements Generally. The Contractor shall be required to provide the City with performance and payment bonds in an amount equal to 100 percent of the Contract Price, based

on the lump sum bid submitted by the Contractor. The performance and payment bonds shall comply in all respects with the requirements of the Georgia Local Government Public Works Construction Law, as set forth in O.C.G.A. § 36-91, et seq. The performance and payment bonds shall be issued by a surety approved by the City and in a form acceptable to the City, naming the City as obligee.

Sample performance and payment bonds are included in the bid package.

- B. Performance Bond. The performance bond shall secure the faithful performance of the Contract and indemnify the City for any damages occasioned by a failure to perform the Contract within the prescribed time. The performance bond shall be payable to, in favor of, and for the protection of the City.
- C. Payment Bond. The payment bond shall be payable to the City and intended for the use and protection of all subcontractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the contract.
- D. Duration of Bonds. The performance and payment bonds shall be kept effective and in full force throughout the entire Contract and for one (1) year after completion and final acceptance of the Project. The bonds shall serve as a guarantee of the function and workmanship of the work performed by the Contractor. The bonds shall make the Contractor's surety responsible for underwriting the work against faulty workmanship or defective materials. Final acceptance of the work shall not relieve the surety of responsibility for a period of one (1) year after final acceptance of the Project by the City.
- E. Changes Not to Affect Bonds. It is specifically agreed and understood that any changes made in the plans and specifications for the Project (whether such changes increase or decrease the amount thereof) or any change in the manner or the time of payments to be made by the City to the Contractor shall in nowise annul, release, or affect the liability of the surety on the performance and payment bonds given by the Contractor.
- F. Default. If, after written notice of default, the Contractor fails to cure any default within ten (10) days of written notice thereof, the City shall be entitled to demand payment in the form of a draw against the bond or letter of credit, by submitting a signed statement to the surety or the bank certifying any of the following conditions of default:
 - 1. Contractor has failed, in any regard, to comply with the Contract Documents;
 - 2. Contractor has failed, in any regard, to comply with the City's Design and Construction Standards and/or Ordinances;
 - 3. Contractor has failed to complete the Contract in a timely fashion; or
 - 4. Contractor has, in any manner, created a danger of disturbance of operation, or any other violation of the integrity, of the City's existing water and/or sanitary sewer systems.

SECTION 11 – INSURANCE REQUIREMENTS.

Contractor shall purchase and maintain such liability and other insurance relating to Contractor's performance under this Agreement, which may arise out of or result from the following: (1) claims under workers' compensation, disability benefits, and other similar employee benefit acts; (2) claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than

Contractor's employees; (4) claims for damages insured by reasonably available personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or by any other person for any other reason; (5) claims for damages due to injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and (6) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle. The City (as well as its officers, agents, employees, attorneys, consultants, and other representatives) shall be named as an additional insured under any such policies covering items 3 through 6 above. In addition, said insurance purchased and maintained by Contractor shall include coverage for its indemnity obligations set forth in Section 20 below.

Said insurance purchased and maintained by Contractor shall include the specific coverages and at least the limits of liability provided as follows:

1. Workers' Compensation:
 - a. State: Statutory Limit
 - b. Federal: Statutory Limit
 - c. Employer's Liability: \$1,000,000/1,000,000/1,000,000
2. Contractor's General Liability, which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of Contractor:
 - a. General Aggregate: \$2,000,000
 - b. Products and completed operations, aggregate: \$2,000,000
 - c. Personal and Advertising Injury: \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
 - f. Excess or Umbrella Liability:

General Aggregate	\$3,000,000
Each Occurrence	\$1,000,000
3. Automobile Liability:
 - a. Combined Single Limit of Bodily Injury and Property Damage: \$2,000,000

Finally, said insurance purchased and maintained by Contractor shall: (1) contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to City and Contractor; and (2) remain in effect at least until final payment hereunder and at all times thereafter when Contractor may be correcting, removing, or replacing defective work.

Certificates in triplicate from the insurance carrier, stating the limits of liability and expiration date, shall be filed with the City at the time of execution of the Contract. Such certificates shall not merely name

the type of policy provided but shall specifically refer to the Contract and this requirement, and state that such insurance is as required hereby.

All policies shall specifically name the City of Carrollton, Georgia as a Co-Insured, which shall also be indicated on the certificates of insurance coverage.

SECTION 12 – CONTRACTOR INFORMATION.

- A. Legal Address of Contractor. Both the address given in the bid submitted by the Contractor and the Contractor's office at or near the site of the work are hereby designated as places to either of which notices, letters, and other communications to the Contractor shall be certified, mailed, or delivered. The delivering or depositing in a post-paid wrapper, in any post office box regularly maintained by the United States Post Office, or any notice, letter, or other communication directed to the Contractor at either such address shall be deemed sufficient service thereof upon the Contractor, and the date of said service shall be the date of such delivery or mailing. The first named address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor and delivered to the City. Nothing herein contained shall be deemed to preclude or render inoperative the service of any notice, letter, or communication upon the Contractor personally.
- B. Twenty-Four Hour Contact. The Contractor shall at all times during the term of the Contract provide the City with the name and current phone numbers for a twenty-four (24) hour a day contact. Said contact shall be an authorized agent of the Contractor with authority to initiate, direct, and control the work of the Contractor, including the Contractor's own crews and any approved subcontractors.

The inability of the City to reach the Contractor's required 24-hour contact may be deemed a default or breach of Contract by the Contractor.

SECTION 13 - PROSECUTION AND PROGRESS OF WORK.

- A. Duty to Employ Sufficient Labor and Equipment. The Contractor shall have a continuing duty to employ sufficient labor and equipment to insure the proper and timely completion of the Project. If the Contractor is not, in the opinion of the City, employing sufficient labor or equipment to complete the Project within the time specified, the Contractor shall, upon request by the City, employ such additional labor and equipment as may be necessary to enable the work to progress properly.
- B. Character of Workmen and Equipment. The Contractor shall employ such workmen as are careful and competent. No minors shall be employed by the Contractor. The City may, in writing, demand the dismissal of any person or persons employed by the Contractor in, about, or upon the work who shall misconduct himself or be incompetent or negligent in the performance of his or her duties or neglect or refuse to comply with directions given. Any such person or persons shall not be employed again thereon without the written consent of the City. Should the Contractor continue to employ, or again employ, such person or persons, the City may withhold all payments which are or may become due to the Contractor.
- C. Night Work. No night work shall be permitted on the Project, except in case of emergency and then only to such an extent as is absolutely necessary, unless approved by the City.
- D. Work on Sunday and Holidays. No Sunday work will be permitted, except in case of great emergency and then only upon written notification of the City.

The Contractor shall not allow any work to be done under this Contract on legal holidays, except upon written notification to the City. Any request by the Contractor to work on a legal holiday shall be submitted in writing to the City at least 48 hours in advance. For over time stipulations see Section 22.

SECTION 14 – CONTROL OF WORK.

- A. Subcontractors to Be Approved by the City. The Contractor shall submit in writing to the City immediately after the signing of the Contract full information as to what portions of the work he proposes to subcontract, if any, and to whom he proposes to subcontract them.

It is hereby mutually agreed that the City shall have the right to disapprove of any subcontractor, in which event the Contractor shall employ an approved subcontractor or do the work himself; or to disapprove of the performance of any portion of the work under subcontract, in which event the Contractor shall do the work himself. The Contractor agrees that the approval of such subcontracting of work or of subcontractors shall in nowise lessen the Contractor's responsibility for strict compliance with all provisions of the Contract.

The City will not deal directly with any subcontractor.

- B. No Subletting or Assignment. The Contractor shall give his personal attention constantly to the faithful prosecution of the work, shall keep the same under his personal control, and shall not assign by power of attorney or otherwise, nor subcontract the work or any part thereof without the previous written consent of the City, and shall not either legally or equitably assign any of the moneys payable under the Contract, or his claim thereto, unless by and with the like consent of the City and the surety on the performance and payment bonds.
- C. Absence of Contractor. Whenever the Contractor is not present on any part of the work where it may be desired to give directions, order may be given by the City and shall be received and obeyed by the superintendent or foreman who may have charge of the particular work in reference to which orders are given.
- D. Interference with and Protection of Streets and Waterways. The Contractor shall not close or obstruct any portion of a street, road, private way, waterway, or river, without obtaining permits to do so from the proper authorities. The Contractor shall place, and at all times keep, proper guards and, at night, suitable and sufficient warning lamps for the prevention of accidents; shall furnish watchmen to direct traffic where required to protect life or property; and shall observe police regulations and local ordinances. If any such way shall be rendered unsafe by the Contractor's operations, he shall make such repairs or provide such temporary ways or guards as necessary.
- E. Sanitary Regulations. The Contractor shall provide adequate sanitary conveniences for the use of those employed on the work, and their use shall be strictly enforced. Such conveniences shall be made available when the first employees arrive on the work, shall be constructed and maintained at such points and in such manner as may be approved, and shall be removed after departure of the last employees from the job.

