

MEMORANDUM

To: Mayor and City Council

From: Michael Smith, Director of Public Works

Date: October 14, 2013

Subject: **Approval of Agreement with GDOT for Year 2 of the Perimeter Traffic Operations Program**

ITEM DESCRIPTION

Approval of a Construction Agreement between the City and the Georgia Department of Transportation (GDOT) to receive \$1,000,000 for the second year of the Perimeter Traffic Operations Program (PTOP)

BACKGROUND

In 2012 the Dunwoody partnered with the GDOT, Perimeter Community Improvement Districts (PCIDs), the City of Sandy Springs, and DeKalb County in a pilot program to actively monitor and manage traffic signal timing in the central perimeter area. The program which has become known as PTO (Perimeter Traffic Operations Program) is one of only two in the entire state that GDOT has funded to manage signals on multiple local roads across multiple jurisdictions. In the first year of the program the funding has provided for daily active signal monitoring, signal timing, signal coordination and a number of physical improvements to enhance traffic flow in the central perimeter area. The initial successes of this pilot project have been well received by GDOT and the State Transportation Board.

GDOT has committed to provide \$2.78 million in funding over 3 years for PTO with no local match required. As the project sponsor, the City of Dunwoody is required to enter into a Construction Agreement with GDOT each year in order to receive funding. The attached contract for the second year of the program is a one year contract with a maximum funding amount of \$1,000,000.

RECOMMENDED ACTION

Staff recommends approval of the agreement to provide for continuation of PTO.

CONSTRUCTION AGREEMENT
Between
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
and
CITY OF DUNWOODY

This AGREEMENT is made and entered into this _____ day of _____ 20__, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and CITY OF DUNWOODY, GEORGIA, hereinafter called the "SPONSOR."

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out the optimization of traffic signals in and around the Perimeter Community Improvement Districts which consists of the construction of Project 0010853, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Projects for Georgia pursuant to provisions of 23 U.S.C. Section 133(b)(8); and

WHEREAS, the PROJECT is expected to positively impact the quality of transportation in the State of Georgia; and

WHEREAS, the DEPARTMENT desires to participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, the SPONSOR desires to partner with the Fulton Perimeter Community Improvement District and the Central (DeKalb) Perimeter Community Improvement District, hereinafter referred to as the "PCIDs", to implement the PROJECT; and

WHEREAS, the PCIDs will serve as Project Managers for the PROJECT; and

WHEREAS, this AGREEMENT is for year one of a proposed three year program to optimize and actively manage the traffic signals in and around the PCIDs; and

WHEREAS, under Section 32-2-2 (a)(7) of the Official Code of Georgia Annotated, the DEPARTMENT is authorized to participate in such an undertaking:

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed by and between the DEPARTMENT and the SPONSOR THAT:

ARTICLE I SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be the optimization of the traffic signals in and around the PCIDs within Fulton and DeKalb Counties, Georgia as set forth in Exhibit A, WORK PLAN.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines, Manual on Uniform Traffic Control Devices (MUTCD), DEPARTMENT design guidelines, DEPARTMENT specifications, and will be sensitive to ecological, environmental and archaeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit A, WORK PLAN.

The SPONSOR shall establish a Task Force to advise the SPONSOR on the WORK PLAN and provide guidance during implementation of the PROJECT. The Task Force should include, but not be limited to, a representative from the DEPARTMENT designated as the DEPARTMENT's Project Manager, the DEPARTMENT's Area Engineer, the SPONSOR's Project Manager, the PROJECT MANAGE'S two designated representatives, the City of Sandy Spring's designated representative and DeKalb County's designated representative. The membership of the Task Force shall be developed by the SPONSOR and shall be subject to approval by the DEPARTMENT.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT'S Standard Specifications for the Construction of Roads and Bridges, AASHTO standards for sidewalks; FHWA guidelines for pedestrian facilities; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT's Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32-6-70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

The SPONSOR has acquired rights of way and related services for the PROJECT in accordance with State and Federal Laws, DEPARTMENT's Right of Way Procedure Manual, Federal Regulations and particularly Title 23 and 49 of the Code of Federal Regulations ("CFR"), as amended. The SPONSOR further acknowledges that no acquisition of rights of way occurred until all applicable archaeological, environmental and historical preservation clearances were approved.

