



September 28, 2022

**RP036-22
REQUEST FOR PROPOSAL**

The Gwinnett County Board of Commissioners is soliciting competitive sealed proposals from qualified contractors for **Provision of Bay Creek Park Playground Replacements** for the Gwinnett County Department of Community Services.

Proposals must be returned in a sealed container marked on the outside with the Request for Proposal number and Company Name. Proposals will be received until **2:50 p.m. local time on October 26, 2022** at the Gwinnett County Financial Services - Purchasing Division – 2nd Floor, 75 Langley Drive, Lawrenceville, Georgia 30046. Any proposal received after this date and time will not be accepted. Proposals will be publicly opened and only names of submitting firms will be read at 3:00 p.m. A list of firms submitting proposals will be available the following business day on our website www.gwinnettcounty.com.

A pre-proposal meeting is scheduled for **10:00 A.M. local time on October 12, 2022 at the Bay Creek Park Baseball Complex, located at 175 Ozora Road, Loganville, GA 30052**. All interested parties are urged to attend. Questions regarding proposals should be directed to Jake Scarpone, Purchasing Associate II, at Jake.Scarpone@gwinnettcounty.com or by calling 770-822-8722 no later than **October 13, 2022**. Proposals are legal and binding upon the Consultant when submitted. One unbound single-sided original, seven (7) exact copies, and one electronic pdf copy on flash drive should be submitted.

Successful Consultant will be required to meet insurance requirements. The Insurance Company should be authorized to do business in Georgia by the Georgia Insurance Department and must have an A.M. Best rating of A-5 or higher.

Gwinnett County does not discriminate on the basis of disability in the admission or access to its programs or activities. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County Government should be directed to the ADA Coordinator, Gwinnett County Justice and Administration Center, 770-822-8165.

The written proposal documents supersede any verbal or written prior communications between the parties. Selection criteria are outlined in the request for proposal documents. Gwinnett County reserves the right to reject any or all proposals, to waive technicalities, and to make an award deemed in its best interest.

Award notification will be posted after award on the County website, www.gwinnettcounty.com and companies submitting a proposal will be notified via email. We look forward to your proposal and appreciate your interest in Gwinnett County.

Jake Scarpone
Purchasing Associate II

The following pages should be returned with your proposal:

Proposal Schedule, Pages 16-17
Corporation Information, Page 20
References, Page 21
Installer References, Page 22
List of Subcontractors, Page 23
Bid Bond, Pages 24-25
Contractor Affidavit, Page 52
Code of Ethics Affidavit. Page 53

**REQUEST FOR PROPOSAL
PROVISION OF BAY CREEK PARK PLAYGROUND REPLACEMENTS**

1.0 SCOPE OF WORK

Gwinnett County Board of Commissioners is soliciting competitive sealed proposals from qualified contractors for the demolitions of existing playground equipment, installation of new playground equipment, layout drainage material and new safety surfacing for the following facilities:

- A. Bay Creek Park – Inclusive Playground at Baseball Complex located at 175 Ozora Rd., Loganville, GA 30052
 - a. Proposal to include Interlocking Rubber Tile surfacing, inclusive play elements (including limited water play elements) and shade canopies.
- B. Bay Creek Park – Active Playground at Baseball Complex located at 175 Ozora Rd., Loganville, GA 30052
 - a. Proposal to include engineered wood fiber surfacing, active play elements and shade canopies.

2.0 GENERAL REQUIREMENTS

2.1 Proposal packages shall include:

- A. Product descriptions/specifications/brochures, including color choices and warranty information;
- B. Material testing results and certifications;
- C. Installer qualification documentation and installer references;
- D. Layout diagrams: Contractors **MUST** include borders of existing playgrounds in their layout, as well as fall zones. An Autocad drawing file showing the playground border(s) will be available online, but **contractors are responsible for taking their own measurements and verifying the dimensions of the playground areas**. Other information, such as the height of decks and names of components should also be included. Proposal shall include a layout of underground drainage piping, as well as any non-play items (such as benches or shade structures) that have been included in your proposal. Prints of layout diagrams must be to scale, and the scale must be stated on the drawing.
- E. Proposal Schedule (Form attached)
- F. Equipment List (Form attached; Microsoft Excel file available at Gwinnett County Bids and RFPs website)
- G. References (Form attached)
- H. Digital Files
 - a. CAD file of proposed equipment layout(s), including playground border(s)
 - b. Microsoft Excel file of proposed equipment list(s)

2.2 Submission of Proposal

- A. The Contractor shall be responsible for assuring delivery and installation within the timeframe stated on the Proposal Schedule, as well as for any associated delivery/installation costs. Proposals shall be submitted in a sealed envelope/package. The envelope/package shall be addressed to: Gwinnett County Purchasing Division, Gwinnett County Justice and Administration Center, Second Floor, 75 Langley Drive, Lawrenceville, GA 30046, and shall be identified with the proposal number, date of opening and company name on the outside of the envelope/package. All information should be in 8 ½ x 11" format, with a USB flash drive containing an Autocad file of the layout(s) and a Microsoft Excel file of the equipment list(s). Prints of layout plans may be larger if necessary for legibility. Proposals shall be submitted as follows: One (1) unbound original and seven (7) exact copies and one (1) electronic pdf copy on flash drive should be submitted. All copies of the proposal must be identical. The full cost for proposal preparation is to be borne by the proposing firm. Proposals must be signed in ink by a company official who has authorization to commit company resources.
- B. Proposals submitted are not publicly available until after award by the Gwinnett County Board of Commissioners. All proposals and supporting materials, as well as correspondence relating to the RFP, become the property of Gwinnett County when received. Any proprietary information contained in the proposal should be so indicated. However, a general indication that the entire contents, or a major portion of the proposal is proprietary will not be honored.
- C. Gwinnett County reserves the right to reject any or all proposals, in whole or in part, to negotiate changes in the scope of services and to waive any technicalities as deemed in its best interest.
- D. Successful contractor is required within ten (10) days of the Notice of Award to provide the following:
- i. Certificate of insurance as specified in the proposal documents
 - ii. Two (2) properly executed contract documents.
 - iii. A drawing file of the playground equipment and other non-play items provided (for example, benches or rubber surfacing) which includes the playground border and is suitable for use in AutoCAD 2021.
 - iv. A quart-sized sample engineered wood fiber and/or two 24" x 24" interlocking rubber tiles; ASTM test results for all safety surfacing.
 - v. Performance and Payment Bonds

The Contractor shall obtain, maintain, and furnish the County with a Certificate of Insurance, per the attached requirements, throughout the lifetime of this project.

Failure to provide the above documents within ten (10) days may be just cause for the annulment of the award. At the discretion of the County, the award may then be made to the next highest scoring responsible contractor.

2.3 Key Contact Persons

If you require additional information concerning the proposal or the procurement process, make your inquiries to Jake Scarpone, at the following address:

Gwinnett County Purchasing Department
Attention: **Jake Scarpone**
75 Langley Drive
Lawrenceville, GA 30046
(770) 822-8722
Jake.scarpone@gwinnettcountry.com

2.4 Inquiries from Contractors

Individuals, firms, and businesses seeking an award of a Gwinnett County contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee, or other County representative without permission of the Purchasing Associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Commissioners. Violations will be reviewing by the Purchasing Director. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award.

2.5 Proposal Evaluation Process

- A. The Gwinnett County Board of Commissioners intends to accept the offer that is most advantageous to itself from the standpoint of price, functional sufficiency, technical sufficiency and other factors. It reserves the right to reject any and all proposals received by reason of this request, or to negotiate separately, in any manner deemed to be in the best interests of the Gwinnett County Board of Commissioners.
- B. The selected contractor must have demonstrated successful performance on installations, equipment, and safety surfacing systems of a similar nature. A minimum of three (3) references (include names, addresses, phone numbers, and email addresses of client contacts) should be provided which demonstrate installation work performed for parks and recreation clients. The contractor should stress references that clearly describe a previous history of successful installation of a similar size and scope. At least one of the projects referenced must be over five (5) years old, as equipment warranty/ease of maintenance is an important criteria.
- C. A selection committee will be established consisting of staff members and one independent evaluator. The County will evaluate each submittal carefully. Proposals will be evaluated based on the following criteria:

(Scoring criteria on the following pages)

a. Bay Creek Park Playground #1: Inclusive Playground at Baseball Complex:

Criteria		Points
Phase I: Technical: Initially, proposals will be evaluated based on their relative responsiveness to the criteria described below and will be scored based on the point values as shown:		
1	Quantity/Quality of Inclusive Play Items Provided	25
2	Quantity/Quality of Other Play Items Provided	5
3	Quantity/Quality of Non-Play Items Provided	15
4	Utilization of Existing Space, Design Considerations	10
5	Products Specifications	10
6	Product Warranty, Ease of Maintenance, Factory Support	20
7	Schedule for Installation, Qualifications of Installer	10
8	References	5
Sub-Total		100
Phase II: Optional Interviews: Firms may be short-listed for further consideration. At the Department's discretion, interviews may be required of short-listed firms. If interviews are required, The County will issue information regarding format and desired areas of emphasis to all short-listed firms and 0-25 points will be assigned on the basis of interview results.		25
TOTAL		125
If a satisfactory Contract cannot be negotiated with the highest ranked proposer, negotiations may then be undertaken with the second ranked proposer and so on.		

b. Bay Creek Park Playground #2: Active Playground at Baseball Complex:

Criteria	Points
Phase I: Technical: Initially, proposals will be evaluated based on their relative responsiveness to the criteria described below and will be scored based on the point values as shown:	
1 Quantity/Quality of Active Play Items Provided	25
2 Quantity/Quality of passive Play Items Provided	5
3 Quantity/Quality of Non-Play Items Provided	15
4 Utilization of Existing Space, Design Considerations	10
5 Products Specifications	10
6 Product Warranty, Ease of Maintenance, Factory Support	20
7 Schedule for Installation, Qualifications of Installer	10
8 References	5
Sub-Total	100
Phase II: Optional Interviews: Firms may be short-listed for further consideration. At the Department’s discretion, interviews may be required of short-listed firms. If interviews are required, The County will issue information regarding format and desired areas of emphasis to all short-listed firms and 0-25 points will be assigned on the basis of interview results.	25
TOTAL	125
If a satisfactory Contract cannot be negotiated with the highest ranked proposer, negotiations may then be undertaken with the second ranked proposer and so on.	

Proposals will be evaluated in order to select the proposal which rates highest according to the criteria elaborated in items 1-8 above. The selection committee may short list the highest scoring firms. The committee may then invite a number of the highest scoring firms to interviews. The number of firms shortlisted and interviewed will be at the discretion of the selection committee. If an interview is requested, it will be worth up to an additional twenty-five (25) points in the selection process.

3.0 REQUIREMENTS

- A. Equipment should fit in the available space, accommodate sub-drainage system and surface material, and comply with U.S. Consumer Product Safety Commission and ASTM Standards, including surrounding space (impact area) requirements.
- B. Attached with this RFP are layouts of the existing playground areas and plans showing probable existing conditions. **Contractors submitting proposals are responsible for taking their own measurements to verify the dimensions of the playgrounds.** The successful contractor will be responsible for location and protection of any existing underground utilities on the site. Any existing items damaged by the contractor must be restored to their previous condition at no additional cost to the owner.

The attached layout plan is available in Autocad format from the Gwinnett County Bids and RFPs website: [Bids and RFPs - Gwinnett | Gwinnett County](#). Open the 2022 Playgrounds RFP folder to find the files. Copy the files as needed. Dimensions on the CAD drawings are in feet, not inches.

The attached Equipment List form is also available as a Microsoft Excel file on the Gwinnett County Bids and RFPs website in the 2022 Playgrounds RFP folder. List the equipment you will be providing within the categories listed on the form (slides, ramps, climbers, etc.) and include the printed form and digital Excel file with your proposal.

- C. Contractor must provide and install safety surface material to provide adequate fall protection to comply with ASTM F1292-99 and ASTM F1951 and to meet existing grades at the playground borders.
 - a. Playground 1/Inclusive Playground at Baseball Complex: Contractor to install Interlocking Rubber Tiles, minimum 24" x 24" with paved subgrade, sloped into the existing drain inlets.
 - b. Playground 2/Active Playground at Baseball Complex: Contractor to install Engineered Wood Fiber safety surface material. Contractor to install geotextile fabric, flexible drainage pipe & #57 stone as necessary to ensure proper drainage. Drainage pipe must tie into existing drain structures.
- D. All work must be done in accordance with Federal, State, and Local regulations, as well as U.S. Consumer Product Safety Commission and ASTM standards.

Contractor will be responsible for locating all underground utilities prior to beginning work and repairing any of those utilities damaged by construction operations. Contractor is responsible for protection of any structures adjacent to the work site not scheduled for demolition, as well as repair/restoration of any of those items damaged by construction operations.

The park will be open during construction. It is the contractor's responsibility to ensure that the public cannot access the playground areas while they are under construction until adequate safety surfacing is in place and the owner has approved.

- E. No wooden components or metal slides will be accepted.
- F. Layout and components must comply with the Americans with Disabilities Act and with ASTM F 1951-99.
- G. Contractor must meet the County's insurance requirements.

- H. Contractor's product must meet or exceed the minimum specifications listed below or demonstrate that their products are equal in strength, safety, durability, ease of maintenance, and factory support.
- I. **The price for the playgrounds shall not exceed \$1,000,000.00 with the approximate breakdown as follows:**
- a. Playground 1/Inclusive – 80% of total cost
 - b. Playground 2/Active – 20% of total cost
- J. Proposers are encouraged to visit the sites to familiarize themselves with any relevant site-related issues that would affect this proposal.
- K. The successful contractor shall be responsible for delivery, unloading and storage of materials as well as installation.
- L. The successful contractor must provide the following certifications before final payment:
- a. Manufacturer's certification that equipment meets Safety Standards (form attached).
 - b. Certified Playground Inspector's (C.P.S.I.) certification that equipment was installed properly (form attached).

3.1 Equipment

Contractors should provide, at minimum, the equipment listed below. It is expected that additional equipment will be provided and evaluated by the committee.

A. Playground #1/Inclusive Playground at Baseball Complex:

Concept: This playground should include activities for children with a range of disabilities. Accessibility for mobility devices, quiet places for pretend play, sensory play items and shade are important considerations. This playground has a source for water and electricity that should be utilized for added play value. Ease of maintenance will be an important consideration, and the County may elect to request substitute items of similar value in lieu of the water play elements.