The Contractor shall rigorously prohibit the committing of nuisances upon the lands of the City or others, about the works, or upon adjacent property.

- F. Access to Work. The City and its representatives, agents, and employees may, for any purpose, enter upon the work and the premises used by the Contractor, and the Contractor shall provide safe and proper facilities for said entry. Representatives of the appropriate State and federal

regulatory agencies and the local governing body shall be provided access to the work during normal working hours.

- G. Inspection. All materials and workmanship shall be subject to inspection. The Contractor shall afford every reasonable facility, for inspecting the material and work, at all times, on the site of construction, even to the extent of uncovering or taking down portions of finished work upon order.
- H. Mistakes of Contractor. The Contractor shall pay to the City all expenses, losses, and damages incurred in consequence of any defect, omission, or mistake of the Contractor or his employees for the making good thereof.
- I. Precautions During Adverse Weather. During adverse weather, the Contractor shall take all necessary precautions so that the work may be properly done and satisfactory in all respects. The City may suspend operations of the Contractor at any time when, in the City's judgment, the conditions are unsuitable, or the proper precautions are not being taken, whatever the weather may be in any season.
- J. Obligation to Pay for Labor and Materials. The Contractor shall pay for all materials furnished and services rendered for the performance of the Contract, and any person, firm, or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the Contractor and his surety, or either of them. If so requested by the City, the Contractor and his subcontractors shall furnish lien waivers or certified statements from any party furnishing materials or rendering services in connection with the Project, verifying that said party has been paid in full.
- K. Stoppage of Work. If the work to be done under the Contract shall be abandoned, or if the Contract or any part thereof shall be subcontracted without the previous written consent of the City, or if the Contract or any claim there under shall be assigned by the Contractor otherwise than as herein specified, or if at any time the City's representative shall be of the opinion and shall so certify in writing that the conditions herein specified as to the rate of progress are not fulfilled, or that the work or any part thereof is unnecessarily or unreasonably delayed, or that the Contractor has violated any of the provisions of the Contract, the City may notify the Contractor by a written order with a copy mailed to the home office of the surety to discontinue all work, or any part thereof; and thereupon the Contractor shall discontinue such work or such part thereof as the City designates, and the City may thereupon, by contract or otherwise, as it may in its best interest determine, complete the work or such part thereof and charge the entire expense of so completing the work or any part thereof to the Contractor or his surety.
- L. Contract Drawings and Specifications. Any additional Drawings and Specifications required by the Contractor shall be billed to the Contractor at cost. The Contractor shall keep one complete set of contract drawings and specifications, available on the principle site of the work at all times, and as many additional sets or parts of sets as directed to insure orderly progress. In case any part of the contract work is being prosecuted away from such principal site, the Contractor shall keep available at the site of such work such part or parts of the Contract Documents as ordered.
- M. Construction Plan-Storage of Materials. The Contractor shall make arrangements for and furnish all space required for offices, plant and storage of material. The Contractor shall arrange his plant and store his materials as compactly as practicable at points convenient for the Contractor and which do not damage the work or interfere with the work of other contractors or with free access to all parts of the site and to utility installations. Materials shall be stored in a manner so as to facilitate inspection and to ensure preservation of their quality and fitness for use. They

shall be placed on wooden platforms or other clean surfaces and not on the ground and shall be placed under cover.

- N. Supplemental Drawings. Additional drawings, for the purpose of explaining details of the work, or to show changes in the work will be furnished the Contractor from time to time, as found necessary. Supplemental drawings bearing the signature of an authorized representative of the City shall upon issue become a part of the Contract Documents.
- O. Oral Modification. No oral statement of any person whomsoever in any manner or degree shall modify or otherwise affect the terms of the Contract.

SECTION 15 – CONTROL OF MATERIAL.

- A. Right to Materials. Nothing in this contract shall be construed as vesting in the Contractor any right of property in the materials used after they have been attached or affixed to the work or the soil, but all such materials shall, upon being so attached or affixed, become the property of the City.
- B. “Or Equal” Clause. Whenever in any section of the Contract Documents any article, material, or equipment is defined by describing a proprietary product, or by using the name of a manufacturer or vendor, the term “or equal” if not inserted, shall be implied. The specific article, material, or equipment mentioned shall be understood as indicating the type, function, minimum standard of design, efficiency, and quality desired and shall not be construed in such a manner as to exclude manufacturer's products of comparable quality, design, and efficiency.
- C. Materials-Samples-Inspection. Unless otherwise indicated on the drawings or specified, only new materials shall be incorporated in the work. All materials furnished by the Contractor to be incorporated in the work shall be subject to the inspection and approval of the City. No material shall be processed or fabricated for, or delivered to, the work without prior review by the City, except at the risk of the Contractor.

As soon as possible after the contract has been executed, the Contractor shall submit to the City, data relating to materials he proposes to furnish for the work. Such data shall be in sufficient detail to enable the City to identify the particular product in question and to form an opinion as to its conformity to the contract requirements.

Facilities and labor for handling and inspection of all materials shall be furnished by the Contractor. Defective material shall immediately be removed from the site of the work.

If the City so requires, either prior to beginning, or during the progress of the work, the Contractor shall submit samples of materials for such special tests as may be necessary to demonstrate that they conform to the specifications. Such samples shall be furnished, taken, packed, and shipped at the expense of the Contractor. The Contractor shall make arrangements for and pay for all testing.

All samples shall be packed to reach their destination in good condition and shall be so labeled as to indicate the materials represented, the name of the building or work and location for which the material is intended, and the name of the Contractor submitting the sample. To insure consideration of samples, the Contractor shall notify the City by letter that the samples have been shipped and shall properly describe the samples in the letter. In no case shall the letter of notification be enclosed with the samples.

The Contractor shall submit data and samples, or place his orders, sufficiently early to permit consideration, inspection and testing before the materials are necessary for incorporation in the work. Any delay resulting from his failure so to do shall not be used as the basis of a claim against the City.

In order to demonstrate the proficiency of workmen, or to facilitate the choice among several textures, types, finishes, surfaces, etc., the Contractor shall, at his own expense, provide such samples of workmanship, or wall, floor, finish, etc., as may be required.

The Contractor shall furnish to the City triplicate certified copies of manufacturer's shop or mill tests (or reports from independent testing laboratories) relative to materials and concrete data.

After approval of the samples, data, etc., the material used on the work shall correspond therewith.

SECTION 16 – ELECTRICAL AND WATER SUPPLY NEEDS.

- A. Electrical Energy. The Contractor shall make all necessary applications and arrangements and pay all fees and charges for electrical energy for power and light required for the proper completion of the Contract during its entire progress. The Contractor shall provide and pay for all temporary wiring, switches, connections, and meters.
- B. Water Supply. The Contractor shall make all arrangements and pay all fees and charges for water required for proper completion of this contract during its entire progress. All water used for concrete work, curing of concrete, testing of structures for water tightness, and all water used for other purposes where structures may be affected or discolored shall be clean potable water, free from acid, alkali, and iron and from injurious amounts of vegetable matter and oil. Untreated stream water will not be permitted for these purposes.

SECTION 17 – INSPECTION AND CORRECTION OF WORK.

- A. Right of Inspection. The City shall have the right to inspect the work of the Contractor at any time.
- B. Final Inspection. After the cleaning up of the work, premises, adjacent property, streets, alleys, manholes, catch basins, and all other areas or structures in any way connected with the completion of the Project, the work as a whole shall be observed by the City.
- C. Deductions for Uncorrected Work. If the City deems it expedient to correct damaged work or work not done in accordance with the Contract, an equitable deduction from the Contract price shall be made therefore.
- D. Correction of Work Before Final Payment. The Contractor shall promptly remove from the site of the work and replace and/or redo, in accordance with the Contract and without expense to the City, all work failing to conform to the Contract, whether or not incorporated in the work, and shall bear the expense of making good all work of other contractors damaged or destroyed by such removal and replacement.

SECTION 18 – CITY'S RIGHT TO TERMINATE CONTRACT.