The SPONSOR shall ensure that all contracts as well as any subcontracts for the construction of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto, specifically, but not limited to the provisions governing the DEPARTMENT's authority to contract, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's Standard Specifications and Special Provisions.

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA-1273 into all contracts or subcontracts for construction, as attached hereto and incorporated herein as Exhibit B, Terms and Conditions.

ARTICLE II COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of Federal, State and local laws including but not limited to those applicable requirements as outlined in Exhibit B, TERMS AND CONDITIONS. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this Agreement without liability, or, at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE III REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the Federal Highway Administration, ("FHWA"), may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps, and computations, prepared by or

for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of affected public agencies, railroads and utilities insofar as the interest of each is concerned.

Acceptance shall not relieve the SPONSOR of its professional obligation to correct, at its expense, any of its errors in the work. The DEPARTMENT's review recommendations shall be incorporated into the work activities of the SPONSOR.

ARTICLE IV TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, and shall complete the Project no later than **November 30, 2014**. The work shall be carried on in accordance with the schedule attached to this Agreement as "Exhibit C", WORK SCHEDULE, with the understanding that unforeseen events may make necessary some minor variations in that schedule.

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

ARTICLE V RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall to the extent permitted by law, be responsible for any and all damages to property or persons and shall save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the SPONSOR in the performance of the work under this Agreement.

It is understood by the SPONSOR that claims, damages, losses, and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall ensure that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

ARTICLE VI INSURANCE

Prior to beginning work, the SPONSOR shall obtain and where applicable cause its subcontractors to obtain and furnish certificates to the DEPARTMENT for the following minimum amounts of insurance:

- A. Workmen's Compensation Insurance in accordance with the laws of the State of Georgia.
- B. Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000) for injuries, including those resulting in death to any one person, and in an amount of not less than three hundred thousand dollars (\$300,000) on an account of any one occurrence.
- C. Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000).
- D. Valuable Papers Insurance in an amount sufficient to assure the restoration of any plans, drawings, field notes, or other similar data relating to the work covered by the PROJECT.

Insurance shall be maintained in full force and effect during the life of the Agreement and until final completion of the PROJECT.

ARTICLE VII COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations Subpart 31.6 and not prohibited by the Laws of the State of Georgia.

It is understood and agreed that the total construction cost of the PROJECT as outlined in this Article and as shown in Exhibit "D", PROJECT BUDGET, attached hereto and incorporated as if fully set out herein, is One Million Dollars and Zero Cents (\$1,000,000.00). The total cost of the PROJECT to be financed by the Georgia Department of Transportation is One Million Dollars and Zero Cents (\$1,000,000.00), which is the total state/federal contribution to the PROJECT (100% of the overall bid) and is the maximum amount of the DEPARTMENT's obligation. The approved PROJECT budget shall include any claims by the SPONSOR for all costs incurred by the SPONSOR in the conduct of the entire scope of work for the PROJECT.

The SPONSOR shall be solely responsible for any and all amounts in excess of the State contribution. In no event shall the Federal and State contribution of the project exceed One

Million Dollars and Zero Cents (\$1,000,000.00), which is the DEPARTMENT'S maximum obligation.

It is understood and agreed that nothing in the foregoing shall prevent an adjustment of the estimate of the PROJECT costs, provided that the DEPARTMENT's maximum obligations under this Agreement is not exceeded and that the original intent of the PROJECT is not substantially altered from the approved PROJECT. In order to adjust said budget estimate, it is also understood that the SPONSOR shall request any and all budget changes in writing and that the DEPARTMENT shall approve or disapprove the requested budget estimate change in writing.

The SPONSOR shall submit to the DEPARTMENT a revised budget estimate in accordance with the successful contractor's bid within ninety days from the date of the contractor's contract being awarded for construction, and before any construction work on the PROJECT may begin.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress to include a report on what was accomplished during the month, anticipated work to be done during the next month and any problems encountered or anticipated. Payment on account of the above fee will be made monthly on the basis of calendar months, in proportion to the percentage of the work completed for each phase of work. Payments shall be made after approval of a certified voucher from the SPONSOR. Upon the basis of its review of such vouchers, the DEPARTMENT shall, at the request of the SPONSOR, make payment to the SPONSOR as the work progresses, but not more often than once a month. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last date of the month in which it began. The vouchers shall be numbered consecutively and subsequent vouchers submitted each month until the work is completed.