- Modular structure(s) with wheelchair accessible decks and ramps
- Rubber tile surfacing
- Two (2) accessible water play features
- Accessible spinner
- Accessible rocker
- Accessible play table
- Accessible playhouse
- Activity panels
- Two (2) Inclusive swings with back support
- Two (2) Tandem swings with Inclusive swing seat
- Shade canopies (minimum 1,000 square feet)

B. Playground #2/Active Playground at Baseball Complex:

Concept: This should be a playground to get kids moving around. A play/exercise circuit or obstacle course would be preferable to a tall tower. Emphasis should be on swings, overhead and ground level activities with space to run and jump. Opportunities for multi-generational play are also encouraged.

- Engineered wood fiber safety surfacing
- Two (2) overhead activities
- Two (2) balancing activities
- One (1) spinning activity
- One (1) bouncing activity
- Four (4) belt swings
- Four (4) impact pads for belt swings
- One (1) multi-person swing
- Shade canopies (minimum 500 square feet)

C. Maintenance Equipment

- a. Maintenance manual that includes parts lists, ordering information and company contact.
- b. One (1) set of spare tools for maintenance and installation of spare parts; twenty-four (24) extra nuts, bolts and fasteners of each size and type.
- c. Spare Barrier Panels: Provide one spare barrier panel with associated attachment pieces and hardware for each type of modular system provided. Provide installation instructions for these panels.
- d. Where applicable, provide four (4) spare interlocking rubber tiles for each playground.
- e. Deliver this equipment to the owner's personnel, along with manufacturer's instructions.

NOTES: It is expected that those submitting proposals will include additional equipment (to that listed above) in their proposals. All equipment being provided must be included in the attached equipment list and shown graphically in the layout. It should also appear in the contractor's brochure. Providing inadequate information may have a negative effect on the score of a proposal.

Schedule: The on-site work should be scheduled to minimize disruption of scheduled event and public use of the site. The County prefers that the on-site work be completed between November 30, 2022 and February 28, 2023. Please indicate the proposed time frame for on-site work on the proposal schedule.

3.2 MINIMUM SPECIFICATIONS

A. GENERAL

- a. Materials must be in compliance with the latest Consumer Product Safety Improvement Act, which limits the amount of lead, certain heavy materials and certain phthalates from children's products.
- b. Equipment must be IPEMA-certified and meet U.S. Consumer Product Safety Commission guidelines.
- c. Equipment must be in compliance with ASTM 1487-11: Standard Consumer Safety Performance Specification for Playground Equipment for Public Use.

B. SUPPORT POSTS, CROSS RAILS, SWING TOP RAILS AND HAND TREK RAILS: These components shall be fabricated from minimum 4 ½" O.D. 11 gauge, A90 galvanized exterior and interior steel tubing. Yield strength shall be minimum 40,000 psi with a minimum tensile strength of 45,000 psi. Tubing shall be manufactured in accordance with ASTM E-8.

C. STEEL TUBING: Deck support tie rods shall be fabricated of 1-5/16" O.D. RS-40 (.109 wall) galvanized inside and out steel tubing with a powder coated color finish. Other tie rods, climbing rungs, hand rungs, chinning/turning bar, activity barrier, pipe wall barrier, slide barrier, arch climber side rails, and spiral climber mounting post shall be 1-5/16" O.D. RS-20 (.085 wall) galvanized inside and out steel tubing. Slide support legs, swinging bridge handrail, and spiral climber assembly shall be 1-5/8" O.D. RS-20 galvanized steel tubing. Sliding pole shall be 1-7/8" RS-20 galvanized steel tubing. Parallel bars, steel arch climber side rails, "C" or "S" horizontal top tails and center leg supports along with the smaller model horizontal ladder rails shall be constructed on 2-3/8" O.D. RS-20 galvanized steel tubing. All 1-5/8", 1-7/8", and 2-3/8" O.D. steel tubing shall be galvanized on both the interior and exterior surfaces. All steel tubing shall be manufactured in accordance with ASTM A-90 and shall be tested in accordance with ASTM E-8 and ASTM 8-117.

D. PUNCHED STEEL DECKS: 12 gauge, hot rolled, pickled and oiled flat steel. Deck surface and sides shall be die formed from a single sheet. Deck surface shall be perforated with holes of ¼" maximum diameter, spaced no closer than 7/8" on center. Entire deck shall have a PVC coating of .02-.08" thick. Vinyl coating to have a textured, non-slip finish.

E. PUNCHED STEEL STEPS: One piece step sections shall be formed of 12 gauge, hot rolled, pickled and oiled flat steel. Step surface and sides shall be die formed from a single sheet. Surface of step treads shall be perforated with holes of .34" maximum diameter. Entire steps section shall have a PVC coating of .02-.08" thick. Coating shall have a textured, non-slip finish. Handrails shall be constructed of 1-5/16" O.D. RS-20 galvanized steel tubing.

F. ATTACHMENT FITTINGS: Pipe clamps, tee clamps, swing hangers, and deck hangers shall be cast of high-tensile strength ALMAG alloy aluminum. They shall comply with ASTM B-179-73, ASTM B-72, ASTM B-26-72, ASTM B-108-73, QQA-371F, QQA-601D and QQA-596E. Pipe end caps and retainers shall also be cast from aluminum alloy.

NOTE: All clamps shall be hinged on one side to facilitate installation. Swing hangers shall be rifled with an oil impregnated bronze bearing. Hand trek hand grips shall be cast in TENZALLOY aluminum.

- G. **SPIRAL SLIDES:** The spiral slides shall be manufactured from Dupont's sclear polyethylene resin (or an approved equivalent) with impregnated color pigment, which is impervious to ultraviolet rays and will resist color fading. Slide shall be reinforced with a solid support web structure, leaving no sharp corners or exposed metal edges. Center support post shall be 4 ½" O.D. Schedule 40 galvanized steel pipe. Transition step platform shall be fabricated of 14-gauge steel tread plate and 1-5/16" O.D. RS-20 galvanized steel tubing. Handrails and sit-down bar shall also be fabricated of 1-5/16" O.D. RS-20 steel tubing with 1-5/8" O.D. Schedule 40 fittings.
- H. **ROTATIONALLY MOLDED PLASTIC PARTS:** Tube slides, activity panels, crawl tubes, and all plastic slide chutes shall be low density linear polyethylene, which is impervious to ultraviolet rays and will resist color fading. Plastic components shall be formed by a rotational molding process with compounded color pigment. Plastic components shall have a tensile strength of 2,600 psi at 2-inch minutes. Bubble section of wall panel shall be formed of clear Lexan plastic (or an approved equivalent).
- I. **SOLID PLASTIC PANELS:** ¾" high density polyethylene sheeting.
- J. **TRACK GLIDE:** hand grip design shall be cast TENZALLOY (or an approved equivalent) with a stainless steel grommet insert. Track glide top rail assembly shall be fabricated from 3-1/2" O.D. 13-gauge galvanized steel tubing and welded on 10-gauge formed steel plate. Trolley and trolley eye shall be zinc plated steel with plastic rollers.
- K. **SWINGING/CLATTER BRIDGE:** Planks shall be coated metal and shall be flush-mounted at both ends. Design of bridge must protect against pinching between the planks or other moving parts. Bridge should include rails that match the curve of the bridge.
- L. **CHAINS:** Chains on belt swings shall be 5/16" galvanized finish. Where chains are coated, coating shall be 5/0 plastisol vinyl, to a thickness of 80-100 mils.
- M. **BELT AND TOT SWINGS:** Seats shall be made of pliable molded rubber enclosing spring steel core rendering them splash proof. Tot seats shall be fully enclosed by the molded rubber. All fittings shall be hot dipped galvanized.
- N. **SWING SEAT WITH BACK SUPPORT:** Seat shall be made of rigid plastic with a high back, contoured for comfort. Swing shall include a solid plastic restraint which goes over both shoulders and between the legs and can be latched in place.
- O. **FINISH:** All metal components, after fabrication, shall be free of weld spalls, excess weld and burns. Parts shall be washed and rinsed with Oaktite 33 (or an approved equivalent) and then with Berkley #909 solvent (or an approved equivalent), prior to being powder coated.
- P. **EXTERIOR COLOR:** An exterior powder coated finish shall be applied to the majority of all metal and aluminum components. Color finish shall be electrostatically applied polyester dry powder, oven cured at temperatures in excess of 400° F and tested in accordance with ASTM B-117. Powder Coat shall be a minimum thickness of 5-7mils, high-gloss and lead-free. Urethane, lacquer and enamel paints are not acceptable.

Q. HARDWARE: All connecting hardware such as bolts, nuts, screws, etc. shall be zinc plated steel or stainless steel. Capped locknuts that cover the ends of bolt shafts shall be supplied. Tamper proof bolts shall be supplied for all exposed hardware, including clamp assemblies.

R. ENGINEERED WOOD FIBER SURFACING: Product must be manufactured, crushed virgin wood fibers comprised of hardwoods consisting of randomly sized wood fibers that do not exceed 1.5" in length, .5" in width and .33" in depth, and containing 10% to 20% fines to aid in compaction. Standard wood chips or bark mulch will not be acceptable. Product must not contain any recycled wood products or waste wood, such as pallets, any wood containing paint, metal debris, chemicals, or additives. Product must be proven non-toxic, free of bark, twigs, leaf debris, and organic materials.

Surfacing must be in compliance with ASTM F-223-10: Standard Guide for ASTM Standards on Playground Surfacing. Manufacturer must be in compliance and provide testing data for the following standards as set forth by the American Standard for Testing Materials (ASTM) for surface systems under and around playground equipment.

- ASTM F1951-99: Determination of accessibility of surface systems under and around playground equipment
- ASTM F1292-96: Impact attenuation of surface systems under and around playground equipment
- ASTM C136-96A: Sieve analysis of fine and coarse aggregates

Depth of installed surfacing must meet requirements for the fall height of installed equipment.

S. INTERLOCKING RUBBER TILES: Minimum size shall be 24" x 24", 5" thick (wear layer .25", impact layer 4.75"). All surfacing must meet minimum impact attenuation requirements for the fall height of the equipment (ASTM F1292) as well as accessibility (ASTM F1951). Minimum material warranty is 100% replacement cost for six (6) years and 50% replacement cost for six (6) years.

T. POURED-IN-PLACE RUBBER SURFACING (WHEN REQUIRED): All surfacing must meet minimum impact attenuation requirements for the fall height of the equipment (ASTM F1292) as well as accessibility (ASTM F1951). All surfacing must be installed with aliphatic resin to ensure that the color will remain true after installation. Surfacing must have a minimum warranty of seven (7) years for material and installation.

U. GEOTEXTILE FABRIC: A polypropylene, stable fiber, needle-punched non-woven geotextile. Tensile strength: 160 lbs., Elongation: 50% (ASTM D-4632). UV resistance: 70% retained at 500 hours (ASTM D-4355). Water flow rate: 110 gpm/sf (ASTM D-4491). All edges between fabric pieces must have a minimum overlap of 1', staked at a maximum of 2' O.C.

V. **GRAVEL DRAINAGE:** Gravel shall be clean #57 stone. Minimum depth of drainage layer shall be 4". Gravel shall be deeper as required to achieve a positive slope to drain outlet(s). Minimum slope to drain is 1%.

W. **WATER FEATURES:** Components should be stainless steel and tamper-resistant. Spray nozzles shall be C360 lead-free brass and tamper-resistant. Spray features must be adjustable for pressure and distance. Color coatings should be smooth, glossy, heat-cured powder coat that is UV and chemical resistant. Accessible nozzles & spray heads shall be recessed. Accessible features shall have smooth edges and no pinch points, head entrapments or protrusion hazards. All water play products shall be electrically grounded, in accordance with local codes. Low-voltage controls should include accessible actuator(s) and a timer. All electrical and plumbing work must meet local codes.

3.3 SPECIFICATION REFERENCES

A. All references to industry standards and specifications are deemed to mean the latest approved version.

MANUFACTURER'S STATEMENT

I verify and warrant that the design, manufacture, and recommended installation procedure for Play Equipment Model Number(s)

Manufactured by _____

is in conformance with the U.S. Consumer Products Safety Commission guidelines for public use playground safety as outlined in the latest Handbook for Public Playground Safety.

Equipment Manufacturer President / C.E.O. Date

Specified for the Playground at: _____

STATEMENT OF PROPER INSTALLATION
(To be completed after installation and final inspection)

I verify and warrant that the Play Equipment Model Number(s) _____

_____, manufactured by _____

_____, installed at (name of
park & location of equipment) _____

_____, and inspected on (date of final inspection) _____, has

been installed appropriately and is in conformance with the U.S. Consumer Products Safety
Commission guidelines as outlined in the latest Handbook for Public Playground Safety.

Certified Playground Inspector

C.P.S.I. number

Date

PROPOSAL SCHEDULE

The Proposer has carefully examined and fully understands the Contract, Plans and Specifications and other documents hereto attached, and has made a personal examination of the Site of the proposed Work, and has satisfied himself/herself as to the actual conditions and requirements of the Work, and hereby proposes and agrees that if his/her proposal is accepted, he/she will contract with Gwinnett County according to Proposal Documents entitled **Provision of Bay Creek Park Playground Replacements**, as well as the existing conditions of the project, and conditions affecting the Work, the undersigned proposes to furnish all services, labor and materials required by them in accord with said documents, for the sum as follows:

1A.	Bay Creek Park Playground #1: Inclusive Playground at Baseball Complex	\$
State # of calendar days from Notice to Proceed until equipment is delivered:		
State # of days from Equipment Delivery until Project Completion:		
State proposed dates for beginning and completion of on-site work		
1B.	Bay Creek Park Playground #2: Active Playground at Baseball Complex	\$
State # of calendar days from Notice to Proceed until equipment is delivered:		
State # of days from Equipment Delivery until Project Completion:		
State proposed dates for beginning and completion of on-site work		
PROPOSAL TOTAL		\$

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL SUBMITAL MAY RESULT IN REJECTION OF PROPOSAL.

PROPOSAL SCHEDULE

Gwinnett County reserves the right to accept only one or more of the above items, as determined to be in the best interest of the County.

The Undersigned agrees to commence work within 10 days of the date of the Notice to Proceed issued by the Gwinnett County Purchasing Office and to complete all Work within the proposed or negotiated schedule.