If the Contractor fails to complete the work under the Contract within the time specified, or fails to perform the work with sufficient workmen and equipment or with sufficient materials to insure the completion of said work within the specified time, or shall perform the work unsuitably or shall neglect or refuse to remove materials or perform new work for work which has been rejected as defective and unsuitable, or shall discontinue the prosecution of the work, or if the Contractor shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever, shall not carry on the work in an acceptable manner or shall fail to maintain at all times the bonds and insurance herein required, the City shall give

notice in writing to the Contractor and his surety by registered mail of such delays, neglect, or default, specifying the same, and if the Contractor, within a period of ten (10) days after such notice, shall not proceed in accordance therewith, then the City shall have full power and authority without violating this Contract, to take the prosecution of the work out of the hands of said Contractor, to take possession of and utilize any or all materials and equipment on the ground as may be suitable and acceptable, and may enter into an agreement for the completion of said Contract according to the terms and provisions thereof, or such other methods as, in its opinion, shall be required for the completion of said Contract in an acceptable manner.

If costs and charges incurred by the City are less than the sum which would have been payable under the Contract if it had been completed by said Contractor, then said Contractor shall be entitled to receive the difference. If costs and charges incurred by the City exceed the sum which would have been payable under the Contract if it had been completed by said Contractor, then the Contractor and his surety shall be liable and shall repay to the City the amount of said excess expenditure.

SECTION 19 - LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC.

- A. Errors and Omissions. Any correction of errors or omissions in the Project plans and specifications may be made by the City when such correction is necessary for the proper fulfillment of the intention of the Contract, as construed by the City. When said correction of errors or omissions, except as provided below, adds to the amount of work to be done by the Contractor, compensation for said additional work shall be negotiated by change order.

If the Contractor knows or can reasonably be expected to have known of an error, discrepancy, or conflict in any of the Contract Documents and fails to report the same, he shall not be entitled to compensation for any work or expense incurred by him which is required to be redone or re-incurred because of said error, discrepancy, or conflict and which would have been avoided had the Contractor promptly reported said error, discrepancy, or conflict when he knew or should have known of the same.

- B. Obligations and Liability of Contractor. The Contractor shall do all the work and furnish all the materials, tools, and equipment and everything necessary and proper for performing and completing the Project, as required by the Contract, in the manner and in the time specified. The Contractor shall complete the entire work in accordance with the plans and specifications for the Project, at the lump sum price set forth in the Contract. All the work and labor to be done and materials to be furnished under the Contract shall be done and furnished in strict conformity and compliance with the Contract Documents.

- C. Indemnification of the City. The Contractor shall be responsible at all times for all injury or damage of any kind resulting from any work (or omission) to persons or property, including employees and property of the City. The Contractor shall indemnify and forever hold and save the City harmless from and against all claims or actions, and expenses incidental to the defense of any such claims or actions, based upon or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with the performance of the Contract or by conditions created thereby or arising out of, or in any way connected with said work (or omission). The Contractor shall assume and pay for, without cost to the City, the defense of any and all claims, actions, and litigation suffered through any act or omission of the Contractor. The Contractor expressly agrees to defend against any claims brought or actions filed against the City, where such claim or action involves, in whole or in part, the subject of indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. All crews, subcontractors, agents, employees, entities, or individuals assigned by the Contractor to perform any work under the Contract shall be the responsibility of the Contractor.

- D. Risk of Loss on Contractor. All loss or damage arising out of the performance or nature of the work, or any damage to the work itself to be done under the Contract, or from any unforeseen obstruction or difficulties which may be encountered in the prosecution of the same, or from the action of the elements, or from any cause or causes whatsoever, until the same shall have been finally accepted, shall be sustained and paid for by the Contractor.
- E. No Guarantee of Site Conditions. The City makes no representation as to the site conditions of the Project. The Contractor shall be responsible for conducting such investigations of the Project site as he deems necessary to form a reasonable opinion as to the character and the nature of the work required to complete the Project in accordance with the Contract requirements. The Contractor shall bear all losses resulting to him or to the City on account of the amounts or character of the work, or because the nature of the land in or on which the work is to be done is different from what was estimated or expected.
- F. Minimize Interference with Public. The Contractor shall conduct his work so as to interfere as little as possible with private business and public travel. The Contractor shall, as his own expense, wherever necessary or required, maintain fences, furnish watchmen, maintain lights, and take such other precautions as may be necessary to protect life and property.
- G. Noise to Be Minimized. The Contractor shall so conduct all operations in such a manner that will cause the least annoyance to the residents in the vicinity of the work. All reasonable precautions shall be taken to minimize the noise of the construction operations, such as providing effective mufflers on the exhausts of machines and compressors. For additional information, see Special Conditions.
- Trucks carrying spoil, concrete, or other materials shall be routed over such roads as will cause the least annoyance to the public.
- H. Protection of Existing Structures. The Contractor shall so conduct his operations as not to damage existing structures. In case of any such damage resulting from the Contractor's operations, the Contractor shall repair and make good as new the damaged portions at his own expense.
- I. Intoxicating Liquors and Illegal Drugs. The Contractor shall not permit the presence or use of intoxicating liquors or illegal drugs upon or about the work covered under the Contract.
- J. Compliance with Laws. The Contractor shall keep himself fully informed of all existing and future State and federal laws, all regulations of the various departments and agencies of the State in which the work is to be performed, and municipal ordinances and regulations in any manner affecting the Project or those engaged or employed in the work, including but not limited to the City's Design and Construction Standards and the City's Ordinances. The Contractor shall at all times himself observe and comply with, and cause all his agents, employees, and subcontractors to observe and comply with all such existing and future laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the City and the City's representatives, officers, and agents against any claim or liability arising from or based upon violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or the Contractor's agents, employees, or subcontractors.
- K. Immigration Compliance. The Contractor to whom the award of the contract for construction of the Project is made shall certify its compliance with all applicable immigration requirements, as required by law and in a form satisfactory to the City. Any subcontractor engaged by the successful contractor shall also provide such certification, as required by law and in a form satisfactory to the City.

- L. Patents. The Contractor shall indemnify and save harmless the City, and all persons acting for or on behalf of the City, from all claims and liability of any nature or kind, including costs and expenses, arising from or occasioned by any infringement or alleged infringement of patent rights on any invention, process, article, or apparatus, or any part thereof, furnished and installed by said Contractor or arising from or occasioned by the use or manufacture thereof, including their use by the City.
- M. Occupying Private Land. The Contractor shall not (except after consent from the proper parties) enter or occupy with men, tools, materials, or equipment, any land outside the easements or property of the City. The Contractor shall furnish the City with signed copies of agreements with private parties involving use of private land in connection with the Contractor's work on this Project before entering upon said private property.

SECTION 20 – INDEMNIFICATION, SAFETY AND HEALTH REGULATIONS.

The Contractor shall be fully and solely responsible for job site safety and all safety related matters. The City and the City's representatives, officers, and agents shall not be responsible for job site safety. The Contractor shall indemnify the City and the City's representatives, officers, and agents for any and all job site safety matters.

The Contractor shall comply with the safety and health standards of the United States Department of Labor, and of the State in which the work is performed, pursuant to the Williams-Steiger Occupational Safety Act of 1970. The Department of Labor has adopted regulations entitled "Safety and Health Regulations for Construction" and subsequent amendments promulgated by the Department of Labor, Chapter XVII of Title 29, Code of Federal Regulations (CFR), Part 1926 (formerly Chapter XIII of Title 29, CFR, Part 1518).

The Contractor shall maintain an accurate record of, and will report to the City, exposure data and all accidents resulting in death, traumatic injury, occupational disease, and damage to property, materials, supplies, and equipment incident to the work performed under this Contract.

Compliance with the provisions of this Section by subcontractors shall be the responsibility of the Contractor.

SECTION 21 – MEASUREMENT AND PAYMENT.

- A. Breakdown of Lump Sum into Unit Prices. After the award of the Contract and before any progress estimate is paid, the Contractor shall supply an itemized statement or breakdown of the lump sum Contract price based on the unit rates provided in the bid proposal, subdivided in such detail as shall meet the City's approval. When approved, this breakdown may be used as an aid in determining the amount due the Contractor on progress estimates.
- B. Progress Estimates and Pay Requests. The Contractor shall submit a pay request for all work performed during the previous month no later than the tenth (10th) day of each month. The City will process and issue payment for all approved work within fifteen (15) business days of receipt of the pay request by the City. The City must inspect all work for which a pay request is submitted prior to release of payment. Any and all portions of the work that fails to pass inspection will not be paid for until the appropriate corrections have been made by the Contractor and another inspection is completed by the City.

On each pay request, the City shall pay to the Contractor the sum due as estimated above for all completed work, after deducting the accumulated retainage percentage, all payments previously made, and all deductions authorized under the provisions of the Contract.

No progress estimate or payment shall be required to be made when, in the judgment of the City, the total value of the work done since the last estimate amounts to less than One Thousand Dollars (\$1,000.00).