Payment will be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR under the terms of this Agreement, and shall be the basis for final payment.

No expense for travel shall be an allowable expense for the SPONSOR under this Agreement unless such travel is listed in the approved PROJECT budget submitted by the SPONSOR to the DEPARTMENT. In addition, budgeted costs for travel shall be limited to the amount included in the approved PROJECT budget, unless prior DEPARTMENT approval is obtained for increasing such amount.

Should the work under this Agreement be terminated by the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, the SPONSOR shall be paid based upon the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

ARTICLE VIII

FINAL PAYMENT

IT IS FURTHER AGREED that upon completion of the work by the SPONSOR and acceptance by the DEPARTMENT of the work, including the receipt of any final written submission by the SPONSOR and a final statement of costs, the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with the same.

The SPONSOR will allow examination and verification of costs by the DEPARTMENT's representatives before final payment is made, in accordance with the provisions of Article XII, herein. If the DEPARTMENT'S examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

ARTICLE IX CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT's calculation of the economic life of the PROJECT. Based on the scope of work, as set forth in Exhibit A, WORK PLAN, the DEPARTMENT has determined the economic life of the PROJECT to be five years from the date of the PROJECT Final Acceptance.

ARTICLE X RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a contingent interest in the PROJECT pursuant to Article IX of this Agreement.

Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

ARTICLE XI SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity, or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time, or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

ARTICLE XII MAINTENANCE OF CONTRACT COST RECORDS

The SPONSOR shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred on the PROJECT and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement, and for three years from the date of final payment under the Agreement, for inspection by the DEPARTMENT and any reviewing agencies, and copies thereof shall be furnished upon request. The SPONSOR agrees that the provisions of this Article shall be included in any Agreement it may make with any subcontractor, assignee, or transferee.

An Audit of the Agreement shall be provided by the SPONSOR. The audit shall be conducted by an independent accountant or accounting firm in accordance with audit requirements, 49 CFR 18.26 and OMB Circular 128 or any revision or supplement thereto. PROJECT costs shall be documented within the OMB Circular 128 audit. An audit shall be submitted to the DEPARTMENT in a timely manner in each of the SPONSOR's fiscal years for the period of the Agreement.

ARTICLE XIII SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet, or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT proposed subcontract documents together with sub-contractor cost estimates for the DEPARTMENT's review and written concurrence in advance of their execution.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Agreement.

ARTICLE XIV TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for just cause, or for any cause upon 30 days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment of services rendered prior to the date of termination. The SPONSOR reserves the right to terminate this Agreement at any time for just cause or for any cause upon 30 days written notice to the DEPARTMENT. A termination by either party is not the sole remedy but is in addition to all other remedies under law or equity a party may have to remedy breach of performance under this Agreement by other party.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed.

Failure to meet the time set for completion of an approved work authorization may be considered just cause for termination of the Agreement. Failure of the DEPARTMENT to pay for services rendered pursuant to this Agreement and pursuant to the payment terms set forth in this Agreement shall also be considered just cause for termination of this Agreement.

ARTICLE XV OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer diskettes and printouts and other data prepared by or for it under the terms of this Agreement shall remain the property of the SPONSOR upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI PUBLICATION AND PUBLICITY -RESERVED-

ARTICLE XVII COPYRIGHTING -RESERVED-

ARTICLE XVIII
CONTRACT DISPUTES

This Agreement shall be deemed to have been executed in Fulton County, Georgia, and all questions of interpretation and construction shall be governed by the Laws of the State of Georgia.

ARTICLE XIX
COMPLIANCE WITH APPLICABLE LAWS

- A. The undersigned certify that the provisions of Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.
- B. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and 23 CFR 200, as stated in Exhibit E of this Agreement.
- C. IT IS FURTHER CERTIFIED that the provisions of Section 50- 24-1 through 50-24-6 of the Official Code of Georgia Annotated relating to the "Drug-Free Workplace Act" have been complied with in full, as stated in Exhibit F of this Agreement.
- D. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.
- E. **IT IS FURTHER AGREED that the SPONSOR shall subcontract a minimum of nine percent (9%)** of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined and provided for under the Federal Rules and Regulations 49 CFR parts 23 and 26. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor.
- F. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et.seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.