The undersigned acknowledges receipt of the following addenda, listed by number and date appearing on each:

Addendum No.	Date	Addendum No.	Date

The County requires that all who enter into a contract for the physical performance of services with the County must satisfy O.C.G.A. § 13-10-91 and Rule 300-10-1-.02, in all manner, and such are conditions of the contract.

In compliance with the attached specifications and O.C.G.A. §36-91-50, the undersigned acknowledges all requirements outlined in the "Instructions to Proposers" and all documents referred to therein, if this proposal is accepted by the Board of Commissioners within one-hundred twenty (120) days of the date of proposal opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the fee schedule. By submission of this proposal, I understand that Gwinnett County uses Electronic Payments for remittance of goods and services. Vendors should select their preferred method of electronic payment upon notice of award. For more information on electronic payments, please refer to the [Electronic Payment](#) information in the instructions to proposers.

Legal Business Name _____

Federal Tax ID _____

Address _____

Does your company currently have a location within Gwinnett County? Yes No

Representative Signature _____

Printed Name _____

Telephone Number _____ E-mail address _____

Contact Person (if someone other than the authorized representative listed above) _____

Telephone Number _____ E-mail address _____

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL SUBMITTAL MAY RESULT IN REJECTION OF PROPOSAL.

NON-COLLUSION AFFIDAVIT

Now here appeared before the undersigned officer duly authorized by the State of Georgia to administer oaths _____ and after being first duly sworn, depose and say that, they are all the officers, agents, persons or employees who have acted for _____ (Company Name) on the **RP036-22, Provision of Bay Creek Park Playground Replacements** and that said _____ has not by (himself, themselves) or through any persons, officers, agents or employees prevented or attempted to prevent by any means whatsoever, competition in such bidding; or by any means whatever prevented or endeavored to prevent anyone from making a bid therefore, or induced or attempted to induce another to withdraw bid from said work.

BY: _____

Signature of Affiant

Name – Typed or printed

Title

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

Notary Public

(Seal)

Note: See OCGA § 36-91-21 (e)

the officers, agents, persons or employees who have acted for _____
 _____ (Company Name) on the **RP036-22, Provision**
of Bay Creek Park Playground Replacements and that said _____
 _____ has not by (himself, themselves) or through any persons, officers, agents
 or employees prevented or attempted to prevent by any means whatsoever, competition
 in such bidding; or by any means whatever prevented or endeavored to prevent anyone
 from making a bid therefore, or induced or attempted to induce another to withdraw bid
 from said work.

BY: _____

Signature of Affiant

Name – Typed or printed

Title

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

Notary Public

(Seal)

Note: See OCGA § 36-91-21 (e)

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL SUBMITTAL MAY RESULT IN REJECTION OF PROPOSAL.

CORPORATION INFORMATION

CORPORATE NAME _____

CORPORATE ADDRESS _____

MAILING ADDRESS (IF DIFFERENT) _____

DOING BUSINESS AS (IF DIFFERENT THAN CORPORATE NAME) _____

CORPORATE OFFICERS: PRESIDENT _____

 SECRETARY _____

 TREASURER _____

 VICE PRESIDENT _____

REGISTERED AGENT ADDRESS _____

POWER OF ATTORNEY ADDRESS _____

DATE OF INCORPORATION _____

NUMBER OF FULL DAYTIME EMPLOYEES (M-F/8-5) _____

HAS THE CORPORATION OR ANY OF ITS OFFICERS/AGENTS BEEN INVOLVED IN ANY LITIGATION IN THE PAST FIVE YEARS? IF SO, PROVIDE DATE AND EXPLANATION _____

FAILURE TO RETURN THIS PAGE AS PART OF YOUR BID DOCUMENT MAY RESULT IN REJECTION OF PROPOSAL

REFERENCES

Provide three (3) satisfactory references where a scoping study has been completed with a scope and size similar as the proposed project within the past five (5) years. Each reference should include the customer name, address with current contact information, dates/duration of the project and a brief description of the project.

Note: References should be customized for each project, rather than submitting the same set of references for every project bid. The references listed should be of similar size and scope of the project being bid on. Do not submit a project list in lieu of this form. Verify that contract information is current and accurate prior to submittal.

1. Customer Name/Address _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Dates _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

2. Customer Name/Address _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Date _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

3. Customer Name/Address _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Date _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

Company Name _____

FAILURE TO RETURN THIS PAGE AS PART OF YOUR PROPOSAL SUBMITAL MAY RESULT IN REJECTION OF PROPOSAL.

INSTALLER REFERENCES	
NAME OF INSTALLATION COMPANY	
NAME OF INSTALLER	NUMBER OF YEARS EXPERIENCE:
INSTALLER'S CERTIFICATIONS	
1. NAME OF PROJECT	
DESCRIPTION OF PROJECT	
CONTRACT AMOUNT:	PROJECT COMPLETION DATE
PERSON GIVING REFERENCE	TITLE
NAME OF BUSINESS/ORGANIZATION	
PHONE NUMBER	E-MAIL ADDRESS:
2. NAME OF PROJECT	
DESCRIPTION OF PROJECT	
CONTRACT AMOUNT	PROJECT COMPLETION DATE
PERSON GIVING REFERENCE	TITLE
NAME OF BUSINESS/ORGANIZATION	
PHONE NUMBER	E-MAIL ADDRESS:
3. NAME OF PROJECT	
DESCRIPTION OF PROJECT	
CONTRACT AMOUNT	PROJECT COMPLETION DATE
PERSON GIVING REFERENCE	TITLE
NAME OF BUSINESS/ORGANIZATION	
PHONE NUMBER	E-MAIL ADDRESS:

Company Submitting Proposal: _____

Signature: _____

(Each page with vendor added information should be signed by authorized representative.)

**GWINNETT COUNTY, GEORGIA
LIST OF SUBCONTRACTORS**

I do _____, do not _____, propose to subcontract some of the work on this project. I propose to Subcontract work to the following subcontractors:

NAME AND ADDRESS	TYPE OF WORK

Company Name_____

BID BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

a Corporation of the State of _____, and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

Gwinnett County Board of Commissioners
(Name of Obligee)

75 Langley Drive, Lawrenceville, Georgia 30046
(Address of Obligee)

Thereinafter referred to as Obligee: in the penal sum of _____

_____ Dollars

(\$ _____) in lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to submit, or has submitted, to Gwinnett County, Georgia, a proposal for furnishing materials, labor, and equipment for: _____

WHEREAS, the Principal desires to file this Bond in accordance with law in lieu of a certified Bidder's check otherwise required to accompany this Proposal.

NOW, THEREFORE, the conditions of this obligation are such that if the proposal be accepted, the Principal shall within ten days after receipt of notification of the acceptance, execute a Contract in accordance with the Proposal and upon the terms, conditions, and prices set forth in the form and manner required by Gwinnett County, Georgia, and execute a sufficient and satisfactory Performance Bond and Payment Bond payable to Gwinnett County, Georgia, each in the amount of 100% of the total Contract Price, in form and with security satisfactory to said Gwinnett County, Georgia, and otherwise, to be and remain in full force and virtue in law, and

the Surety shall, upon failure of the Principal to comply with any or all of the foregoing requirements within the time specified above, immediately pay to Gwinnett County, Georgia, upon demand, the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1 et seq., and is intended to be and shall be constructed as a bond in compliance with the requirements thereof.

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

ATTEST:

(Principal)

(Principal Secretary)

By: _____

(SEAL)

(Address)

(Witness as to Principal)

(Address)

(Surety)

ATTEST:

By: _____
(Attorney-in-Fact)

Resident or Nonresident Agent

(Address)

(SEAL)

(Witness as to Surety)

(Address)

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

Principal Secretary, Principal and Witness as to Principal signature lines must be signed by three different individuals. Additionally, Resident or Nonresident Agent, Witness as to Surety, and Attorney-in-fact must be signed by three different individuals.

GENERAL CONDITIONS

FOR GWINNETT COUNTY CONSTRUCTION CONTRACTS

GC-1 FAMILIARITY WITH SITE

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

GC-2 CONTRACT DOCUMENTS

This agreement consists of Gwinnett County's request for proposals, instructions to bidders, Contractor's proposal, construction contract, Performance Bond, Payment Bond, general conditions, special provisions, specifications, plans, drawings, addenda, and written change orders.

GC-3 DEFINITIONS

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

Change Order - a written order to the Contractor, prepared by the Engineer and issued by the County for changes in the work within the general scope of the contract documents, adjustment of the contract price, extension of the contract time, or reservation of determination of a time extension.

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

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

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

Substantial Completion - the date certified by the engineer when all or a part of the work, identified in the engineer's certification, is sufficiently completed in accordance with the requirements of the contract documents so that the identified portion of the work can be utilized for the purposes for which it is intended.

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

GC-4 CODES

All codes, specifications, and standards referenced in the contract documents shall be the latest additions, amendments and revisions of such referenced standards in effect as of the date of the request for proposals for this contract.

GC-5 REVIEW OF CONTRACT DOCUMENTS

Before making its proposal to the County, and continuously after the execution of the agreement, the Contractor shall carefully study and compare the contract documents and shall at once report to the engineer any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, or regulation of any public authority bearing on the performance of the work. By submitting its proposal, the Contractor agrees that the contract documents, along with any supplementary written instructions issued by or through the engineer

that have become a part of the contract documents appear accurate, consistent and complete insofar as can be reasonably determined. If the Contractor has reported in writing any error, inconsistency, or omission to the County, has properly stopped the effected work until instructed to proceed, and has otherwise followed the instructions of the engineer, the Contractor shall not be liable to the County for any damage resulting from any such error, inconsistency, or omission in the contract documents. The Contractor shall not perform any portion of the work without the contract documents, approved plans, specifications, products and data, or samples for such portion of the work.

GC-6 STRICT COMPLIANCE

No observation, inspection, test or approval of the County or engineer shall relieve the Contractor from its obligation to perform the work in strict conformity with the contract documents.

GC-7 APPLICABLE LAW

All applicable State laws, County ordinances, and rules and regulations of all authorities having jurisdiction over the construction of the project shall apply to this agreement. All work performed within the right of way of the Georgia Department of Transportation shall be in accordance with DOT regulations, policies and procedures. The Contractor shall comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as specified and the Contractor agrees to indemnify and hold harmless the County, its officers, agents and employees, as well as the engineer, against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order or decree affecting the conduct of the work, whether occasioned by the Contractor, his agents or employees.

GC-8 PERMITS & LICENSES

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Contractor, the Contractor shall not be entitled to additional compensation or time.

GC-9 TAXES

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes and levies as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying.

GC-10 DELINQUENT CONTRACTORS

The County shall not pay any claim, debt, demand or account whatsoever to any person firm or corporation who is in arrears to the County for taxes. The County shall be entitled to a counterclaim and offset for any such debt in the amount of taxes in arrears, and no assignment or transfer of such debt after the taxes become due shall affect the right of the County to offset any taxes owed against said debt.

GC-11 LIEN WAIVERS

The Contractor shall furnish the County with evidence that all persons who have performed work or furnished materials pursuant to this agreement have been paid in full prior to submitting its demand for final payment pursuant to this agreement. In the event that such evidence is not furnished, the County may retain sufficient sums necessary to meet all lawful claims of such laborers and materialmen. The County assumes no obligation nor in any way undertakes to pay such lawful claims from any funds due or that may become due to the Contractor.

GC-12 MEASUREMENT

All items of work to be paid for per unit of measurement shall be measured and certified by the Engineer.

GC-13 ASSIGNMENT

The Contractor shall not assign any portion of this agreement or moneys due therefrom without the prior written consent of the County. The Contractor shall retain personal control and shall provide personal attention to the fulfillment of its obligations pursuant to this agreement.

GC-14 FOREIGN CONTRACTORS

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

GC-15 INDEMNIFICATION

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

GC-16 SUPERVISION OF WORK

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

GC-17 RESPONSIBILITY FOR WORK

The Contractor shall not be relieved from the Contractor's obligations to perform the work in accordance with the contract documents by the activities or duties of the engineer, including inspections, tests or approvals required or performed pursuant to this agreement.

GC-18 RESPONSIBILITY FOR ACTS OF EMPLOYEES

The Contractor shall be responsible to the County for the acts and omissions of its employees, subcontractors, and agents as well as any other persons performing work pursuant to this agreement. All areas within the limits of the Project which are determined by the Engineer to be unnecessarily damaged, due either directly or indirectly to the process of construction, shall be responsibility of the Contractor to correct and repair. This is not a payment item and shall be done without additional compensation.

GC-19 PAYMENT FOR LABOR AND MATERIALS

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

GC-20 DISCIPLINE ON WORK SITE

The Contractor shall enforce strict discipline and good order among its employees and subcontractors at all times during the performance of the work. The Contractor shall not employ any subcontractor who is not skilled in the task assigned to it. The engineer may, by written notice, require the Contractor to remove from the work any subcontractor or employee deemed by the engineer to be incompetent.

GC-21 HOURS OF OPERATION

All work at the construction site shall be performed during regular business hours, except upon the engineer's prior written consent to other work hours.

GC-22 FAMILIARITY WITH WORK CONDITIONS

The Contractor shall take all steps necessary to ascertain the nature and location of the work and the general and local conditions, which may affect the work or the cost thereof. The Contractor's failure to fully acquaint itself with the conditions which may affect the work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the County relating to the project which may affect the work of the Contractor, applicable provisions of law, and the character and availability of equipment and facilities necessary prior to and during the performance of the work shall not relieve the Contractor of its responsibilities pursuant to this agreement and shall not constitute a basis for an equitable adjustment of the contract terms. The County assumes no responsibility for any understandings or representations concerning conditions of the work made by any of its officers, agents, or employees prior to the execution of this agreement.

GC-23 RIGHT OF ENTRY

The County reserves the right to enter the site of the work by such agent as it may elect for the purpose of inspecting the work or installing such collateral work as the County may desire.

GC-24 NOTICES

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

- (1) Upon personal delivery to the Contractor, its authorized representative, or the engineer on behalf of the County. Personal delivery may be accomplished by in-person hand delivery or bona fide overnight express service.
- (2) Three days after depositing in the United States mail a certified letter addressed to the Contractor, the County, or the engineer. For purposes of mailed notices, the County's mailing address shall be 75 Langley Drive, Lawrenceville, Georgia 30046. The Contractor's mailing address shall be the address stated in its proposal, and the engineer's mailing address shall be its address listed in the Notice to Begin Work.