The Contractor shall not by reason of said payments be relieved from responsibility for the said materials and the protection thereof and shall make good any loss or damage thereto and shall be responsible for the entire work until the same is finally accepted by the City.

- C. Retainage. This construction contract provides for the following: Retainage to a maximum of 10 percent of each progress payment; provided, however, when 50 percent of the contract value including change orders and other additions to the contract value provided for by the contract documents is due and the manner of completion of the contract work and its progress are reasonably satisfactory to the City's authorized contract representative, the City shall withhold no more retainage. At the discretion of the City and with the approval of the contractor, the retainage of each subcontractor may be released separately as the subcontractor completes his or her work.

At substantial completion of the work or such other standard of completion as may be provided in the contract documents and as the City's authorized contract representative determines the work to be reasonably satisfactory, the City shall, within 30 days after invoice and other appropriate documentation as may be required by the contract documents are provided, pay the retainage to the contractor. If at that time there are any remaining incomplete minor items, an amount equal to 200 percent of the value of each item as determined by the City's authorized contract representative shall be withheld until such item or items are completed. The reduced retainage shall be shared by the contractor and subcontractors as their interests may appear.

- D. Withholding of Payments. The City may, for cause shown to exist, withhold issuance or approval of any payment request to the extent necessary to protect the City from loss on account of:

1. Defective work not remedied;
2. Claims filed or reasonable evidence indicating probable filing of claims;
3. Failure of the Contractor to make payments promptly to subcontractors for materials and/or labor;
4. A reasonable doubt that the Contract can be completed for the balance unpaid;
5. Damage to another contractor;
6. Failure to complete the Contract within the time specified;
7. Failure to carry out the Contract in any respect.

In the event of withholding payment for any of the above causes, as soon as the reason for withholding payment has been removed, payment shall be issued for the amounts withheld.

- E. Final Payment. Final payment shall be made by the City to the Contractor within fifteen (15) business days of (a) receipt of the final pay request or (b) completion and acceptance of all work required under the Contract, whichever is later. The final payment to the Contractor shall include an amount equal to the total amount earned, less the amount of all previous payments and any amounts to be retained under the provisions of the Contract. All prior estimates and payments shall be subject to correction in the final estimate and payment. The approval of the final estimate and payment by the City of the amount due to the Contractor shall constitute acceptance of the work.

The Contractor, his surety, and each assignee under any assignment in effect at the time of final payment shall, if required by the City, execute and deliver, at the time of and as a condition precedent to final payment, a release in form and substance satisfactory to the City and containing such exceptions as may be found appropriated by the City, discharging the City, its officers, agents, and employees of and from all liabilities, obligations, and claims arising under the Contract.

- F. Contractor's Certificate and Surety Company Statement. Before payment of the final estimate is made, the Contractor shall furnish a Contractor's Certificate stating that all offers for labor and materials and all outstanding claims and indebtedness, including state and federal taxes requested to be withheld, of whatsoever nature arising out of the performance of the Contractor have been paid.

The Contractor shall also furnish a statement by the Surety that, after making a careful examination of the books and records of the Contractor, the surety is satisfied that payment of all the above such bills, claims, and indebtedness has been made.

- G. Money May Be Retained. The City may keep any money which would otherwise be payable at any time hereunder, and apply the same or so much as may be necessary therefore to the payment of any expenses, losses, or damages incurred by the City, and may retain, until all claims are settled, so much of such money as the City shall be of the opinion will be required to settle all claims filed with the City, its officers, agents, and employees relating to the Contract.

- H. Liability of City. No person, firm, or corporation, other than the signer of the Contract as Contractor, now has any interest hereunder, and no claim shall be made or be valid, and neither the City nor any agent of the City shall be liable for or be held to pay any money, except as herein provided. The acceptance by the Contractor of the payment of the final estimate shall operate as and shall be a release to the City, and every agent of the City, from all claims and liability to the Contractor for anything done or furnished or relating to the work, or for any act or neglect of the City or of any person relating to or affecting the work, except the claim against the City for the remainder, if any there be, of the amounts kept or retained as herein provided.

- I. No Waiver. The City shall not be precluded or estopped by any measurement, estimate, or certificate made by or for the City either before or after completion and acceptance of the work any payment therefore, from showing the true amount and character of the work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or the work or materials do not comply in fact with the Contract. The City shall not be precluded or estopped, notwithstanding any such measurement, estimate, certificate, or payment in accordance therewith, from recovering from the Contractor and his surety such damages as the City may sustain by reason of the Contractor's failure to comply with the terms of the Contract. Neither the acceptance by the City, or any representative of the City, nor any payment for, nor acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by the City shall operate as a waiver of any portion of the Contract or of any right or power therein given, expressly or by implication, or arising

therefrom. A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach.

- J. Contractor's Claims for Damages. If the Contractor claims compensation for any damages sustained by breach of Contract or otherwise, be the same based on claims that due and full credit has not been given the Contractor for work performed or material furnished in accordance with the terms of the Contract or for any other cause, the Contractor shall promptly after the sustaining of any such damage, make a written statement of the nature of the damage sustained to the City, and shall on or before the fifteenth (15th) day of the month following that in which the damage shall have been sustained, file with the City an itemized statement of the details and amount of such damage, and unless such statement is made as thus required, the Contractor's claim for compensation shall be forfeited and invalidated and the Contractor shall not be entitled to payment on account of any such damage.

SECTION 22 – OVERTIME WORK.

Construction of the project is to be accomplished within the time frames stated in the Bid Proposal. Should the Bidder contemplate working more than 8 hours per day, more than 40 hours per week, or on Saturdays, Sundays or holidays, he shall include in his Bid an amount to be paid to the City to cover all the cost of resident inspection for all overtime hours during which construction activities are proceeding. The Contractor shall pay the City at a minimum rate of \$45/hour for all overtime. Higher hourly rates can be charged at the City's employment rate, if greater than \$45/hour. Overtime shall be defined as all time greater than 8 hours per day or more than 40 hours per week or any weekend or holiday work.

SECTION 23 – RESTORATION OF WORK SITE.

The Contractor shall return all disturbed areas to their pre-existing condition or better. All backfilled areas must be seeded and mulched by the end of each work shift. All landscaping shall be completed to within 100 feet of the ongoing work by the end of each work shift. After permanent grass has matured, the Contractor shall return to the project site and remove all temporary soil erosion control devices and sediment barriers, such as silt fencing and stone check dams. Pre-existing sodded yards shall be restored with like sod. All trees on the project site must be protected from damage, unless chosen to be removed by the City.

The Contractor shall be solely responsible for the removal of debris or spoil generated by the Contractor from the work site. It is a violation of state law and local ordinances for mud, dirt, rocks, or debris to be deposited on public roads. No spoil will be allowed on paved public roads. Public roads shall be kept clean at all times at the sole expense of the Contractor.

The Contractor agrees to perform the Contract without any adverse environmental impacts. The Contractor agrees to implement and enforce sound pollution prevention practices to control erosion and sedimentation, petroleum leaks and spills, chemical spills, and litter throughout all phases of the Project.

SECTION 24 – WARRANTY.

The Contractor shall warrant all work performed under the Contract for a period of one (1) year from the date of acceptance of the Project by the City. The Contractor shall guarantee all work to be performed in a good and workmanlike manner in compliance with all Contract Documents and the City's Design and Construction Standards.

The Contractor agrees to replace and/or repair any work that may be rejected due to workmanship (a) prior to final completion and acceptance of the work by the City or (b) within the one (1) year warranty period required by this section. If any problems are detected with the work after acceptance of the

project, the City will notify the Contractor by mail. Should problems arise that require emergency action, the City will attempt to contact the Contractor through the Contractor's designated 24-hour contact. However, if the City is unable to reach the Contractor, or if the Contractor fails for any reason to accomplish resolution of the identified issues, then the City shall correct all problems and back-bill the Contractor, who shall be responsible for all charges associated with the corrective/repair work at the current billing rates established by the City.

SECTION 25 – REPAIRS BY THE CITY.

If any repair or site restoration work, including but not limited to soil erosion and sedimentation control, is required and the City is unable, for any reason, to reach the designated 24-hour contact or other authorized representative of the Contractor within sixty (60) minutes, then the City shall be entitled to back-charge the Contractor the sum of \$500.00 plus the costs of the repair and/or restorative work, which shall be deemed liquidated damages.

Additionally, if any faulty installation or incomplete performance by the Contractor is repaired or completed by the City, the costs of such repair shall be back-charged to the Contractor.

A detailed explanation of all back-charges shall be provided to the Contractor in writing.

SECTION 26 - JURISDICTION AND VENUE PROVISION.