- G. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis-Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal-aid highway projects, except roadways classified as local roads or rural minor collectors.
- H. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with GA Code Title 25, Section 9, Georgia Utility Facility Protection Act, CALL BEFORE YOU DIG 1-800-282-7411.
- I. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, replace signal poles in-kind (e.g. materials, size, and design); not remove or cut historic vegetation (limbs of trees over 50 years of age); not install or upgrade curb cuts or wheelchair ramps.

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

[REMAINDER OF DOCUMENT INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, said parties have hereunto set their hands and affixed their seals the day and year above first written.

Recommended:
Department of Transportation

City of Dunwoody, Georgia

_____(seal)
Commissioner

By: _____ (Seal)
Mike Davis, Mayor
City of Dunwoody

Attest:

Signed, sealed and delivered
this ____ day of _____,
20__, in the presence of:

Treasurer

Witness

Notary Public

Attest:

Sharon Lowery, City Clerk

FEI#:

Federal Employer Identification
Number

EXHIBITS

Exhibit A	Work Plan
Exhibit B	Terms and Conditions for Federal-Aid Construction Contracts
Exhibit C	Work Schedule
Exhibit D	Budget Estimate
Exhibit E	Civil Rights Compliance Certification
Exhibit F	Certification of Drug-Free Workplace

EXHIBIT A

WORK PLAN

City of Dunwoody

Perimeter Traffic Operations Program in Perimeter Community Improvement District – FY 2013

P. I. No. 0010853

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

The Consultant team shall provide:

2A. Project Management

1. Conduct monthly committee meetings
2. Maintain project team site
3. Monitor project tracking/ticketing system
4. Conduct project team meetings

2B. Preventive & Responsive Timing Maintenance

1. Perform vehicle detector, pedestrian detector, and signal equipment checks once every month to verify that field devices and sensors are operating correctly, evaluate if the intersections are communicating with the central server, and determine if there are detector or any other hardware failures. Report equipment status monthly.
2. Perform weekly ride through (AM, MD, and PM peaks) on the system to verify that timing plans are functioning properly.
3. Adjust/Create signal timings plans as needed to improve throughput or reduce delay in the system for all time-of-day and day-of-year plans
4. Perform additional Turning Movement Counts (as needed) to develop signal timing plans.
5. Perform travel time runs for before and after performance measures twice per year
6. Record, respond and follow-up with complaints received from a citizen, local agency, GDOT, or PCID. All after hours, weekend, or emergency responses will be the responsibility of the maintaining agency. The consultant team will not respond directly to any citizen. The consultant team will issue written responses for complaints to the local agency and the PCIDs. The local agencies and the PCIDs will be responsible for communicating directly with citizens.
7. Identify repairs needed outside scope of services and coordinate with the local agencies, GDOT, and PCIDs to identify the appropriate response.

2C. Operational Strategies

1. Develop and prioritize operational strategies
2. Provide sketch drawings where needed for operational strategies
3. Develop construction cost estimates for each operational strategy
4. Develop schedule for selected operational strategies

2D. System Monitoring

1. Actively manage system, base timings, and operational performance from TCC and on the ground during non-holiday weekday peak commuting periods. Non-holiday weekday peak periods and times are defined as:
 - a. AM: 6 – 9
 - b. MD: 11 – 2
 - c. PM: 4 – 7
2. Respond to major changes in traffic patterns (i.e. special events and holiday traffic)
3. Evaluate and troubleshoot system performance from TCC

2E. Equipment Repair and Upgrade

1. Identify and repair equipment malfunctions (excluding signal poles and signal indications)
2. Identify equipment upgrades to improve operational capacity and maximize congestion relief
3. Identify desirable locations for smart devices (CCTV, Travel Time Detectors)
4. Submit Field Task Orders (FTO) to PTOP committee for review and approval
5. Once FTO is approved, schedule work to be performed
6. Validate the repair and certify the work is complete before approving work for payment

2F. Reporting

1. Monthly reports
 - a. Develop performance reports for project tracking/ticketing system
 - b. Identify project status
 - c. Develop system recommendations and cost estimates
 - d. Develop budget report
 - e. Identify project benefits/overall performance measures
2. Annual reports
 - a. Develop budget report
 - b. Identify project status
 - c. Identify project benefits/performance measures

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

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ATTACHMENTS

- A. Employment Preference for Appalachian Contracts
(included in Appalachian contracts only)

I. GENERAL

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

Section I, paragraph 2;
Section IV, paragraphs 1, 2, 3, 4, and 7;
Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

- a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
- b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the

Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.