GC-25 SAFETY

The Contractor shall take all reasonable precautions for the safety of all persons and property associated with the work, and the Contractor shall erect and maintain, as required by existing conditions and the progress of the work, all reasonable safeguards for the safety and protection of persons in the vicinity of the project.

GC-26 BLASTING AND EXCAVATION

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

shall fully comply therewith.

GC-27 HIGH VOLTAGE LINES

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

GC-28 SCAFFOLDING AND STAGING

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

GC-29 CLEAN-UP

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

GC-30 PROTECTION OF WORK

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

GC-31 REJECTED WORK

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

GC-32 DEFECTIVE WORK

If the Contractor defaults or neglects to carry out any portion of the work in accordance with the contract documents, and fails within three days after receipt of written notice from the County or the engineer to commence and continue correction of such default or neglect with diligence and promptness, the County or the engineer may, after three days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the County may have, make good such deficiencies and complete all or any portion of any work through such means as the County may select, including the use of a new Contractor. In such case, an appropriate change order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. In the event the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County on demand.

GC-33 NEW MATERIALS

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

GC-34 CONTRACTOR'S WARRANTY

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

GC-35 ASSIGNMENT OF MANUFACTURERS' WARRANTIES

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

GC-36 WARRANTIES IMPLIED BY LAW

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

GC-37 STOP WORK ORDERS

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

GC-38 TERMINATION FOR CAUSE

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

GC-39 TERMINATION FOR CONVENIENCE

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

GC-40 TERMINATION FOR CONVENIENCE - PAYMENT

In the event that the County terminates this agreement for the convenience of the County, the County shall only be liable to the Contractor for those costs reimbursable to the Contractor plus a mark-up of ten percent on the actual fully accounted cost recovered pursuant to this paragraph. In the event that it appears that the Contractor would have sustained a loss on the entire contract had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing

the amount of settlement to reflect the indicated rate of loss. In the event of termination for the convenience of the County, the County shall pay the Contractor the following amounts determined by the engineer:

- A. An amount for supplies, services, or property accepted by the County for which payment has not previously been made. The price to be paid for these items shall be equivalent to the aggregate price for such supplies or services computed in accordance with the price specified in this agreement appropriately adjusted for any saving of freight or other charges; and
- B. The total of:
 - (1) The costs incurred in the performance of the work terminated, including initial costs and preparatory expenses allocable thereto, but exclusive of any costs attributable to supplies or services previously paid;
 - (2) The costs of settling and paying claims arising pursuant to the termination of the work under said contracts or orders which are properly chargeable to the terminated portion of the contract (exclusive of the amounts paid or payable on account of completed items or equipment delivered or services furnished by a subcontractor or vendor prior to the effective date of the notice of termination, which amounts shall be included in the costs payable pursuant to (A)); and
 - (3) The reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonable and necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to this agreement.

GC-41 TERMINATION FOR CONVENIENCE - PAYMENT LIMITATIONS

In the event of termination for the convenience of the County, the total sum to be paid to the Contractor shall not exceed the contract price as reduced by the amount of payments otherwise made, by the contract price for work not terminated, and as otherwise permitted by the contract. Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as determined by the engineer, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the County or to another buyer.

GC-42 COST TO CURE

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

GC-43 ATTORNEY'S FEES

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

GC-44 CONTRACTOR'S RESPONSIBILITIES UPON TERMINATION

After receipt of a notice of termination from the County, and except as otherwise directed by the engineer,

the Contractor shall:

1. Stop work under the contract on the date and to the extent specified in the notice of termination;
2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the agreement as is not terminated;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
4. Assign to the County in the manner, at the times, and to the extent directed by the engineer, all of the rights, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, at its discretion, to settle or pay any and all claims arising out of the termination of such orders or subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the engineer, to the extent the engineer may require, which approval or ratification shall be final for all purposes;
6. Transfer title and deliver to the entity or entities designated by the County, in the manner, at the times, and to the extent, if any, directed by the engineer, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the work as has been terminated:
 - (a) The fabricated or unfabricated parts, work, and progress, partially completed supplies, and equipment, materials, parts, tools, dyes, jigs, and other fixtures, completed work, supplies, and other material produced as a part of or acquired in connection with the performance of the work terminated by the notice of termination; and
 - (b) The completed or partially completed plans, drawings, information, and other property to the work.
7. Use its best efforts to sell in the manner, at the times, to the extent, and at the prices directed or authorized by the engineer, any property described in Section 6 of this paragraph, provided, however, that the Contractor shall not be required to extend credit to any buyer and further provided that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the County to the Contractor pursuant to this agreement.
8. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and
9. Take such action as may be necessary, or as the engineer may direct, for the protection and preservation of the property related to the agreement which is in the possession of the Contractor and in which the County has or may acquire an interest.

GC-45 RECORDS

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

GC-46 DEDUCTIONS

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

GC-47 REIMBURSEMENT OF THE COUNTY

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

GC-48 TERMINATION FOR CONVENIENCE - DELAY

The Contractor shall be entitled to only those damages and that relief from termination by the County as specifically set forth in this agreement. The County or the engineer may issue a written order requiring the Contractor to suspend, delay or interrupt all or any part of the work for such period of time as the County may determine to be appropriate for the convenience of the County. If the performance of the work is interrupted for an unreasonable period of time by an act of the County or engineer in the administration of this agreement, an equitable adjustment shall be made for any increase in the Contractor's costs of performance and any increase in the time required for performance of the work necessarily caused by the unreasonable suspension, delay, or interruption. Any equitable adjustment shall be reduced to writing and shall constitute a modification to this agreement. In no event, however, shall an equitable adjustment be made to the extent that performance of this agreement would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment pursuant to this paragraph shall be permitted before the Contractor shall have notified the engineer in writing of the act or failure to act involved, and no claim shall be allowed unless asserted in writing to the engineer within ten days after the termination of such suspension, delay or interruption.

GC-49 COMMENCEMENT AND DURATION OF WORK

The Contractor shall commence work pursuant to this agreement within ten days of mailing or delivery of written notice to proceed by the County. The Contractor shall diligently prosecute the work to completion within the time specified therefore. The capacity of the Contractor's construction and manufacturing equipment and plan, sequence and method of operation and forces employed, including management and supervisory personnel, shall be such as to insure completion of the work within the specified time. The Contractor and County hereby agree that the contract time for completion of the work is reasonable taking into consideration the average climatic conditions prevailing in the locality of the work.

GC-50 TIME OF THE ESSENCE

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

GC-51 IMPACT DAMAGES

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

GC-52 DELAY

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

GC-53 INCLEMENT WEATHER

The Contractor shall not be entitled to an extension of the contract time due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the engineer that there was greater than normal inclement weather considering the full term of the contract using a ten year average of accumulated mean values for climatological data compiled by the U.S. Department of Commerce for Atlanta, Georgia and that such greater than normal inclement weather actually delayed the work, the Contractor shall not be entitled to an extension of time therefor.

GC-54 NOTICE OF DELAY

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

GC-55 NOTICE OF DELAY - CONTENTS

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

GC-56 PROGRESS OF WORK

To the extent that the Contractor is entitled to additional compensation for delay, an absolute condition precedent to such entitlement shall be strict compliance with all requirements and procedures for entitlement to an extension of time herein. If the work actually in place falls behind the currently updated and approved project network schedule, and it becomes apparent from the current schedule that work will not be completed within the contract time, the Contractor agrees that it will, as necessary, or as directed by the engineer, take action at no additional cost to the County to improve the progress of the work, including increasing manpower, increasing the number of working hours per shift or shifts per working day, increasing the amount of equipment at the site, and any other measure reasonably required to complete the work in a timely fashion.

GC-57 DILIGENCE

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

GC-58 SET-OFFS

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

GC-59 ACCELERATION - REMEDIES

The remedies of the County concerning acceleration are in addition to and without prejudice to all of the rights and remedies of the County at law, in equity, or contained in this agreement.

GC-60 TITLE TO MATERIALS

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

GC-61 INSPECTION OF MATERIALS

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

GC-62 ENGINEER'S PRESENCE DURING TESTING

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

GC-63 MATERIALS INCORPORATED IN WORK

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

GC-64 STORAGE OF MATERIALS

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

GC-65 PAYROLL REPORTS

The Contractor shall be required to furnish weekly payroll reports to the engineer certifying conformance with the wage rates listed in the specifications.

GC-66 CONTRACTORS' REPRESENTATIVE

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

GC-67 SPECIALTY SUB-CONTRACTORS

The Contractor may utilize the services of specialty subcontractors on those parts of the project which, under normal contracting practices, are performed by specialty subcontractors. Neither the Contractor nor any subcontractor shall award work to any subcontractor without the prior written consent of the County. The Contractor shall not award more than seventy-five percent of the work to subcontractors.

GC-68 INSPECTION BY ENGINEERS

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

GC-69 WORK COVERED PRIOR TO ENGINEER'S INSPECTION

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

GC-70 ENGINEER'S AUTHORITY

The engineer shall have the authority to decide all questions concerning interpretation and fulfillment of contract requirements, including, without limitation, all questions concerning the prosecution, progress, quality and acceptability of the work. Any oral decision or instruction of the engineer shall be confirmed in writing. All communications between the County and the Contractor shall be made through the engineer. The Contractor shall submit to the engineer a complete schedule of values of various portions of the work, including quantities and unit prices, aggregating the contract price. The schedule shall subdivide the work into component parts in sufficient detail to serve as the basis for progress payments during construction. Each item in the schedule of values shall include its proper share of overhead and profit. The schedule of values, when approved by the engineer, shall be used only as a basis for the Contractor's monthly request for payment and shall not be used for additions to or deductions from the contract amount.

GC-71 PROGRESS ESTIMATES

The Contractor shall also prepare a written report for the engineer's approval, on County forms, of the total amount of value of work performed to the date of submission. No progress estimate or payment shall be considered an approval or acceptance of any work performed, and all estimates and payments shall be subject to correction in subsequent estimates. Progress payments shall be made for all completed activities and for suitably stored materials.

GC-72 PROGRESS PAYMENTS

Upon completion of each monthly estimate of work performed and materials furnished, the engineer shall recommend payment to the Contractor for the estimated value of such work, materials, and equipment, less the amount of all prior payments and all liquidated damages. The Contractor will be paid 100 percent, less retainage, of the cost of materials received and properly stored but not incorporated into the work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale to establish the County's title to such materials or equipment. No progress estimate or payment need be made when, in the engineer's judgment, the increment in the estimated value of work performed and materials furnished since the preceding estimate is less than \$10,000.

GC-73 TIME OF PAYMENT

When the contractor has performed in accordance with the provisions of this Agreement, Gwinnett County shall pay to the contractor, within 30 days of receipt by the County of any payment request based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this Agreement, if any. In the event that Gwinnett County fails to pay the contractor within 60 days of the County's receipt of a pay request based upon work completed or service provided pursuant to the contract, the County shall pay the contractor interest at the rate of 1/2 percent per month or pro rata fraction thereof beginning the 61st day following the County's receipt of the pay request. The contractor's acceptance of progress payments or final payment shall release all claims for interest on said payments. The provisions of this agreement are intended to supersede all provisions of the Georgia Prompt Pay Act as provided by law.

GC-74 RETAINAGE

The County shall retain from each progress payment ten percent of the estimated value of the work performed

until the progress payments, including retainage, total 50 percent of the contract price. Thereafter, no further retainage shall be withheld so long as the Contractor is making satisfactory progress to insure completion of the work within the time specified therefor. The County may reinstate the ten percent retainage in the event the engineer determines that the Contractor is not making satisfactory progress to complete the work within the time specified in this agreement or in the event that the engineer provides a specific cause for such withholding.

GC-75 PAYMENT OF SUBCONTRACTORS

The Contractor shall promptly pay each subcontractor upon the receipt of payment from the County. Such payment shall be made from the amount paid to the Contractor pursuant to the subcontractor's work. The Contractor shall also maintain the records of the percentage retained from payments to the Contractor pursuant to such subcontractor's work. The Contractor shall procure agreements from each subcontractor requiring each subcontractor to pay their subcontractors, agents and employees in a similar manner.

GC-76 COUNTY'S RESPONSIBILITIES TO SUBCONTRACTORS

Neither the County nor the engineer shall have any obligation to pay any subcontractor except as otherwise required by law.

GC-77 PROGRESS PAYMENTS - ACCEPTANCE OF WORK

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

GC-78 PAYMENTS IN TRUST

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

GC-79 JOINT PAYMENTS

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

GC-80 RIGHT TO WITHHOLD PAYMENT

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

GC-81 CERTIFICATE OF SUBSTANTIAL COMPLETION

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

GC-82 FINAL PAYMENT

Upon substantial completion of the work and upon application by the Contractor and approval by the engineer, the County shall make payment reflecting adjustments and retainage for the work as provided in this agreement.

GC-83 COMMENCEMENT OF WARRANTIES

Warranties required by this agreement shall commence on the date of final completion of the project unless otherwise provided in the certificate of substantial completion.

GC-84 FINAL PAYMENT - WAIVER OF CLAIMS

The acceptance of the substantial completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of application for payment at substantial completion and except for the retainage sums due at final acceptance. Following the engineer's issuance of the certificate of substantial completion and the Contractor's completion of the work pursuant to this agreement, the Contractor shall forward to the engineer a written notice that the work is ready for final inspection and acceptance and shall also forward to the engineer a final application for payment. When the engineer finds the work acceptable and determines that the contract has been fully performed, the engineer shall issue a certificate for payment which shall approve final payment to the Contractor.

GC-85 DOCUMENTATION OF COMPLETION OF WORK

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

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

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

GC-86 GOVERNING LAW

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

GC-87 CHANGES AND EXTRA WORK

GC-87.1 AUTHORITY FOR CHANGES

The County may make changes in the Drawings or Specifications and in the quantities of Work to be done under the Contract

C-87.2 CHANGE ORDERS

Without invalidating the Contract, the County may at any time or from time to time, by written order, order additions, deletions, or revisions in the Work related to the original scope of the Work.

Change Orders will authorize these. Upon receipt of the Change Order, Contractor shall promptly proceed with the work involved. If any price or scope of the Work or an extension or shortening of the Contract Time is involved, an equitable adjustment will be made within the Change Order. In the event the Change Order increases the contract price, the penal amount of the Payment and Performance Bonds shall be increased as provided for in Section GC-15. All changes in the Work authorized by Change Order shall be performed under the applicable Conditions of the Contract Documents.