“The Contractor and Surety (where noted)”, for value received, hereby stipulates and agrees that any and all claims, demands, actions or suits whatsoever, arising under this contract shall be subject to the jurisdiction and venue of the Superior Court of Carroll County, Georgia.

SECTION 27 - CITY AUTHORIZED REPRESENTATIVE.

The City's Authorized Representative for this Contract is Tommy J. Holland, P.E., City Engineer.

EXHIBIT A

ARCHITECTURAL PLANS & SPECIFICATIONS

SITE PLANS

SPECIAL CONDITIONS

EXHIBIT B

CONTRACTOR/SUBCONTRACTORS

SECTION 3 CLAUSE OF

THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

All Section 3 covered contracts must include the following clause:

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization of workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment practices can see the notice. The notice shall describe the Section 3 preference, shall set forth a minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contract agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontract where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulation of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

SPECIAL CONDITIONS

CONTRACTOR SECTION 3 CLAUSE CERTIFICATION OF COMPLIANCE CITY OF CARROLLTON NEIGHBORHOOD STABILIZATION PROGRAM (NSP)

Certification of Compliance with Regulations to Section 3 of the Housing and Urban Development Act of 1968 as Required for Participation in HUD Programs

PURPOSE, AUTHORITY AND RESPONSIBILITY

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (hereinafter Section 3) requires that to the greatest extent feasible, opportunities for training and employment in Section 3 covered project be given to lower income residents of the project area and that contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

_____ hereinafter called the Contractor, has been awarded a contract for construction of single-family home(s) to be built in the NSP area of greatest need in Carrollton/Carroll County, GA.

Under the Neighborhood Stabilization Program, to the greatest extent feasible, Contractor will make a good faith effort to train and employ lower income residents and shall make a good faith effort to utilize the services of businesses located in or substantially owned by persons who live within the project boundaries.

Contractor has been informed by the City of Carrollton, that the HUD Area Office Director has determined that the project area boundaries for Section 3 covered assistance are Carroll County, including the municipal areas within Carroll County.

Contractor/Company Name

Signature of Company Officer

Printed Name of Company Officer & Title

Date

SPECIAL CONDITIONS

OTHER CONTRACT REQUIREMENTS

FEDERAL LABOR STANDARDS:

1. All construction contracts and subcontracts awarded in excess of \$100,000 which involve employment of mechanics or laborers must comply with the *Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) Sections 103 & 107* as supplemented by Dept. of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer based on a standard workday of 8 hours and a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the workweek.

Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.

2. All contracts and subcontracts in excess of \$2,000 for construction or repair must comply with the *Copeland "Anti- Kickback" Act (18 U.S.C. 874) as supplemented by Dept. of Labor regulations 23 CFR, Part 3*; this act provides that each contractor or subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he/she is otherwise entitled.

ACCESS TO CONTRACTOR RECORDS:

Contractor shall provide access to any books, documents, and records which are directly pertinent to the **Carrollton NSP Residential Construction Project**, to the Dept. of Community Affairs (DCA), Housing and Urban Development (HUD), the Comptroller General of the United States, and any other duly authorized representatives, for the purposes of audit, examination, excerpts, and transcriptions for three (3) years after final payment and all pending matters are closed.

ENVIRONMENTAL COMPLIANCE:

Contracts and subcontracts in excess of \$100,000 must comply with all applicable standards, orders, or requirements issued under *Section 306 of the Clean Air Act (42 U.S.C. 1857(h))* or *Section 508 of the Clean Air Act (33 U.S.C. 1368)*. *Executive Order 11738*, and *Environmental Protection Agency regulations (40 CFR, Part 15)*, that prohibit the use of facilities included on the EPA List of Violation Facilities.

PRESERVATION OF TREES

Contractor shall make every effort possible to protect existing old growth trees and their root systems located within the land lot. During construction equipment handlers should avoid driving over tree root systems. This may be achieved by erecting barriers, bridging the roots with posts or steel and/or mulching. Permission must be obtained from the City of Carrollton before removing any trees not designated for removal on the site plan. Please reference notes called out in the Site/Landscape Plan, **“TREE TO BE REMOVED”**.

OTHER SPECIAL CONDITIONS

- 1) All construction shall be in accordance with Federal, State, and Local requirements and unless otherwise approved by the City, the City's Design and Construction Standards.
- 2) All official staking shall be performed by the City's surveyor. The Contractor shall notify the City when staking is required and shall specify the area that is to be staked. All staking need not be completed at one time, provided the Contractor specifies staking in useable increments. The City shall be responsible for paying to have the project staked one time and one time only. The Contractor shall be responsible for compensating the City's surveying contractor at the rate of \$125.00 per hour for repeat taking of any given increment. The Contractor shall keep a set of plans on the site at all times and record all changes and revisions.
- 3) The City will provide a Geotechnical Engineer as needed for compaction testing via an outside consultant who shall be a qualified professional engineer registered in the state of Georgia.
- 4) The Contractor shall be responsible for scheduling the delivery of the materials to the Project site as well as establishing the hours of delivery and method of delivery to the project site. The Contractor's unloading, storage, handling, labor, installation and overhead costs, plus profit and other expenses contemplated for all pre-purchased materials shall be included in the lump sum cost of the Bid Proposal. The Contractor shall consider the freight cost to the Project site as being prepaid. If the terms and conditions of delivery of material and services differ from those given in these Contract documents, the Contractor shall include the cost differences in the lump sum cost.
- 5) Contractor is responsible for providing all safety and traffic control measures required to complete the project.
- 6) All work will be done in accordance with City of Carrollton Design and Construction Standards, GDOT standards, Manual of Uniform Traffic Control Devices (MUTCD), and all applicable building codes. All construction material must meet GDOT and City standards.
- 7) Contractor performing the installation of any storm pipe, water, sewer and other utilities must be a licensed utility contractor and must be on the City Approved Contractors List.
- 8) Contractor(s) shall be assessed liquidated damages in the amount of \$500 per day if the project is not completed within the selected Contract time.
- 9) All debris and unsuitable soils shall be disposed of in an approved and permitted landfill. Documentation of the proper disposal must be provided to the City. The City will provide a location for disposal of unsuitable soil that does not contain inert material (such as tree limbs, etc.) or concrete

larger than 9 inches.

- 10) Contractor responsible for installing, maintaining, and removing all Erosion Control BMPS's.
- 11) Contractor shall include water and sewer fees and all associated materials and installation in the bid.
- 12) To avoid disturbance to residence in the neighborhood, Contractor shall limit work on the project site to the hours between of 7:00 am to 9:00 pm, Monday through Saturday, unless otherwise approved by the City.

BID PROPOSAL

City of Carrollton
315 Bradley Street
Carrollton, GA 30117

ATTENTION: Tommy J. Holland, P.E.
CITY MANAGER

PROJECT TITLE: **CARROLLTON NSP RESIDENTIAL CONSTRUCTION PROJECT**

The Bidder proposes to furnish all materials, equipment, tools and other means of construction, and to do and perform all work at prices as hereinafter set forth and in accordance with the Plans and Specifications, and Addenda thereto, on file in the offices of the City of Carrollton, Carrollton, Georgia:

FIRST It shall be understood by all parties involved that the work described by these Contract Documents shall be performed pursuant to a written agreement between the Contractor and the City of Carrollton. The Contractor shall be hereafter referred to as the Bidder or the Contractor in these Contract Documents.

SECOND In submitting this Bid Proposal, the undersigned Bidder understands and agrees to the Instructions & General Conditions to Bidders.

Bidder acknowledges that he has received and examined the Plans and Specifications, and has informed himself of all Addenda thereto, and of the form of the Contract and Performance and Payment Bonds to be furnished in the event he is the successful Bidder and is awarded the Contract.

THIRD Undersigned Bidder has prepared this Bid Proposal based on the design as depicted in the aforementioned Plans, Specifications and Addenda thereto. The Undersigned Bidder acknowledges that approved written Change Orders shall be required for modifications to this design and Addenda thereto.

FOURTH Undersigned Bidder further agrees to begin the work on receipt of the executed Contract and Notice to Proceed and to prosecute said work so as to complete the work, except as otherwise specified under this Contract, within the time as specified in this BID PROPOSAL.

FIFTH Undersigned Bidder further agrees to guarantee performance of all work in accordance with the Plans and Specifications and in a good and workmanlike manner, and to replace or repair any work which may be rejected due to defective materials or workmanship prior to final completion, and acceptance of the project by the City or during the guarantee period as required by the Specifications or one year whichever is greater.

SIXTH Undersigned Bidder further agrees to indicate on his Bid Proposal, in the space provided for that purpose, the names of the Contractor and Subcontractors who will

perform the work if his proposal is accepted.