8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

a. The records kept by the contractor shall document the following:

- (1) The number of minority and non-minority group members and women employed in each work classification on the project;
- (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
- (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
- (4) The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

1. General:

a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

(3) the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. Said Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

3. Payment of Fringe Benefits:

a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

a. Apprentices:

(1) Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for

the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

5. Apprentices and Trainees (Programs of the U.S. DOT):

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

6. Withholding:

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, as much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the SHA contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof the types described in Section 1(b)(2)(B) of the Davis Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis Bacon Act, the contractor and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR 3;

(3) that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635).

a. "Its own organization" shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, the following notice shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both."

X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

By submission of this bid or the execution of this contract, or subcontract, as appropriate, the bidder, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local)

transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and

d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

2. Instructions for Certification - Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

EXHIBIT C

WORK SCHEDULE

City of Dunwoody
Traffic Signal Optimization in Community Improvement District

P. I. No. 0010853

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

Task 2A. Project Management: 11/30/13 – 11/30/14

Task 2B – Preventative and Responsive Timing Maintenance: 11/30/13 – 11/30/14

Task 2C – Operational Strategies: 11/30/13 – 11/30/14

Task 2D – System Monitoring: 11/30/13 – 11/30/14

Task 2E - Equipment Repair and Upgrades: 11/30/13 – 11/30/14

Task 2F - Reporting: 11/30/13 – 11/30/14

EXHIBIT D

PROJECT BUDGET

City of Dunwoody
Traffic Signal Optimization in Perimeter Community Improvement District

P. I. No. 0010853

Task 2A – Project Management: \$45,100.00

Task 2B – Preventative and Responsive Timing Maintenance: \$217,700.00

Task 2C – Operational Strategies: \$91,325.00

Task 2D – System Monitoring: \$177,650.00

Task 2E – Equipment Upgrade and Repair: \$440,200.00

Task 2F – Reporting: \$28,025.00

EXHIBIT E

CIVIL RIGHTS COMPLIANCE CERTIFICATION

SEE NEXT SHEET

EXHIBIT E

NOTICE TO CONTRACTORS
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

During the performance of this Agreement, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. Compliance with Regulations: The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the Contractor will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 710.405(b).
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.
4. Information and Reports: The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation

shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the Contractor under the contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of this contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provision of paragraphs (1) through (6) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, order, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#M.9.

EXHIBIT F

CERTIFICATION OF DRUG-FREE WORKPLACE

SEE NEXT SHEET

EXHIBIT F

CERTIFICATION OF SPONSOR

DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of _____ whose address is _____ and it is also that:

1. The provisions of Section 50-24-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-Free Workplace Act" have been complied with in full; and,
2. A drug-free workplace will be provided for the sponsor's employees during the performance of the contract; and,
3. Each subcontractor hired by the SPONSOR shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. The SPONSOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with _____, _____ certifies to the SPONSOR that a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section 50-24-3"; and,
4. It is certified that the undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

_____ Signature _____ Date

APPENDICES

Appendix A Sponsor Certification regarding Debarment, Suspension, and other
Responsibility Matters

Appendix B Lower Tier Contractor Certification regarding
Debarment, Suspension, and other Responsibility Matters

Appendix C Certification of Department of
Transportation - State of Georgia

Appendix D Certification of City of Dunwoody

Appendix E Georgia Security and Immigration Compliance Act Affidavit

APPENDIX A

CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND
OTHER RESPONSIBILITY MATTERS

SEE NEXT SHEET

APPENDIX A

SPONSOR
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND
OTHER RESPONSIBILITY MATTERS