GC-87.3 WRITTEN NOTICE

The County may, at the request of the Contractor, issue interpretations, clarifications and other instructions as to the intent of the Contract Documents, in the form of Written Notices. The County may also, at any time, make changes in the details of the Work by issuance of a Written Notice. Upon receipt of such a Written Notice containing interpretations, clarifications and other instructions, Contractor shall proceed with the Work and comply with the Written Notice unless Contractor believes that such Written Notice entitles him to a Change in Contract Price or Time or both.

Should Contractor believe that such Written Notice entitles him to change in Contract Price or Time, or both, he shall give the County notice in writing thereof within seven (7) days after receipt of the Written Notice. Thereafter within thirty (30) days, Contractor shall document the basis for the change in Contract Price or Time. The County shall render a timely, written decision on the Contractor's request for a change in Contract Price or Time. Should the County determine that the Contractor is not entitled to a change in Contract Time or Price, the Contractor shall proceed as directed upon receipt of the County's decision. Failure to proceed shall constitute a breach of Contract and shall be a cause for the termination of the Contract. Request for a Change Order arising out of a Written Notice will not be considered without the attachment thereto of a copy of the referenced Written Notice. No claim by Contractor will be allowed if asserted after Final Payment under this Contract.

GC-87.4 EXTRA WORK

Extra work consists of new and unforeseen work determined by the County not to be covered by any of the various items for which there is a bid price or by combination of such items.

GC-87.5 VARIATION IN QUANTITIES

Wherever the estimated quantities of work to be done and materials to be furnished under this Contract are shown in any of the documents including the Proposal, they are given for use in comparing bids and the right is especially reserved except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by County to complete the Work contemplated by this Contract, and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

GC-88 CHANGE ORDERS

GC-88.1 GENERAL

The Contract Price may only be changed by a Written Change Order. Each change will be set forth in a Change Order prepared by the County and approved by County. Change Orders will specify (a) all additional work to be done and work to be omitted, if any, in connection with the change; (b) the basis of compensation to the Contractor for additional or omitted work; and (c) any adjustment of the time of completion of the Work. If the County determines that a change requiring additional work will cause delay in completion of Work, he will grant an equitable time extension for the changed work, or a subsequent Change Order may be issued at such time as the extent of such delay can be determined.

Upon receipt of a Change Order, Contractor shall comply therewith and perform each item of work set forth therein, furnishing all labor, material, and equipment necessary therefore, in the same manner as if such work were originally included in the Contract. In the absence of a Change Order, Contractor shall not be entitled to payment or an extension of the time of completion on account of any changes made.

GC-88.2 METHODS OF PAYMENT

The value of any work covered by a Change Order or any claim for an increase or decrease in the Contract Price shall be determined by the following method which is most advantageous to County, as determined by the County:

- A. Where the work involved is covered by unit prices contained in Contract Documents, by application of unit prices to the quantities of the items involved.
- B. By mutual acceptance of a lump sum, based on a detailed breakdown of anticipated costs plus Contractor's fee for overhead, small tools, and profit.
- C. On the basis of the actual cost of the work plus a Contractor's fee for overhead, small tools and profit. This method of payment is herein referred to as force account work. Contractor's fee for force account work performed by his own forces shall be twenty percent (20%) for direct labor and payroll burdens; five percent (5%) for all purchased material; and Contractor's fee for subcontracted work shall be as defined hereinafter.

GC-88.3 LUMP SUM CHANGE ORDER WORK

Contractor shall prepare an estimate of all extra and deleted work as described by Written Notice, using established unit prices where they are stated in the Bidding Documents. Estimates for labor, bonds, insurance, materials, and equipment required shall otherwise be based on the provisions set forth hereinafter.

GC-88.4 CHANGE ORDERS LIMITED

Except as provided herein, no order, statement or conduct of the County or the Construction Program Manager shall be treated as a "Change Order" or entitle the Contractor to any adjustment hereunder of the Contract Price or Contract Time.

GC-88.5 NO WORK STOPPAGE

Nothing in this Article shall excuse the Contractor from proceeding with the Contract as changed.

GC-88.6 CONTRACT AMENDMENT

The amount payable to the Contractor under the Contract, the Contract Time, and the date required for performance of any part of the Work may be changed only by a Change Order to the Contract.

GC-89 FORCE ACCOUNT WORK

Force account work is an Owner-defined emergency, a sudden or unforeseen failure or malfunction of an existing system, which results in the Contractor being obligated to respond to the site of the emergency as Owner-directed. Contractor may perform work on a force account basis and will be paid for properly allocated charges which may include labor, bond premium, supplies and materials, equipment and subcontract billings, incurred in the performance of such force account work as more particularly described below:

- A. Labor: All labor shall be billed at the hourly rates specified in the bid. Regular rates will apply during normal business hours, defined as Monday through Friday, 7a.m.–5p.m. Overtime rates will apply during non-normal business hours. If premium rates apply, then overtime rates shall be defined as Monday through Friday, 5p.m.–8p.m. Accordingly, premium rates, if applicable, shall be defined as Monday through Saturday, 8p.m.–7a.m., all hours on Sundays and all County recognized holidays. A foreman shall not be used where there are fewer than two (2) laborers

employed, except with the written consent of the County. Subsistence and travel allowance where required by collective bargaining agreements shall be included.

The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.

- B. Bonds and Insurance: For bonds and insurance premiums or increases thereto necessitated by the force account work, Contractor shall receive the actual cost to which no percent shall be added. Contractor shall furnish satisfactory evidence of the rate or rates paid for such bond and insurance.
- C. Materials: For materials accepted by the County and used as an integral part of the finished Work, Contractor shall receive the actual cost of such materials delivered on the Work, including transportation charges paid by him, exclusive of machinery rentals as hereinafter set forth.

If materials are procured by Contractor by a method which is not a direct purchase from and a direct billing by the actual supplier, the cost of such materials shall be deemed to be the lowest current wholesale price at which such materials are available in the quantities concerned and delivered to the site of the Work.

For other materials used in the construction which are not an integral part of the finished Work, such as, but not limited to, sheeting, false work and form lumber, Contractor shall be reimbursed in the amount agreed upon by the County before such work is begun. The salvage value of such material will be taken into consideration in determining the amount of reimbursement.

- D. Equipment: Contractor will be paid for the use of Contractor owned or rented equipment at seventy percent (70%) of the suggested monthly rental rates listed for such equipment in the Blue Book Rental Rates for Construction Equipment (published by Equipment Guide-Book Company of Palo Alto), except as modified below, which edition shall be the latest edition in effect at the time of commencement of the force account work. Hourly rental rates shall be calculated by dividing the listed monthly rates as modified above by 176 hours. The rental rate for equipment used in excess of eight (8) hours per day, shall be at the rate of fifty percent (50%) of the hourly rates as calculated above. The rental rates for standby equipment, when authorized by the County, shall be at the rate of fifty percent (50%) of the hourly rate for equipment in use eight (8) hours per day. No payment of rentals for standby equipment will be made for more than eight (8) hours per working day and no payment will be made for weekend days or holidays. If it is deemed necessary by Contractor to use equipment not listed in the applicable edition of the Blue Book Rental Rates, Contractor shall furnish the necessary cost data and paid invoices to the County for its use in establishment of such rental rate(s). Equipment must be in good operating condition. The rental rates paid as above provided shall include the cost of fuel, oil, lubricants, supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage and insurance. Equipment operators will be paid for as stipulated herein.

The rental time to be paid for equipment on the Work site shall be the time the equipment is required for the force account work being performed. The time shall include the time required to move the equipment to the location of the force account work and return it to the original location or to another location requiring no more time than that required to return it to its original location. Moving time will not be paid if the equipment is used at the site of the force account work on other than such force account work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power. No payment for loading and transporting will be made if the equipment is used at the site of the force account

work on other than such force account work. Compensation will not be allowed while equipment is inoperative due to breakdown.

For the use of equipment moved in on the work and used exclusively for work paid for on a force account basis, providing the County has agreed to said move, Contractor will be paid the equipment use rates provided for in this clause, for the cost of transporting the equipment to the location of the work and its return to its original location, and for the cost of loading and unloading the equipment, all in accordance with the following provisions:

1. The cost of transporting equipment shall not exceed the applicable minimum established rates by the State of Georgia Public Service commission.
 2. The equipment use period shall begin at the time the equipment is unloaded at the site of the force account work, shall include each day that the equipment is at the site of the force account work, excluding Saturdays and Sundays and other legal holidays unless the force account work is performed on such days, and shall terminate at the end of the day on which the County instructs Contractor to discontinue the use of such equipment. The maximum time to be paid per day will not exceed eight (8) hours unless the equipment is in operation for a longer time.
- E. Subcontract Work: Where the Change Order applies to work being performed under a subcontract, reimbursement, including the fee for small tools, overhead and profit for the subcontractor's work performed on a force account basis shall be computed in precisely the same manner as if performed by Contractor as indicated herein. One additional allowance of five percent (5%) of the subcontractor's total costs will be granted to Contractor for overhead and profit regardless of the tier of the subcontractor. If the subcontractor elects to contract out change order work to a third (or lower) level contractor or supplier of purchased equipment, he shall not be entitled to fees, overhead or profit for such third (or lower) level work or materials. The County reserves to right to direct the Contractor to contract directly with third (or lower) level subcontractors and suppliers of purchased equipment in order to avoid paying multiple fees, overhead and profit for such third (and lower level) subcontractors and suppliers of purchased equipment. If similar work is not being performed at the Work site, and if required by County, Contractor shall obtain three (3) competitive bids for the requirements of the Change Order and the Contract Documents from Subcontractors acceptable to the County. Selection of the Subcontractor shall be subject to the approval of the County.
- F. Compensation: The compensation as set forth above shall be received by Contractor as payment in full for work done on a force account basis. At the end of each day, Contractor's Representative and Inspector shall compare records of the Work performed including classification of all laborers, ordered on a force account basis.
- G. Statements: No payment will be made for work performed on a force account basis until Contractor furnishes the County itemized statements of the cost of such force account work detailed as to the following:
1. Labor - name, classification, date, daily hours, total hours, rate, and extension of each laborer and foreman.
 2. Equipment - size, type, identification number, dates, daily hours, total hours, rental rate, and extension of each unit of machinery and equipment.
 3. Materials - quantities of supplies and materials, prices, including transportation cost and extensions.
 4. Bonds and insurance premiums.
 5. Subcontract work - force account detail as above, or progress quantities and prices

of unit price or lump sum subcontracts.

6. Payments for items under paragraphs (a) to (f) inclusive shall be conditioned upon Contractor's presentation of original receipted invoices for materials used and transportation charges. If, however, the materials used in the force account work are not specially purchased for such work but are taken from Contractor's stock, then in lieu of the original invoices, the statements shall contain or be accompanied by an affidavit of Contractor which shall certify that such materials were taken from his stock, that the price and transportation of the material as claimed represent actual cost.
- H. If, in the County's opinion, Contractor or any of his subcontractors, in performing force account work, are not making efficient use of labor, material, or equipment and/or are proceeding in a manner which is expensive to the County, the County may request the Contractor to make more efficient use of labor, material and equipment. Contractor shall in good faith comply with such requests as are reasonable. If the Contractor fails to comply with such requests, the County may independently determine the reasonable cost of the work and the Contractor will be entitled only to the reasonable cost so estimated by the County.

GC-90 DISAGREEMENT WITH ORDERS FOR CHANGE

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he may submit a notice of potential claim to the County, at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligation under Clause GC-88, Change Orders.

GC-91 CHANGED CONDITIONS

Contractor shall notify the County in writing of the following conditions, hereinafter called "changed conditions," promptly upon their discovery and before they are disturbed:

- A. Subsurface or latent physical conditions at the site of Work differing materially from those represented in this Contract; or
- B. Unknown physical conditions at the Site of the Work of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.

The County will promptly investigate conditions of which it is so notified or conditions discovered by it which appear to be changed conditions, and will, as soon as practicable, issue appropriate orders or instructions. If the County determines that the conditions materially differ and that they will materially increase or decrease the costs of any portion of Work, it will issue a Change Order adjusting the compensation for such portion of Work.

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MINOR CONSTRUCTION INSURANCE REQUIREMENTS

1. Statutory Workers' Compensation Insurance
 - (a) Employers Liability:
 - ✓ Bodily Injury by Accident - \$100,000 each accident
 - ✓ Bodily Injury by Disease - \$500,000 policy limit
 - ✓ Bodily Injury by Disease - \$100,000 each employee

2. Commercial General Liability Insurance
 - (a) \$1,000,000 limit of liability per occurrence for bodily injury and property damage
 - (b) The following additional coverage must apply:
 - ✓ 1986 (or later) ISO Commercial General Liability Form
 - ✓ Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04)
 - ✓ Additional Insured Endorsement (Form B CG 20 10 with a modification for completed operations or a separate endorsement covering Completed Operations)
 - ✓ Blanket Contractual Liability
 - ✓ Broad Form Property Damage
 - ✓ Severability of Interest
 - ✓ Underground, explosion, and collapse coverage
 - ✓ Personal Injury (deleting both contractual and employee exclusions)
 - ✓ Incidental Medical Malpractice
 - ✓ Hostile Fire Pollution Wording

3. Auto Liability Insurance
 - (a) \$500,000 limit of liability per occurrence for bodily injury and property damage
 - (b) Comprehensive form covering all owned, non-owned, leased, hired, and borrowed vehicles
 - (c) Additional Insured Endorsement
 - (d) Contractual Liability

4. Umbrella Liability Insurance - \$1,000,000 limit of liability
 - (a) The following additional coverage must apply
 - ✓ Additional Insured Endorsement
 - ✓ Concurrency of Effective Dates with Primary
 - ✓ Blanket Contractual Liability
 - ✓ Drop Down Feature
 - ✓ Care, Custody, and Control - Follow Form Primary
 - ✓ Aggregates: Apply Where Applicable in Primary
 - ✓ Umbrella Policy must be as broad as the primary policy

5. Builder's Risk Insurance or Installation Floater Insurance required on all new structures, bridges, overpasses, culverts and railroad crossings - limit at least as broad as contract amount

6. Gwinnett County Board of Commissioners (and any applicable Authority) should be shown as an additional insured on General Liability, Auto Liability and Umbrella Liability policies.

7. The cancellation should provide 10 days notice for nonpayment and 30 days notice of cancellation.

8. Certificate Holder should read:
 - Gwinnett County Board of Commissioners
 - 75 Langley Drive
 - Lawrenceville, GA 30046-6935

9. Insurance Company, except Worker' Compensation carrier, must have an A.M. Best Rating of A-5 or higher. Certain Workers' Comp funds may be acceptable by the approval of the Insurance Unit. European markets including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A-5 or better.