SEVENTH Undersigned Bidder agrees to submit, as and when required, prior to award of the Contract the following:

- (a) Such catalogs, drawings, specifications, descriptive information and other details as to special equipment or material Bidder proposes to furnish for the work, to permit an evaluation of the merits thereof and determination as to whether such special equipment or materials comply with the specifications, in addition to those required by the Instructions to Bidders.
- (b) A properly executed affidavit of non-collusion.
- (c) Statements of experience, capital and equipment available and certified financial statements, in accordance with the provisions of Instructions and Information to Bidders.

EIGHTH Unless otherwise noted, the Undersigned Bidder proposes to furnish all materials, machinery, equipment, tools, labor, supervision and other things specified or required and to perform all work necessary to carry out and satisfactorily complete the construction project described in the Contract Documents in the manner and within the times specified in the Contract Documents.

NINTH Contractor shall execute all Contract Documents and provide insurance certificates and applicable bonds and return all executed documents to the Owner within 10 days of notification of award. Contractor agrees to begin work within 10 calendar days from the Notice to Proceed date.

TENTH Undersigned Bidder acknowledges and certifies that he has examined the site of the work by personal investigation and is familiar with the onsite conditions and requirements of the work, including the materials to be excavated; that he has made his own interpretations and satisfied himself by his own investigations and research regarding labor and materials needed; that this Bid Proposal is made in sole reliance thereon; and that any information and/or data obtained from the City or its representatives shall not be used as a basis for any claim in regards to this project.

ELEVENTH Undersigned Bidder agrees to provide unimpeded access throughout the construction site as required to inspect the work.

List of Proposed Subcontractors

NAME AND ADDRESS OF SUBCONTRACTOR INCLUDED

BID EVALUATION SHEET

CARROLLTON NSP **RESIDENTIAL CONSTRUCTION PROJECT**

Name of Bidder: _____

The undersigned Bidder hereby submits its Lump Sum Bid(s) for the Project as written below and/or on the attached schedule(s) as appropriate for the provision of all labor, materials, tools and equipment as necessary for the construction of the **Carrollton NSP Residential Construction Project**, described on the Contract Documents and addenda thereto as provided by the City of Carrollton.

BID SCHEDULE – 180 DAYS

TOTAL BID AMOUNT (numbers)_____

TOTAL BID AMOUNT (words)_____

Contract's total maximum days till completion is: 180

Contractor's total estimate days till completion: _____

CERTIFICATION AND EXECUTION

We hereby attest that we have () have not () (check appropriate space) previously performed work subject to President's Executive Order No. 11246 and 11375, as amended, pertaining to employment practices and obligating us to non-discrimination against any employee or applicants for employment because of race, color creed, sex or national origin.

The amount of the Proposal Guarantee is at least 5 percent of the amount of the Total Bid, as required by the Advertisement for Bids and by the Instructions to Bidder.

Receipt is acknowledged of the following addenda:

Addenda No. _____, _____, _____, _____.

WITNESS our hands and seal this _____ day of _____, 2018.

INDIVIDUAL OR PARTNER-
SHIP EXECUTION

Co-partners doing business
under name and style of

CORPORATE EXECUTION

A Corporation

of the State of _____

(Corporate Seal)

By

TITLE

By

TITLE

MAILING ADDRESS

TELEPHONE NUMBER

FAX NUMBER

PROPOSAL AFFIDAVIT

I, _____, being an authorized representative of the firm of _____, located in the City of _____, State of Georgia, have read and understand the contents of the City of Carrollton's Contract Documents for **Carrollton NSP Residential Construction Bid** and hereby submit our proposal accordingly as of this date, _____.

Name of Firm _____

Address _____

Phone _____ Fax _____

Signature of Authorized Representative _____

Title of Authorized Representative _____

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____



PART II

CONTRACT FORMS



BIDDER'S AFFIDAVIT OF NONCOLLUSION

The undersigned Bidder hereby declares under oath that:

- (a) No collusion has occurred with any other contractor, subcontractor, material and equipment supplier, or other persons or parties having any interest in this project.
- (b) The Bidder has not directly or indirectly prevented or attempted to prevent competition in this proposal process by any means whatsoever.
- (c) The Bidder has not directly or indirectly prevented or endeavored to prevent anyone from submitting a proposal for this project by any means whatsoever, nor has the Bidder caused or induced another to withdraw a proposal for the project.

Name of Firm _____

Address _____

Signature of Authorized Representative _____

Title of Authorized Representative _____

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public

SEAL

My Commission Expires: _____

CERTIFICATE

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY that at a meeting of the Board of Directors of _____, a corporation organized under the laws of the State of _____, held on _____, 20____, the following resolution was duly passed and adopted:

"RESOLVED, that _____ as _____ of the corporation, be and is hereby authorized to execute the Contract dated _____, 20____, between the City of Carrollton, Carrollton, Georgia and this corporation, and that his execution thereof attested by the Secretary of the corporation for the **Carrollton NSP Residential Construction Project** and with corporate seal affixed, shall be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this _____ day of _____, 20_____.

Secretary

(Corporate Seal)



E-VERIFY CONTRACTOR AFFIDAVIT

**REQUIRED FOR LOCAL GOVERNMENT THAT MUST BE EXECUTED BY ANYONE
ENTERING INTO A CONTRACT WITH A LOCAL GOVERNMENT (OTHER THAN ROAD
CONSTRUCTION CONTRACTS)**

STATE OF GEORGIA, _____ COUNTY

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation that is contracting with the City of Carrollton, Georgia County has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91, and shall agree to use this program for any newly hired employees throughout the duration of the contract.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the City of Carrollton, Georgia, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form.

The contractor further agrees to provide notice to the County of the identity of each subcontractor hired under the contract within five (5) business days of entering into a contract for hire. Such notice shall include a copy of the Subcontractor Affidavit for each subsequent subcontractor attesting to the subcontractor's name, address, user identification number, and date of authorization to use the federal work authorization program. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Carrollton within five (5) days of the time the subcontractor(s) is retained to perform such service.

EEV / Basic Pilot Program* User Identification Number

Date Authorized to Use E-Verify

BY: Authorized Officer or Agent Date
(Contractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE ____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____



E-VERIFY SUB-CONTRACTOR AFFIDAVIT

REQUIRED FOR LOCAL GOVERNMENT THAT MUST BE EXECUTED BY ANYONE ENTERING INTO A CONTRACT WITH A LOCAL GOVERNMENT (OTHER THAN ROAD CONSTRUCTION CONTRACTS)

STATE OF GEORGIA, _____ COUNTY

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation that is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of the City of Carrollton has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. § 13-10-91 and will agree to use this program for any newly hired employees throughout the duration of the contract. The subcontractor further agrees to provide a copy of the executed Subcontractor Affidavit to the Contractor in order to be provided to the City of Carrollton within five (5) days entering into the contract for hire.

EEV / Basic Pilot Program* User Identification Number Date Authorized to Use E-Verify

BY: Authorized Officer or Agent Date
(Contractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____

EQUAL EMPLOYMENT OPPORTUNITY (EEO) CLAUSE

During the performance of this contract, the Contractor agrees as follows:

- 1.) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2.) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3.) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5.) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 6.) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by the rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7.) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a

Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

BUSINESS NAME:

BUSINESS OFFICER'S SIGNATURE:

BUSINESS OFFICER'S PRINTED NAME:

DATE:

CONTRACT

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2018 by and between _____ (hereinafter called the “Contractor”), and the City of Carrollton, Georgia, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter called the “City”).

FOR AND IN CONSIDERATION OF the mutual covenants, promises, and agreements set forth herein – the adequacy and sufficiency of which is hereby acknowledged – the parties hereto agree as follows:

ARTICLE 1: SCOPE OF WORK.

Unless otherwise noted, the Contractor agrees to provide all the materials, equipment and labor necessary for the complete construction of all the work shown on the Plans and described in the Specifications provided by the City for the **Carrollton NSP Residential Construction Project** and to do everything required by the Specifications and Plans. In this regard, the Contractor and City agree that the Specifications and the Plans, and all Addenda thereto, together with the Contractor’s Bid Proposal and this Agreement, form the Contract and that such Specifications and Plans are as fully a part of the Contract as if attached or herein repeated.

ARTICLE 2: EFFECTIVE DATE AND NOTICE-TO-PROCEED.

The effective date of this Agreement is the day and year first above written. Within thirty (30) days of the effective date, the City will issue to Contractor a notice to proceed. Following the receipt of the notice-to-proceed, Contractor shall commence as soon as practicable the work described herein.

ARTICLE 3: COMPLETION DATE AND LIQUIDATED DAMAGES.