I hereby certify that I am the _____ and duly authorized representative of _____, whose address is _____, and I certify that I have read and understand the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;
- b. Have not within a three year period preceding this Agreement been convicted of or had a civil judgment rendered against the firm or its representatives for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State, or Local) transaction or contract under a public transaction in violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and,
- d. Have not within a three year period preceding this Agreement had one or more public transaction (Federal, State or Local) terminated for cause or default.
- e. That the firm will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as attached hereto and without motivation, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with this Agreement involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date _____ (Seal)

Instructions for Appendix A Certification

Certification Regarding Debarment, Suspension, and Other Responsibility Matters -- Primary Covered Transactions (SPONSORS)

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Appendix A.
2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.
3. The certification, Appendix A, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.
4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.
6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.
7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as provided by the Department

without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A SPONSOR, in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by these instructions. The knowledge and information of SPONSOR is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

APPENDIX B

LOWER TIER CONTRACTOR CERTIFICATION REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

SEE NEXT SHEET

APPENDIX B

LOWER TIER CONTRACTOR CERTIFICATION REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

I hereby certify that I am the _____ and duly authorized representative of the firm of _____, whose address is _____, and I certify that I have read and understand the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by the Georgia Department of Transportation and by any Federal department or agency;

(b) I acknowledge that this certification is provided pursuant to Executive Order 12549 and 49 CFR Part 29 and that this firm agrees to abide by the rules and conditions set forth therein for any misrepresentation that would render this certification erroneous, including termination of this Agreement and other remedies available to the Georgia Department of Transportation and Federal Government.

(c) I further acknowledge that this certificate is to be furnished to the Georgia Department of Transportation, in connection with the Prime Contractor Agreement involving participation of Federal-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date _____ (Seal)

INSTRUCTIONS

Instructions for Appendix B Certification

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion --- Lower Tier Covered Transactions

This certification applies to subcontractors, material suppliers, vendors and other lower tier participants.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out in Appendix B.
2. The certification, Appendix B, is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or Agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which the proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into a lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department or Agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion---Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if the participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Department or Agency may pursue available remedies, including suspension and/or debarment.

#M.9.

APPENDIX C

CERTIFICATION OF DEPARTMENT OF TRANSPORTATION

SEE NEXT SHEET

APPENDIX C

CERTIFICATION OF DEPARTMENT OF TRANSPORTATION

STATE OF GEORGIA

I hereby certify that I am the Commissioner of the Department of Transportation of the State of Georgia, and that the above consulting firm or his representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Agreement to:

- a. employ or retain, or agree to employ or retain, any firm or person, or
- b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated, (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal-aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Date

Commissioner

#M.9.

APPENDIX D

CERTIFICATION OF City of Dunwoody

SEE NEXT SHEET

APPENDIX D

CERTIFICATION OF CITY OF DUNWOODY

I hereby certify that I am the _____ and duly authorized representative of _____ whose address is _____ . I hereby certify to the best of my knowledge and belief that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, 'Disclosure Form to Report Lobbying', in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

I also certify that neither I nor the above firm I here represent has:

- a. employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above SPONSOR) to solicit or secure this agreement.
- b. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or

c. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above SPONSOR) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this Agreement involving participation of Federal-aid highway funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Signature _____ Date _____

APPENDIX E

Georgia Security and Immigration Compliance Act Affidavit

SEE NEXT SHEET



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

Contract No. and Name:

Name of Contracting Entity:

By executing this affidavit, the undersigned person or entity verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the Georgia Department of Transportation has registered with, is authorized to participate in, and is participating in the federal work authorization program commonly known as E-Verify,* in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

The undersigned person or entity further agrees that it will continue to use the federal work authorization program throughout the contract period, and it will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the undersigned with the information required by O.C.G.A. § 13-10-91(b).

The undersigned person or entity further agrees to maintain records of such compliance and provide a copy of each such verification to the Georgia Department of Transportation at the time the subcontractor(s) is retained to perform such service.

EEV / E-Verify™ User Identification Number

Date of Authorization

BY: Authorized Officer or Agent
(Name of Person or Entity)

Date

Title of Authorized Officer or Agent

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 201__

Notary Public

[NOTARY SEAL]

My Commission Expires: _____

* or any subsequent replacement operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603

Revised 8/22/11