10. Insurance Company should be licensed to do business by the Georgia Department of Insurance.

11. Certificates of Insurance, and any subsequent renewals, must reference specific bid/contract by project name and project/bid number.
12. The Contractor shall agree to provide complete certified copies of current insurance policy (ies) or a certified letter from the insurance company (ies) if requested by the County to verify the compliance with these insurance requirements.
13. All insurance coverage required to be provided by the Contractor will be primary over any insurance program carried by the County.
14. Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required Insurance shall be procured and maintained by Contractor at Contractor's expense.
15. No Contractor or Subcontractor shall commence any work of any kind under this Contract until all insurance requirements contained in this Contract have been complied with and until evidence of such compliance satisfactory to Gwinnett County as to form and content has been filed with Gwinnett County. **The Acord Certificate of Insurance or a preapproved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.**
16. The Contractor shall agree to waive all rights of subrogation against the County, the Board of Commissioners, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the County.
17. Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies, and contents required to perform the services called for in the Contract. The coverage must be on a replacement cost basis. The County will be included as a Loss Payee in this coverage for County owned equipment, tools, supplies, and contents.
18. The Contractor shall make available to the County, through its records or records of their insurer, information regarding a specific claim related to any County project. Any loss run information available from the contractor or their insurer relating to a County project will be made available to the county upon their request.
19. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all Subcontractors of their liability provisions of the Contract.
20. The Contractor and all Subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, and any other laws that may apply to this Contract.
21. The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

Surety Bonds (If Required)

All of the surety requirements will stay the same except the Surety Company must have the same rating as item 9 above.

BONDING AND CONTRACT REQUIREMENTS

General Bond Requirements

1. Bid Bonds - Amount of bond should be 5% of contract amount and submitted with your bid. Gwinnett County form Attached. Failure to use Gwinnett County Bid Bond Form may result in bid being deemed non-responsive and automatic rejection may occur.
2. Performance Bond - (Supplied by successful vendor) - Amount of bond should be 100% of contract amount. **(MUST USE COUNTY FORM)**
3. Payment, Labor and Materials Bonds - (Supplied by successful vendor) - Amount of bond should be 100% of contract amount. **(MUST USE COUNTY FORM)**
4. Bonding company must be authorized to do business by the Georgia Insurance Department.
5. An original/certified copy of the Bonding company's Certificate of Authority or Power of Attorney must be attached to bond. The Certificate of Authority may be obtained from the Georgia Insurance Department.
6. Bonding company must have a minimum AM Best rating of A-«SurityRating» or higher as stated in Insurance Requirements. **Failure to submit a bid bond with the proper rating will result in the bid being deemed non-responsive.**
7. Bonding Company must be listed in the Department of the Treasury's publication of companies holding Certificates of Authority as acceptable surety on Federal Bonds and as acceptable reinsuring companies. (Dept. Circular 570; 1992 Revision).
8. After bid opening, vendor has up to forty eight (48) hours to notify the Gwinnett County Purchasing Office of an obvious error made in calculation of Bid. Withdrawal of Bid Bond for this reason must be done in writing within the forty eight (48) hour period. Bid Bond may not be withdrawn otherwise.

Contract Requirements

1. Successful vendor is required to do the following within ten (10) days of notification.
 - A. Return to Purchasing Office contract documents executed by the principal of the company and attested by the secretary or assistant secretary.
 - B. Provide Insurance certificates as specified in the bid documents.
 - C. Provide bonding as required by the bid documents.
2. Failure to execute the Contract, Contract Performance Bond and Payment Bond, or furnish satisfactory proof of carriage of the insurance required within ten days after the date of Notice of Award of the Contract may be just cause for the annulment of the award and for the forfeiture of the bid guaranty to Gwinnett County, not as a penalty, but as liquidation of damages sustained. At the discretion of the County, the award may then be made to the next lowest, responsible bidder, or the work may be re-advertised or constructed by County forces. The Contract and Contract Bonds shall be executed in duplicate.

*****Gwinnett County requires that all Contracts between parties be entered into via the following documents. If any exceptions are taken to any part of this document, each must be stated in detail and submitted as part of your proposal/bid document. If no exceptions are noted it is assumed that the party fully agrees to the contract in its entirety. Exceptions to the sample contract provided in this request for proposal will be considered in terms of responsiveness when making award.*****

**SAMPLE
CONTRACT**

This **CONTRACT** made and entered into this _____ day of _____, 20____ by and between Gwinnett County, Georgia (Party of the First Part, hereinafter called the County), and _____, (Party of the Second Part, hereinafter called the Contractor).

WITNESSETH: That the said Contractor has agreed, and by these presets does agree with the said County, for the consideration herein mentioned and under the provision of the Performance Bond and Payment Bond required by the Specifications to furnish all equipment, tools, materials, skill and labor of every description necessary to carry out and complete in a good, firm and substantial and workmanlike manner, the work specified, in strict conformity with the drawings and specifications, together with the foregoing proposal made by the Contractor, the Advertisement, the Instructions to Bidders, General Conditions, and this Contract, shall all form essential parts to this Contract. The work covered by this Contract includes all work shown on plans and specifications and listed in the conditions and specifications to wit:

RP036-22, Provision of Bay Creek Park Playground Replacements

The Contractor awarded work under this contract shall commence work within ten (10) days after the issuance of the Notice to Proceed and shall fully complete all work hereunder within (_____) consecutive calendar days from and after said date.

The County shall pay and the Contractor shall receive the prices stipulated in the proposal hereto attached as full compensation for everything furnished and done by the Contractor under this contract, which shall in no event exceed (\$ _____) based on the proposal which sum shall be paid in the manner and terms specified in the Contract Documents, but before issuance of certificate of payment, if the Contractor shall not have submitted evidence satisfactory to the County that all payrolls, materials bills, and other indebtedness connected with the work have been paid, the County may withhold, in addition to the retained percentages, such amount or amounts as may be necessary to pay just claims for labor and services rendered and materials in and about the work, and such amount or amounts withheld or retained may be applied by the County to the payment of such just claims.

When the Contractor has performed in accordance with the provisions of this Contract, Gwinnett County shall pay to the Contractor, within thirty (30) days of receipt of any payment request based upon work completed or service provided pursuant to the Contract, the sum so requested, less the retainage stated in this Contract, if any. In the event that Gwinnett County fails to pay the Contractor within sixty (60) days of receipt of a pay request based upon work completed or service provided pursuant to the Contract, the County shall pay the Contractor interest at the rate of 1/2% per month or pro rata fraction thereof, beginning the sixty-first (61st) day following receipt of the pay request. The Contractor's acceptance of progress payments or final payment shall release all claims for interest on said payments.

It is further mutually agreed between the Parties hereto that if, at any time after the execution of the Contract and the Performance Bond for its faithful performance and the Payment Bond, the first party shall deem the surety or sureties upon such bond to be inadequate to cover the performance of the work, the second party shall, at its expense, within five (5) days after the receipt of notice from the first party to do so, furnish an additional bond or bonds in such form and amount, and with such surety or sureties

as shall be satisfactory to the first party. In such event, no further payment to the second party shall be deemed to be due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in a manner and form satisfactory to the first party.

The parties agree that each of the provisions included in this Contract is separate, distinct and severable from the other and remaining provisions of this Contract, and that the invalidity of any Contract provision shall not affect the validity of any other provision or provisions of this Contract.

(Signatures Next Page)

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

GWINNETT COUNTY, GEORGIA

By: _____
Nicole L. Hendrickson, Chairwoman
Gwinnett County Board of Commissioners

ATTEST:

Signature

Tina King, County Clerk
Board of Commissioners

APPROVED AS TO FORM:

Signature
Gwinnett County Staff Attorney

CONTRACTOR: _____

BY: _____
Signature

Print Name

Title

ATTEST:

Signature

Print Name
Corporate Secretary
(Seal)



RP036-22, Provision of Bay Creek Park Playground Replacements

CONTRACTOR AFFIDAVIT AND AGREEMENT (THIS FORM SHOULD BE FULLY COMPLETED AND RETURNED WITH YOUR SUBMITTAL)

By executing this affidavit, the undersigned contractor verifies its compliance with The Illegal Immigration Reform Enhancements for 2013, stating affirmatively that the individual, firm, or corporation which is contracting with the Gwinnett County Board of Commissioners 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, in accordance with the applicability provisions and deadlines established therein.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services or the performance of labor pursuant to this contract with the Gwinnett County Board of Commissioners, contractor will secure from such subcontractor(s) similar verification of compliance with the Illegal Immigration Reform and Enforcement Act on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the Gwinnett County Board of Commissioners at the time the subcontractor(s) is retained to perform such service.

E-Verify * User Identification Number

Date Registered

Legal Company Name

Street Address

City/State/Zip Code

BY: _____
Authorized Officer or Agent
(Contractor Signature)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

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

Notary Public
My Commission Expires: _____

For Gwinnett County Use Only:
Document ID # _____
Issue Date: _____
Initials: _____

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



**RP036-22, Provision of Bay Creek Park Playground Replacements
CODE OF ETHICS AFFIDAVIT**

***(THIS FORM SHOULD BE FULLY COMPLETED AND RETURNED WITH
YOUR SUBMITTAL AND WILL BE REQUIRED PRIOR TO EVALUATION)***

In accordance with Section 54-33 of the Gwinnett County Code of Ordinances the undersigned bidder/proposer makes the following full and complete disclosure under oath, to the best of his/her knowledge, of the name(s) of all elected officials whom it employs or who have a direct or indirect pecuniary interest in or with the bidder/proposer, its affiliates or its subcontractors:

1. _____
(Company Submitting Bid/Proposal)

2. (Please check **one** box below)

No information to disclose *(complete only section 4 below)*

Disclosed information below *(complete section 3 & section 4 below)*

3. (if additional space is required, please attach list)

_____	_____
Gwinnett County Elected Official Name	Gwinnett County Elected Official Name
_____	_____
Gwinnett County Elected Official Name	Gwinnett County Elected Official Name

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

BY: _____
Authorized Officer or Agent Signature

Printed Name of Authorized Officer or Agent

Notary Public

Title of Authorized Officer or Agent of Contractor

(seal)

Note: See Gwinnett County Code of Ethics Ordinance E02011, Sec. 54-33. The ordinance will be available to view in its' entirety at www.gwinnettcounty.com

BOND # _____

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)

hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

a Corporation of the State of _____ and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

Gwinnett County Board of Commissioners
(Name of Oblige)

75 Langley Drive, Lawrenceville, Georgia 30046
(Address of Oblige)

hereinafter called Oblige;

for the use and protection of all subcontractors and all persons supplying labor, services, skill, tools, machinery, materials and/or equipment in the prosecution of the work provided for in the contract hereinafter referred to in the full and just sum of _____

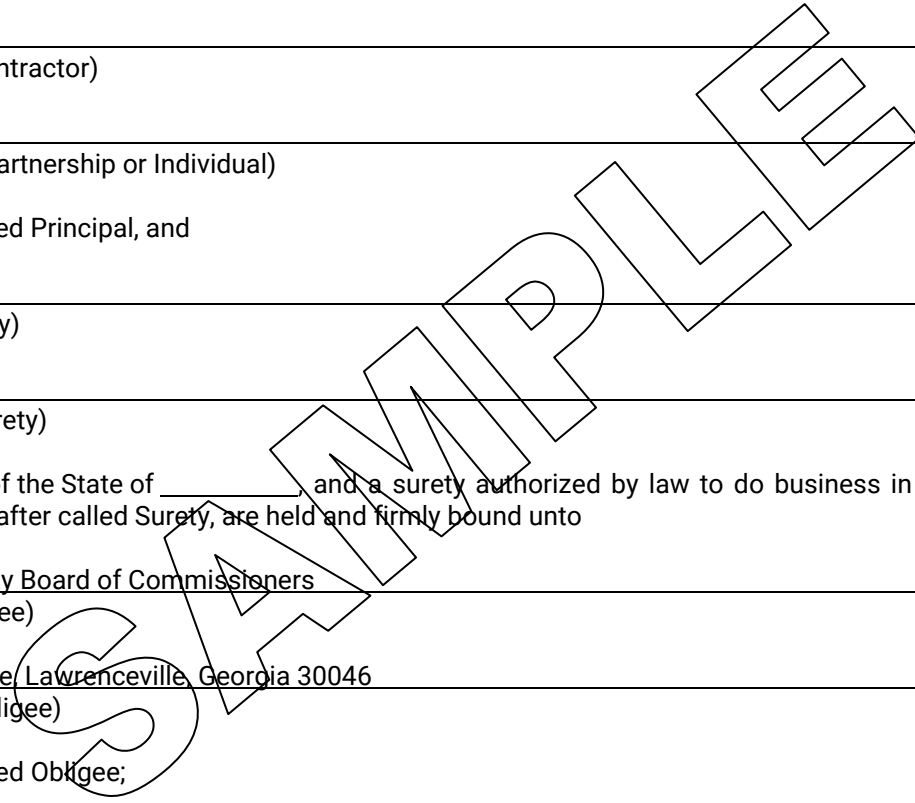
_____ Dollars

(\$ _____) in lawful money of the United States, for the payment of which sum, will and truly to be made, the Principal and Surety bind themselves, their, and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract, hereto attached, with the Oblige.

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall well, truly, and faithfully perform said Contract according to its terms, covenants, and conditions, and shall promptly pay all persons furnishing labor, materials services, skill, tools, machinery and/or equipment for use in the performance of said Contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

ALL persons who have furnished labor, materials, services, skill, tools, machinery and/or equipment for use in the performance of said Contract shall have a direct right of action on this Bond, provided payment has



not been made in full within ninety (90) days after the last day on which labor was performed, materials, services, skill, tools, machinery, and equipment furnished or the subcontract completed.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed thereunder.

PROVIDED, HOWEVER, that no suit or action shall be commenced hereunder by any person furnishing labor, materials, services, skill, tools, machinery, and/or equipment having a direct contractual relationship with a subcontractor, but no contractual relationship express or implied with the Principal:

Unless such person shall have given notice to the Principal within ninety (90) days after such person did, or performed the last of the work or labor, or furnished the last of the materials, services, skill, tools, machinery and/or equipment for which claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials, services, skill, tools, machinery and/or equipment were furnished, or for whom the work or labor was done or performed. Such a notice shall be served by mailing the same by registered mail, postage prepaid, in an envelope addressed to the Principal, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State in which the aforesaid project is located, save that such service need not be made by a public officer, and a copy of such notice shall be delivered to the Obligee, to the person and at the address provided for in the Contract, within five (5) days of the mailing of the notice to the Principal.