The Contractor agrees that the work contemplated by this Agreement shall be entirely completed on or before **180** days elapses from the Contractor’s receipt of the notice-to-proceed. The Contractor agrees that liquidated damages will be assessed for each consecutive calendar day of delay in the completion of work (Sundays and legal holidays excluded) at a rate of five hundred dollars (\$500.00) per day.

ARTICLE 4: PAYMENT.

The Base Bid for this project, based on the lump sum specified on the Bid Proposal is

(\$_____) The City agrees to pay the Contractor in current funds for the performance of this Agreement, subject to any approved change orders that shall be negotiated between the parties and executed in writing by both parties hereto. On or before the fifteenth (15th) day of each month, Contractor shall submit an invoice to the City for the work completed by the Contractor during the previous calendar month. Thereafter, the City shall have ten (10) days from receipt of the invoice to review the invoice and notify the Contractor of any disputed items contained in the invoice. If there are no disputed items, the City will pay the Contractor the amount reflected in the invoice within ten (10) days from receipt of the invoice. If there are

disputed items, the City will pay that portion of the invoice not in dispute, and the parties will attempt in good faith to resolve the disputed items for a period of thirty (30) days. If the disputed items cannot be resolved within thirty (30) days, then either party may proceed with an action in the Superior Court of Carroll County with respect to the disputed items, with each side bearing its own costs and fees for proceeding with such action.

ARTICLE 5: CHANGE ORDERS.

The City, at its sole discretion, may negotiate and issue one or more change orders to the Contractor, without the necessity of obtaining any additional bids, when appropriate or necessary in the performance of this Agreement and completion of the project. To be valid, the change order must be in writing and signed by an authorized representative of the City and the Contractor. The City's authorized agent for this project shall be Tommy J. Holland, P.E., City Engineer.

ARTICLE 6: LOCATION FOR PERFORMANCE, JURISDICTION, & VENUE.

Contractor understands and agrees that the performance of this Agreement is to occur within Carroll County, Georgia. As an integral part of the consideration for City entering into this Agreement, the Contractor agrees that jurisdiction and venue for all actions, claims or other legal proceedings concerning this Agreement shall lie in Carroll County, Georgia. In addition, all matters pertaining to the validity, construction, interpretation, and effect of this Agreement shall be governed by the laws of the State of Georgia.

ARTICLE 7: INDEMNIFICATION AND JOB-SITE SAFETY.

As a material inducement to the execution of this Agreement, the Contractor – for itself and for any subcontractor or person (including, but not limited to, the employees of the Contractor and any subcontractor) that performs any of the work described herein – agrees that it shall indemnify and forever hold the City and the City's agents, servants, and employees harmless for any and all injuries, damages, claims, demands, actions, and costs, including but not limited to attorney's fees, court costs, and expenses of litigation, of any kind or character whatsoever, arising from or associated with any claims of personal injury or property damage resulting from or relating to the work described herein.

Furthermore, the City shall have no responsibility for job-site safety, and all job-site safety and related matters shall be the sole responsibility of the Contractor.

ARTICLE 8: INSURANCE.

Contractor shall purchase and maintain such liability and other insurance relating to Contractor's performance under this Agreement, which may arise out of or result from the following: (1) claims under workers' compensation, disability benefits, and other similar employee benefit acts; (2) claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees; (4) claims for damages insured by reasonably available personal injury liability coverage which are sustained by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor,

or by any other person for any other reason; (5) claims for damages due to injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and (6) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle. The City (as well as its officers, agents, employees, attorneys, consultants, and other representatives) shall be named as an additional insured under any such policies covering items 3 through 6 above. In addition, said insurance purchased and maintained by Contractor shall include coverage for its indemnity obligations set forth in Article 7 above.

Said insurance purchased and maintained by Contractor shall include the specific coverages and at least the limits of liability provided as follows:

1. Workers' Compensation:
 - a. State: Statutory Limit
 - b. Federal: Statutory Limit
 - c. Employer's Liability: \$1,000,000/1,000,000/1,000,000
2. Contractor's General Liability, which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of Contractor:
 - a. General Aggregate: \$2,000,000
 - b. Products and completed operations, aggregate: \$2,000,000
 - c. Personal and Advertising Injury: \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - e. Property Damage liability insurance will provide Explosion, Collapse, and Underground coverages where applicable.
 - f. Excess or Umbrella Liability:

General Aggregate	\$3,000,000
Each Occurrence	\$1,000,000
3. Automobile Liability:
 - a. Combined Single Limit of Bodily Injury and Property Damage: \$2,000,000

Finally, said insurance purchased and maintained by Contractor shall: (1) contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least thirty (30) days prior written notice has been given to City and Contractor;

and (2) remain in effect at least until final payment hereunder and at all times thereafter when Contractor may be correcting, removing, or replacing defective work.

ARTICLE 9: SUSPENSION AND TERMINATION.

At any time and without cause, City may suspend the work described herein or any portion thereof for a period of not more than ninety (90) consecutive days by notice in writing to Contractor, and City will fix the date on which the work will be resumed. Contractor shall resume the work on the date so fixed. Contractor shall be granted an adjustment in the time for the completion of the work directly attributable to any such suspension.

Upon the occurrence of any one or more of the following events, the City may terminate this Agreement for cause: (1) Contractor's persistent failure to perform the work in accordance with this Agreement (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment to perform the work described hereunder); or (2) Contractor's disregard of any applicable laws or regulations.

ARTICLE 10: NOTICES.

Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to the City or Contractor, as the case may be, at the addresses set forth below:

City:

Tommy J. Holland, P.E.
City Engineer
City of Carrollton
315 Bradley Street
Carrollton, Georgia 30117

Contractor:

Name
Title
Company
Address
Address

ARTICLE 10: SEVERABILITY.

If any provision or part of a provision of this Agreement shall be determined to be void or unenforceable by a Court of competent jurisdiction, the remainder of this Agreement shall remain valid and enforceable by any party.

ARTICLE 11: VOLUNTARY AGREEMENT AND ASSIGNABILITY.

Each party hereto warrants and represents that such party has entered into this Agreement voluntarily, and that such party has carefully read the Agreement. The Contractor and the City – for themselves, their successors, executors, administrators, and assigns – hereby agree to the full performance of the covenants herein contained. However, this Agreement shall not be assignable by either party hereto without the prior written consent of the other party hereto.

ARTICLE 12: MULTIPLE COUNTERPARTS.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which constitute one and the same Agreement.

IN WITNESS WHEREOF the parties hereto have set their hands and seals the day and year first above written.

(Affix City Seal)

THE CITY OF CARROLLTON, GEORGIA

By: _____
Timothy C. Grizzard, P.E., City Manager

Attest:

Jim Triplett
City Clerk

CONTRACTOR:

(Affix Corporate Seal)

By: _____

Print Name: _____ President

Signed, sealed and delivered
in the presence of:

Notary Public
My Commission Expires: _____

(Affix Notary Seal)

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that _____, as Principal, and _____, as Surety, are held and firmly bound unto the City of Carrollton, Carrollton, Georgia in the sum of _____ Dollars (\$ _____)

lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted to the City a Bid for construction of the **City of Carrollton NSP Residential Construction Project**.

NOW THEREFORE, the conditions of this obligation are such that if the Bid be accepted, the Principal shall, within 10 days of receipt of conformed Contract Documents, execute a Contract in accordance with the Bid upon the terms, conditions and prices set forth therein, and in the form and manner required by the Contract Documents and execute sufficient and satisfactory separate Performance and Payment Bonds payable to the City, each in an amount of 100 percent of the total Contract Price, in form satisfactory to the City, then this obligation shall be void; otherwise, it shall be and remain in full force and effect in law; and the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to the aforesaid City, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

This bond is given pursuant to and in accordance with the provisions of O.C.G.A. § 36-91-1 et seq. and all provisions of the law referring to this character of bond as set forth in said Sections or as may be hereinafter enacted and these are hereby made a part hereof to the same extent as if set out herein in full.

IN WITNESS WHEREOF, the said Principal has here under affixed its signature and seal, and said Surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers, on this _____ day of _____, 20 ____.

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

IN THE PRESENCE OF:

(Principal)

(SEAL)

(Title)

(Surety)

(SEAL)

(Title)

PAYMENT BOND

THIS BOND IS EXECUTED TOGETHER WITH ANOTHER BOND IN FAVOR OF THE CITY OF CARROLLTON, GEORGIA AS OBLIGEE CONDITIONED UPON PERFORMANCE OF THE CONTRACT.

KNOW ALL MEN BY THESE PRESENTS:

That _____
(Legal Title and Address of the Contractor)

as Principal (hereinafter referred to as "Principal") and

(Legal Title and Address of the Surety)

as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto the

City of Carrollton, Georgia

as Obligee (hereinafter referred to as "City"), for the use and benefit of claimants defined, hereinafter, in the amount of _____
_____ Dollars (Insert Contract Amount) (\$_____), to which payment Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, and firmly by these presents.