PROVIDED, FURTHER, that any suit under this bond must be instituted before the expiration of one (1) year after the acceptance of the public works covered by the Contract by the proper authorities.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1 et seq., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

[Signatures Next Page]

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

(Principal)

By: _____

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(Address)

(Surety)

By: _____
(Attorney-in-Fact)

(Address)

BONDING AGENT CONTACT INFO

Print Name _____

Company Name _____

E-Mail _____

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

Principal Secretary, Principal and Witness as to Principal signature lines must be signed by three different individuals. Additionally, Resident or Nonresident Agent, Witness as to Surety, and Attorney-in-fact must be signed by three different individuals.

BOND # _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____
(Corporation, Partnership or Individual)
hereinafter called Principal, and

(Name of Surety)

(Address of Surety)

a Corporation of the State of _____, and a surety authorized by law to do business in the State of Georgia, hereinafter called Surety, are held and firmly bound unto

Gwinnett County Board of Commissioners

(Name of Obligee)

75 Langley Drive, Lawrenceville, Georgia 30046

(Address of Obligee)

hereinafter referred to as Obligee, are held and firmly bound unto said Obligee and all persons doing work or furnishing skill, tools, machinery, supplies, or material under or for the purpose of the Contract hereinafter referred to, in the penal sum of _____

Dollars (\$_____

_____) in lawful money of the United States, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, as whereas the Principal entered into a certain contract, hereto attached, with the Obligee.

NOW, THEREFORE THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall well, truly, fully and faithfully perform said contract according to its terms, covenants, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Obligee, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said contract that may hereafter be made, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED FURTHER, that said Surety to this Bond, for value received, hereby stipulates and agrees that no change, extension of time, alterations, or additions to the terms of the Contract or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations, or additions to the terms of the Contract or to the work to be performed thereunder.

PROVIDED, FURTHER, that Principal and Surety agree and represent that this bond is executed pursuant to and in accordance with the applicable provisions of the Official Code of Georgia Annotated, as Amended, including, but not limited to, O.C.G.A. § 36-91-1 et seq., and is intended to be and shall be construed as a bond in compliance with the requirements thereof.

(Signatures Next Page)

ATTEST:

(Principal Secretary)

(SEAL)

(Witness as to Principal)

(Address)

ATTEST:

Resident or Nonresident Agent

(SEAL)

(Witness as to Surety)

(Address)

(Principal)

By: _____

(Address)

(Surety)

By: _____

(Attorney-in-Fact)

(Address)

BONDING AGENT CONTACT INFO

Print Name _____

Company Name _____

E-Mail _____

NOTE: If Contractor is Partnership, all partners should execute Bond. Surety Companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the Project is located.

Principal Secretary, Principal and Witness as to Principal signature lines must be signed by three different individuals. Additionally, Resident or Nonresident Agent, Witness as to Surety, and Attorney-in-fact must be signed by three different individuals.

FAILURE TO RETURN THIS PAGE MAY RESULT IN REMOVAL OF YOUR COMPANY FROM COMMODITY LISTING.

RP036-22

Buyer Initials: JS

IF YOU DESIRE TO SUBMIT A "NO BID" IN RESPONSE TO THIS PACKAGE, PLEASE INDICATE BY CHECKING ONE OR MORE OF THE REASONS LISTED BELOW AND EXPLAIN.

- Do not offer this product or service; remove us from your bidder's list for this item only.
- Specifications too "tight"; geared toward one brand or manufacturer only.
- Specifications are unclear.
- Unable to meet specifications
- Unable to meet bond requirements
- Unable to meet insurance requirements
- Our schedule would not permit us to perform.
- Insufficient time to respond.
- Other

COMPANY NAME _____

AUTHORIZED REPRESENTATIVE _____

SIGNATURE

*****ATTENTION*******FAILURE TO RETURN THE FOLLOWING DOCUMENTS MAY RESULT IN PROPOSAL BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION:**

1. FAILURE TO USE COUNTY BID SCHEDULE.
2. FAILURE TO RETURN APPLICABLE COMPLIANCE SHEETS/SPECIFICATION SHEETS.
3. FAILURE TO RETURN APPLICABLE ADDENDA.
4. FAILURE TO PROVIDE INFORMATION ON ALTERNATES OR EQUIVALENTS.
5. THE COUNTY SHALL BE THE SOLE DETERMINANT OF TECHNICALITY VS. NON-RESPONSIVE BID.
6. FAILURE TO PROVIDE BID BOND, WHEN REQUIRED, WILL RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. BID BONDS ARE NOT REQUIRED ON ALL BIDS. BOND REQUIREMENTS ARE CLEARLY STATED ON THE INVITATION TO BID. IF YOU NEED CLARIFICATION, CONTACT THE PURCHASING ASSOCIATE. **IF BONDS ARE REQUIRED, FORMS WILL BE PROVIDED IN THIS BID DOCUMENT.**
7. FAILURE TO PROVIDE CONTRACTOR AFFIDAVIT AND AGREEMENT, WHEN REQUIRED, MAY RESULT IN BID BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. CONTRACTOR AFFIDAVIT AND AGREEMENT IS NOT REQUIRED ON ALL BIDS. IF YOU NEED CLARIFICATION, CONTACT THE PURCHASING ASSOCIATE.

GWINNETT COUNTY
DEPARTMENT OF FINANCIAL SERVICES – PURCHASING DIVISION
GENERAL INSTRUCTIONS FOR PROPOSERS, TERMS AND CONDITIONS

I. PREPARATION OF PROPOSALS

- A. Each proposer shall examine the drawings, specifications, schedule and all instructions. Failure to do so will be at the proposer's risk.

- B. Each proposer shall furnish all information required by the proposal form or document. Each proposer shall sign the proposal and print or type his or her name on the schedule. The person signing the proposal must initial erasures or other changes. An authorized agent of the company must sign proposals.

- C. With the exception of solicitations for the sale of real property, individuals, firms and businesses seeking an award of a Gwinnett County contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee or other County representative other than the Purchasing Associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Commissioners. The Purchasing Director will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award. Solicitations for the sale of real property may allow for verbal or written communications with the appropriate Gwinnett County representative.

- D. Sample contracts (if pertinent) are attached. These do NOT have to be filled out with the bid/proposal submittal, but are contained for informational purposes only. If awarded, the successful proposer(s) will be required to complete them prior to contract execution.

- E. Effective, July 1, 2013 and in accordance with the Georgia Illegal Immigration Reform Enhancements for 2013, an original signed, notarized and fully completed Contractor Affidavit and Agreement should be included with your bid/proposal submittal, if the solicitation is for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia). Failure to provide the Contractor Affidavit and Agreement with your bid/proposal submittal may result in bid/proposal being deemed non-responsive and automatic rejection.

II. DELIVERY

- A. Each proposer should state time of proposed delivery of goods or services.

- B. Words such as "immediate," "as soon as possible," etc. shall not be used. The known earliest date or the minimum number of calendar days required after receipt

of order (delivery A.R.O.) shall be stated (if calendar days are used, include Saturday, Sunday and holidays in the number).

III. EXPLANATION TO PROPOSERS

Any explanation desired by a proposer regarding the meaning or interpretation of the request for proposals, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation in order for a reply to reach all proposers before the close of the proposal. Any information given to a prospective proposer concerning a request for proposal will be furnished to all prospective proposers as an addendum to the invitation if such information is necessary or if the lack of such information would be prejudicial to uninformed proposers. The written proposal document supersedes any verbal or written communication between the parties. Receipt of addenda should be acknowledged in the proposal. **It is the proposer's responsibility to ensure that they have all applicable addenda prior to proposal submittal.** This may be accomplished via contact with the assigned Procurement Agent prior to proposal submittal.

IV. SUBMISSION OF PROPOSALS

- A. Proposals shall be enclosed in a sealed package, addressed to the Gwinnett County Purchasing Office with the name and address of the proposer, the date and hour of opening, and the request for proposal number on the face of the package. Telegraphic/faxed proposals will not be considered. Any addenda should be enclosed in the sealed envelopes as well.
- B. ADD/DEDUCT: Add or deduct amounts indicated on the outside of the envelope are allowed and will be applied to the lump sum amount. Amount shall be clearly stated and should be initialed by an authorized company representative.
- C. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the County, at no expense to the County. Unless otherwise specified, samples will be returned at the proposer's request and expense if testing does not destroy items.
- D. Items offered must meet required specifications and must be of a quality that will adequately serve the use and purpose for which intended.
- E. Full identifications of each item proposed, including brand name, model, catalog number, etc. must be furnished to identify exactly what the proposer is offering. Manufacturer's literature may be furnished.
- F. The proposer must certify that items to be furnished are new and that the quality has not deteriorated so as to impair its usefulness.
- G. Unsigned proposals will not be considered except in cases where proposal is enclosed with other documents that have been signed. The County will determine this.
- H. Gwinnett County is exempt from federal excise tax and Georgia sales tax with regard to goods and services purchased directly by Gwinnett County. Suppliers and contractors are responsible for federal excise tax and sales tax, including taxes for materials incorporated in county construction projects. Suppliers and

contractors should contact the State of Georgia Sales Tax Division for additional information.

- I. Information submitted by a proposer in the proposal process shall be subject to disclosure after proposal award in accordance with the Georgia Open Records Act.

V. WITHDRAWAL OF PROPOSAL DUE TO ERRORS

No proposer who is permitted to withdraw a proposal shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn proposal was submitted.

To withdraw a proposal after proposal opening, the supplier has up to forty-eight (48) hours to notify the Gwinnett County Purchasing Office of an obvious clerical error made in calculation of proposal. Withdrawal of bid bond for this reason must be done in writing. Suppliers who fail to request withdrawal of proposal by the required forty-eight (48) hours shall automatically forfeit bid bond. Bid bond may not be withdrawn otherwise.

Proposal withdrawal is not automatically granted and will be allowed solely at Gwinnett County's discretion.

VI. TESTING AND INSPECTION

Since tests may require several days for completion, the County reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of inspections and tests of any item that fails to meet the specifications shall be borne by the proposer.

VII. F.O.B. POINT

Unless otherwise stated in the request for proposal and any resulting contract, or unless qualified by the proposer, items shall be shipped F.O.B. Destination. The seller shall retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance.

VIII. PATENT INDEMNITY

The contractor guarantees to hold the County, its agents, officers or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the contractor is not the patentee, assignee or licensee.

**IX. BID BONDS AND PAYMENT AND PERFORMANCE BONDS
(IF REQUIRED, FORMS WILL BE PROVIDED IN THIS DOCUMENT)**

A five percent (5%) bid bond, a one hundred percent (100%) performance bond, and a one hundred percent (100%) payment bond must be furnished to Gwinnett County for any proposal as required in the proposal package or document. **Failure to submit a bid bond with the proper rating will result in the proposal being deemed non-responsive.** Bonding company must be authorized to do business in Georgia by the Georgia Insurance Commission, listed in the Department of the Treasury's publication of companies holding

certificates of authority as acceptable surety on Federal bonds and as acceptable reinsuring companies, and have an A.M. Best rating as stated in the insurance requirement of the solicitation. **The bid bond, payment bond, and performance bond must have the proper an A.M. Best rating as stated in the proposal when required in the proposal package or document.**

X. DISCOUNTS

- A. Time payment discounts will be considered in arriving at net prices and in award of proposal. Offers of discounts for payment within ten (10) days following the end of the month are preferred.
- B. In connection with any discount offered, time will be computed from the date of delivery and acceptance at destination, or from the date correct invoice or voucher is received, whichever is the later date. Payment is deemed to be made for the purpose of earning the discount, on the date of the County check.

XI. AWARD

- A. Award will be made to the highest scoring responsive and responsible proposer according to the criteria stated in the proposal documents. The County may make such investigations as it deems necessary to determine the ability of the proposer to perform, and the proposer shall furnish to the County all such information and data for this purpose as the County may request. The County reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy the County that such proposer is properly qualified to carry out the obligations of the contract.
- B. The County reserves the right to reject or accept any or all proposals and to waive technicalities, informalities and minor irregularities in the proposals received.
- C. The County reserves the right to make an award as deemed in its best interest, which may include awarding a proposal to a single proposer or multiple proposers; or to award the whole proposal, only part of the proposal, or none of the proposal to single or multiple proposers, based on its sole discretion of its best interest.
- D. In the event scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.
- E. In the event that negotiations with the highest ranked firm are unsuccessful the County may then negotiate with the second ranked firm and so on until a satisfactory agreement has been reached.

XII. DELIVERY FAILURES

Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the Purchasing Director, or failure to make replacements of rejected articles/ services when so requested, immediately or as directed by the Purchasing Director, shall constitute authority for the Purchasing Director to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the contractor shall reimburse the County within a

reasonable time specified by the Purchasing Director for any expense incurred in excess of contract prices, or the County shall have the right to deduct such amount from monies owed the defaulting contractor. Alternatively, the County may penalize the contractor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late. Should public necessity demand it, the County reserves the right to use or consume articles/services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Director.

XIII. COUNTY FURNISHED PROPERTY

The County will furnish no material, labor or facilities unless so provided in the RFP.

XIV. REJECTION OF PROPOSALS

Failure to observe any of the instructions or conditions in this request for proposal shall constitute grounds for rejection of proposal.

XV. CONTRACT

Each proposal is received with the understanding that the acceptance in writing by the County of the offer to furnish any or all of the commodities or services described therein shall constitute a contract between the proposer and the County which shall bind the proposer on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted proposal. The County, on its part, may order from such contractor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.

Upon receipt of a proposal containing a Gwinnett County "Sample Contract" as part of the requirements, it is understood that the proposer has reviewed the documents with the understanding that Gwinnett County requires that all agreements between the parties must be entered into via these documents. If any exceptions are taken to any part, each exception must be stated in detail and submitted as part of the proposal document. If no exceptions are stated, it is assumed that the proposer fully agrees to the "Sample Contract" in its entirety.

Any Consultant as defined in O.C.G.A. §36-80-28 that is engaged to develop or draft specifications/requirements or serve in a consultative role during the procurement process for any County procurement method, by entering into such an arrangement or executing a contract that the consultant agrees to: (1) Avoid any appearance of impropriety and shall follow all policies and procedures of the County (2) disclose to the County, any material transaction or relationship pursuant to §36-80-28, considered a conflict of interest, any involvement in litigation or other dispute, relationship or financial interest not disclosed in the ethics affidavit, when ethics affidavit is required or such that may be discovered during the pending contract or arrangement; and (3) Acknowledge that any violation or threatened violation of the agreement may cause irreparable injury to the County, entitling the County, to seek injunctive relief in addition to all other legal remedies. This requirement does not apply to confidential economic development activities pursuant to §50-18-72 or to any development authority for the purpose of promoting the development of trade, commerce, industry, and employment opportunities or for other purposes and, without limiting the generality of the foregoing, shall specifically include all authorities created pursuant to Title 36 Chapter 62;

However, per provisions of subparagraph (e)(1)(B) of Code Section 36-62-5 reporting of potential conflicts of interest by development authority board members is required.

When the contractor has performed in accordance with the provisions of this agreement, Gwinnett County shall pay to the contractor, within thirty (30) days of receipt of any department approved payment request and based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this agreement, if any. In the event that Gwinnett County fails to pay the contractor within sixty (60) days of receipt of a pay request based upon work completed or service provided pursuant to the contract, the County shall pay the contractor interest at the rate of ½% per month or pro rata fraction thereof, beginning the sixty-first (61st) day following receipt of pay requests. The contractor's acceptance of progress payments or final payment shall release all claims for interest on said payment.

XVI. NON-COLLUSION

Proposer declares that the proposal is not made in connection with any other proposer submitting a proposal for the same commodity or commodities, and that the proposal is bona fide and is in all respects fair and without collusion or fraud. Each proposer, if included in proposal documents, shall execute an affidavit of non-collusion. Collusion and fraud in bid preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

XVII. DEFAULT

The contract may be canceled or annulled by the Purchasing Director in whole or in part by written notice of default to the contractor upon non-performance or violation of contract terms. An award may be made to the next highest rated responsive and responsible proposer, or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting contractor (or his surety) shall be liable to the County for costs to the County in excess of the defaulted contract prices; provided, however, that the contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the contractor to deliver materials or services within the time stipulated on his proposal, unless extended in writing by the Purchasing Director, shall constitute contract default.

XVIII. TERMINATION FOR CAUSE

The County may terminate this agreement for cause upon ten days prior written notice to the contractor of the contractor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the County's rights or remedies by law.

XIX. TERMINATION FOR CONVENIENCE

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

XX. DISPUTES

Except as otherwise provided in the contract documents, any dispute concerning a question of fact arising under the contract which is not disposed of shall be decided

after a hearing by the Purchasing Director who shall reduce his/her decision to writing and mail or otherwise furnish a copy thereof to the contractor. The decision of the Purchasing Director shall be final and binding; however, the contractor shall have the right to appeal said decision to a court of competent jurisdiction.

XXI. SUBSTITUTIONS

Proposers offering and quoting on substitutions or who are deviating from the attached specifications shall list such deviations on a separate sheet to be submitted with their proposal. The absence of such a substitution list shall indicate that the proposer has taken no exception to the specifications contained therein.

XXII. INELIGIBLE PROPOSERS

The County may choose not to accept the proposal of one who is in default on the payment of taxes, licenses or other monies owed to the County. Failure to respond three (3) consecutive times for any given commodity may result in removal from the list under that commodity.

XXIII. OCCUPATION TAX CERTIFICATE

Each successful proposer shall provide evidence of a valid Gwinnett County occupation tax certificate if the proposer maintains an office within the unincorporated area of Gwinnett County. Incorporated, out of County and out of State proposers are required to provide evidence of a certificate to do business in any town, County or municipality in the State of Georgia, or as otherwise required by County ordinance or resolution.

XXIV. PURCHASING POLICY AND REVIEW COMMITTEE

The Purchasing Policy and Review Committee has been established to review purchasing procedures and make recommendations for changes; resolve problems regarding the purchasing process; make recommendations for standardization of commodities, schedule buying, qualified products list, annual contracts, supplier performance (Ineligible Source List) and other problems or requirements related to Purchasing. The Purchasing Policy and Review Committee have authority to place suppliers and contractors on the Ineligible Source List for reasons listed in the Gwinnett County Purchasing Ordinance.

XXV. AMERICANS WITH DISABILITIES ACT

All contractors for Gwinnett County are required to comply with all applicable sections of the Americans with Disabilities Act (ADA) as an equal opportunity employer. In compliance with the Americans with Disabilities Act (ADA), Gwinnett County provides reasonable accommodations to permit a qualified applicant with a disability to enjoy the privileges of employment equal to those employees without disabilities. Disabled individuals must satisfy job requirements for education background, employment experience, and must be able to perform those tasks that are essential to the job with or without reasonable accommodations. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County should be directed to the ADA Coordinator, 75 Langley Drive, Lawrenceville, Georgia 30046, 770-822-8165.

XXVI. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS

Alterations of County documents are strictly prohibited and will result in automatic disqualification of the firm's solicitation response. If there are "exceptions" or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas, but may not materially alter any document language.

XXVII. TAX LIABILITY

Local and state governmental entities must notify contractors of their use tax liability on public works projects. Under Georgia law, private contractors are responsible for paying a use tax equal to the sales tax rate on material and equipment purchased under a governmental exemption that is incorporated into a government construction project: excluding material and equipment provided for the installation, repair, or expansion of a public water, gas or sewer system when the property is installed for general distribution purposes. To the extent the tangible personal property maintains its character (for example the installation of a kitchen stove), it remains tax-exempt. However, if the installation incorporates the tangible personal property into realty, e.g., the installation of sheetrock, it becomes taxable to the private contractor. See O.C.G.A. 48-8-3(2) and O.C.G.A. 48-8-63

XXVIII. STATE LAW REGARDING WORKER VERIFICATION

Effective July 1, 2013 State Law requires that all who enter into a contract for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia) for the County, must satisfy the Illegal Immigration Reform Enhancements for 2013, in all manner, and such are conditions of the contract.

The Purchasing Division Director with the assistance of the Performance Analysis Division shall be authorized to conduct random audits of a contractor's or subcontractors' compliance with the Illegal Immigration Reform Enhancements for 2013 and the rules and regulations of the Georgia Department of Labor. The contractor and subcontractors shall retain all documents and records of its compliance for a period of five (5) years following completion of the contract. This requirement shall apply to all contracts for all labor or service contracts that exceed \$2,499.99 except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia.

Whenever it appears that a contractor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employ of such contractor or subcontractor, the Purchasing Director shall report same to the Department of Homeland Security and may result in termination of the contract if it is determined at any time during the work that the contractor/or subcontractor is no longer in compliance with the Illegal Immigration Reform Enhancements for 2013.

XXIX. SOLID WASTE ORDINANCE

No individual, partnership, corporation or other entity shall engage in solid waste handling except in such a manner as to conform to and comply with the current Gwinnett County Solid Waste Ordinance and all other applicable local, state and federal legislation, rules, regulation and orders.

XXX. GENERAL CONTRACTORS LICENSE

Effective July 1, 2008: **All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. Section 43-41-17).**

XXIX. PRODUCTS MANUFACTURED IN GEORGIA

Gwinnett County, when contracting for or purchasing supplies, materials, equipment, or agricultural products that exceeds \$100,000.00, excluding beverages for immediate consumption, shall give preference as far as may be reasonable and practicable to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in this state. Such preference shall not sacrifice quality. Gwinnett County Board of Commissioners shall consider, among other factors, information submitted by the bidder which may include the bidder's estimate of the multiplier effect on gross state domestic product and the effect on public revenues of the state and the effect on public revenues of political subdivisions resulting from acceptance of a bid or offer to sell Georgia manufactured or produced goods as opposed to out-of-state manufactured or produced goods. Any such estimates shall be in writing. **(O.C.G.A. Section 36-84-1)**

XXXI. INDEMNIFICATION

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

XXXII. CODE OF ETHICS

"Proposer/Bidder" shall disclose under oath the name of all elected officials whom it employs or who have a direct or indirect pecuniary interest in the business entity, its affiliates, or its subcontractors. The "Proposer/Bidder" shall execute a Code of Ethics affidavit. Failure to submit the affidavit during the bid or proposal process shall render the bid or proposal non-responsive.

The act of submitting false information or omitting material information shall be referred to the Purchasing Policy & Review Committee for action pursuant to the Purchasing Ordinance or to the District Attorney for possible criminal prosecution.

Any business entity holding a contract with Gwinnett County that subsequent to execution of the contract or issuance of the purchase order employs, subcontracts with, or transfers a direct or indirect pecuniary interest in the business entity to an elected official shall within five (5) days disclose such fact in writing under oath to the Clerk of the Board of Commissioners. Failure to comply shall be referred to the Purchasing Policy & Review Committee for action pursuant to the Purchasing Ordinance or to the District Attorney for possible criminal prosecution.

Note: See Gwinnett County Code of Ethics Ordinance E02011, Sec. 60-33. The ordinance will be available to view in its entirety at www.gwinnettcountry.com

XXXIII. PENDING LITIGATION

A proposal submitted by an individual, firm or business who has litigation pending against the County, or anyone representing a firm or business in litigation against the County, not arising out of the procurement process, will be disqualified.

XXXIV. ELECTRONIC PAYMENT

Vendors accepting procurements should select one of Gwinnett County's electronic payment options.

- A. A vendor may select ePayables payment process which allows acceptance of Gwinnett County's virtual credit card as payment for outstanding invoices. The authorized vendor representative must send an email to: vendorelectronicpayment@gwinnettcountry.com and indicate the desire to enroll in Gwinnett County's virtual credit card payment process.
- B. A vendor may select Direct Deposit payment process and the payment will be deposited directly into an account at their designated financial institution. To securely enroll in Direct Deposit, either access your online [Vendor Login and Registration](#) on the County's web site and update the requested information on the Direct Deposit tab or mail a [Direct Deposit Authorization Agreement](#) form.

The County will send a Payment Advice notification via email for both payment types.

For more information about Electronic Payments, please go to the Treasury Division page on the County's Web Site or click here -> [Gwinnett County Electronic Payments](#).

DIRECTIONS TO GJAC BUILDING FROM I-85

Take I-85 to Georgia Highway 316 (Lawrenceville/Athens exit). Exit Highway 120 (Lawrenceville/Duluth exit) and turn right. At seventh traffic light, turn right onto Langley Drive. Cross Highway 29 through the traffic light and at the roundabout you can either proceed to the front parking area or you may proceed to the parking deck behind the building. The main public parking lot is on the left or behind the building, Click [Here](#), for additional information about parking. The Purchasing Division is located in the Administrative Wing on the second floor.

APPENDIX A

EQUIPMENT COMPARISON FORMAT

Note: Excel spreadsheet is posted on the Gwinnett County Bids and RFPs site for your use.

Other Items attached to modular structure			Other Items attached to modular structure		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Rockers/Riders/Spinners			Rockers/Riders/Spinners		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Freestanding Climbers			Freestanding Climbers		
Quan.	Item Name	height comment	Quantity	Item Name	height comment
Swings			Swings		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Water Play Elements			Water Play Elements		
Quan.	Item Name	comment	Quantity	Item Name	height comment

Other Freestanding Activity Items			Other Freestanding Activity Items		
Quan.	Item Name	comment	Quantity	Item Name	height comment
;---Non-Play Items---			;---Non-Play Items---		
Decks			Decks		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
Roofs/Shade Structures			Roofs/Shade Structures		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
Decorative/Graphic Panels			Decorative/Graphic Panels		
Quan.	Item Name	comment	Quantity	Item Name	height comment

Signs/Decorations			Signs/Decorations		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
Benches/Picnic Tables/Site furnishings			Benches/Picnic Tables/Site furnishings		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
Rubber Wear Mats			Rubber Wear Mats		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
Drainage Pipe			Drainage Pipe		
Quan.	Item Name	size comment	Quantity	Item Name	height comment
Other Non-Play Items			Other Non-Play Items		
Quan.	Item Name	size (sq.ft.) comment	Quantity	Item Name	height comment
	Total Play Items - Inclusive			Total Play Items - Other	
	Overall Play Items				
	Total Non-Play Items -Inclusive			Total Non-Play Items -Other	
	Overall Non-play items				

	ADA Transfer Stations/Ramps			ADA Transfer Stations/Ramps	
Quan.	Item Name	comment	Quantity	Item Name	height comment
	Bridges/Tunnels/Connections			Bridges/Tunnels/Connections	
Quan.	Item Name	length comment	Quantity	Item Name	height comment
	Overhead Activities			Overhead Activities	
Quan.	Item Name	length comment	Quantity	Item Name	height comment
	Activity Panels			Activity Panels	
Quantity	Item Name	comment	Quantity	Item Name	height comment
	Other Items attached to modular structure			Other Items attached to modular structure	
Quan.	Item Name	comment	Quantity	Item Name	height comment

Rockers/Riders/Spinners			Rockers/Riders/Spinners		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Freestanding Climbers			Freestanding Climbers		
Quan.	Item Name	height comment	Quantity	Item Name	height comment
Swings			Swings		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Water Play Elements			Water Play Elements		
Quan.	Item Name	comment	Quantity	Item Name	height comment
Other Freestanding Activity Items			Other Freestanding Activity Items		
Quan.	Item Name	comment	Quantity	Item Name	height comment

;---Non-Play Items---			;---Non-Play Items---		
Decks			Decks		
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name
					height
					comment
Roofs/Shade Structures			Roofs/Shade Structures		
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name
					height
					comment
Decorative/Graphic Panels			Decorative/Graphic Panels		
Quan.	Item Name		comment	Quantity	Item Name
					height
					comment
Signs/Decorations			Signs/Decorations		
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name
					height
					comment

Benches/Picnic Tables/Site furnishings				Benches/Picnic Tables/Site furnishings			
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name	height	comment
Rubber Wear Mats				Rubber Wear Mats			
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name	height	comment
Drainage Pipe							
Quan.	Item Name	size	comment	Quantity	Item Name	height	comment
Other Non-Play Items							
Quan.	Item Name	size (sq.ft.)	comment	Quantity	Item Name	height	comment
	Total Play Items - Active				Total Play Items - Other		
	Overall Play Items						
	Total Non-Play Items - Active				Total Non-Play Items -Other		
	Overall Non-play items						