WHEREAS, the above bounden Principal has entered into a contract with the City dated _____ for the **City of Carrollton NSP Residential Construction Project Bid** in accordance with the Plans, Specifications, Addenda thereto and final accepted Bid Proposal of the Principal dated _____, which Contract, Plans and Specifications, Addenda thereto and final Bid Proposal are incorporated herein by reference and made a part hereof, and are hereinafter referred to as the "Contract."

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials supplied in the prosecution of the work provided for in said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. The said Surety to this bond, for value received, hereby stipulates and agrees that no change or changes, extension or extensions of time, alteration or alterations or addition or additions to the terms of the Contract or to the work to be performed thereunder, or the specifications or plans accompanying same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change or changes, extension or extensions of time, alteration or alterations or addition or additions to the terms of the Contract or to the work or to the specifications or plans.
2. A claimant is defined as any subcontractor and any person supplying labor, materials, machinery, or equipment in the prosecution of the work provided for in said Contract.
3. Every person entitled to the protection hereunder and who has not been paid in full for labor or materials furnished in the prosecution of the work referred to in said bond before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him, or materials or equipment or machinery was furnished or supplied by him for which such claim is made, or when he has completed his subcontract for which claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of the commencement of such action and to prosecute such action to final execution and judgment for the sum or sums due him; provided, however, that any person having direct contractual relationship with a subcontractor, but no contractual relationship express or implied with the Contractor furnishing said payment bond shall have the right of action upon the said payment bond upon giving written notice to said Contractor within ninety days from the day on which such person did or performed the last of the labor, or furnished the last of the materials or machinery or equipment for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or supplied or for whom the labor was performed or done; provided further that nothing contained herein shall limit the right of action to said 90 day period. Notice may be served by depositing a notice, registered mail, postage prepaid, duly addressed to the Contractor at any place he maintains an office or conducts his business, or his residence, in any post office or branch post office or any letter box under the control of the Post Office Department or, notice may be served in any manner authorized by law to serve summons or process. Every suit instituted under this Section shall be brought in the name of the claimant without the City being made a party thereto. The official who has the custody of said bond is authorized and directed to furnish, to any person making application therefore who submits an affidavit that he had supplied labor or materials for such work and payment therefore has not been made, or that he is being sued on any such bond, a copy of such bond and the Contract for which it was given, certified by the official who has custody of said bond; this copy shall be primary evidence of said bond and contract and shall be admitted in evidence without further proof. Applicants shall pay for such certified copies and such certified statements such fees as the official fixes to cover the cost of preparation thereof, but in no case shall the fee exceed the amount the superior courts are permitted to charge for similar copies.

4. No action can be instituted on this bond after one year from the date of the final acceptance of the work by the City.
5. It is expressly agreed by the Principal and the Surety that the City, if it desires to do so, is at liberty to make inquiries at any time of subcontractors, laborers, materialmen, or other parties concerning the status of payments for labor, materials, equipment, or services provided in the prosecution of the work.
6. This bond shall be considered the same as a bond furnished under O.C.G.A. § 36-91-1, et seq., as amended, and all provisions of law pertaining to bonds furnished under said Chapter shall pertain hereto.
7. The Surety, for value received, hereby stipulates and agrees that any and all claims, demands, actions or suits whatsoever, arising under the Contract or this bond, shall be subject to the jurisdiction and venue of the Superior Court of Carroll County, Georgia. The Surety does agree, by execution of these documents, that jurisdiction and venue in said forum is proper and appropriate since performance of the underlying Contract for which this bond is executed is to be accomplished within Carroll County, Georgia.

[SIGNATURES SET FORTH ON FOLLOWING PAGE]

Signed and sealed this _____ day of _____, A.D. 20____.

In the presence of:

Witness

(SEAL)

(Principal)

(Title)

Witness

(SEAL)

(Surety)

(Title)

PERFORMANCE BOND

THIS BOND IS EXECUTED TOGETHER WITH ANOTHER BOND IN FAVOR OF THE CITY OF CARROLLTON, GEORGIA AS OBLIGEE CONDITIONED UPON PAYMENT OF ALL SUBCONTRACTORS, SUPPLIERS, AND CLAIMANTS THEREUNDER WHO FURNISH LABOR, MATERIALS, EQUIPMENT, OR SERVICES IN THE PROSECUTION OF THE WORK UNDER THIS CONTRACT.

KNOW ALL MEN BY THESE PRESENTS:

That _____
(Legal Title and Address of the Contractor)

as Principal (hereinafter referred to as "Principal") and

(Legal Title and Address of the Surety)

as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto the

City of Carrollton, Georgia

as Obligee (hereinafter referred to as the "City"), for the full and complete performance of the Contract between the Principal and the City, to which performance the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, and firmly by these presents.

WHEREAS, the above bounden Principal has entered into a contract with the City dated _____ for the **City of Carrollton NSP Residential Construction Project Bid** in accordance with the Plans, Specifications, Addenda thereto and final accepted Bid Proposal of the Principal dated _____, which Contract, Plans and Specifications, Addenda thereto and final Bid Proposal are incorporated herein by reference and made a part hereof, and are hereinafter referred to as the "Contract."

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly and faithfully perform and comply with the terms and conditions of said Contract and shall indemnify and save harmless the City against and from all costs, expenses, damages, injury, or loss to which said City may be subjected by reason of any wrongdoing, including patent infringement, misconduct, want of care or skill, default or failure of performance on the

part of said Principal, his agents, subcontractors, or employees, in the execution or performance of said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. The said Surety to this bond, for value received, hereby stipulates and agrees that no change or changes, extension or extensions of time, alteration or alterations or addition or additions to the terms of the Contract or to the work to be performed thereunder, or the RFP or the Principal's proposal shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change or changes, extension or extensions of time, alteration or alterations or addition or additions to the terms of the Contract.
2. If pursuant to the Contract Documents the Contractor shall be declared in default by the City under the aforesaid Contract, the Surety shall promptly remedy the default or defaults or shall promptly perform the Contract in accordance with its terms and conditions. It shall be the duty of the Surety to give an unequivocal notice in writing to the City within ten (10) days after receipt of a declaration of default of the Surety's election either to remedy the default or defaults promptly or to perform the Contract promptly, time being of the essence. In said notice of election, the Surety shall indicate the date on which the remedy or performance will commence, and it shall then be the duty of the Surety to give prompt notice in writing to the City immediately upon completion of (a) the remedy and/or correction of each default, (b) the remedy and/or correction of each item of condemned work, (c) the furnishing of each omitted item of work, and (d) the performance of the Contract. The Surety shall not assert solvency of its Principal as justification for its failure to give notice of election or for its failure to promptly remedy the default or defaults or perform the contract.
3. Supplementary to and in addition to the foregoing whenever the City shall notify the Surety that the City has notice that the Contractor has failed to pay any subcontractor, materialman, or laborer for labor or materials certified by the Contractor as having been paid for by the Contractor, the Surety shall, within thirty (30) days of receipt of such notice, cause to be paid any unpaid amount for such labor, materials, equipment, or services.
4. It is expressly agreed by the Principal and the Surety that the City, if it desires to do so, is at liberty to make inquiries at any time of subcontractors, laborers, materialmen, or other parties concerning the status of payments for labor, materials, or services furnished in the prosecution of the work.
5. The Surety agrees that other than as is provided in this bond it may not demand of the City that the City shall (a) perform any thing or act, (b) give any notice, (c) furnish any clerical assistance, (d) render any service, (e) furnish any papers or documents, or (f) take any action of any nature or description which is not required of the City to be done under the contract documents.

6. No right of action shall accrue on this bond to or for the use of any person or corporation other than the City named herein or the legal successors of the City.
7. This bond shall be considered the same as a bond furnished under O.C.G.A. § 36-91-1, et seq., as amended, and all provisions of law pertaining to bonds furnished under said Chapter shall pertain hereto.
8. The Surety, for value received, hereby stipulates and agrees that any and all claims, demands, actions or suits whatsoever, arising under this bond, shall be subject to the jurisdiction and venue of the Superior Court of Carroll County, Georgia. The Surety does agree, by execution of these documents, that jurisdiction and venue in said forum is proper and appropriate since performance of the underlying contract for which this bond is executed is to be accomplished within Carroll County, Georgia.

[SIGNATURES SET FORTH ON FOLLOWING PAGE]

Signed and sealed this _____ day of _____, A.D. 20____.

In the presence of:

Witness

(SEAL)

(Principal)

(Title)

Witness

(SEAL)

(Surety)

(Title)