

To: Mayor and City Council

From: Brent Walker, Parks and Recreation Director

Date: March 14, 2022

Re: Contract Approval for the Construction of Perimeter Center East Park

### **Action**

Authorize the mayor, city manager, or designee to execute all documents necessary and proper to enter into contracts for the construction of Perimeter Center East Park.

### **Summary**

The City solicited proposals from qualified vendors to provide construction services, geotechnical/testing services and construction management services for the construction of Perimeter Center East Park.

### **Details**

An invitation to bid was issued in January and the City received proposals on February 14<sup>th</sup> for the construction services of Perimeter Center East Park, Integrated Construction and Nobility is the apparent low bidder at \$2,564,220.33. Staff have contacted references and all have given a positive referral for similar work. Integrated Construction is also the contractor that built Pernoshal Park, the Dunwoody Trailway section between Brook Run Park and Pernoshal Park and also the Perimeter Center Connector Bridge at the park location.

Staff also received a quote from Comprehensive Program Services for project management services and a quote from Nova Engineering for geotechnical and testing services. Nova is an on-call provider to the City for these types of services.

Attached is a copy of the quote amounts received and sample contracts for each service

As part of the project the City will be planting all native plant species and planting more trees than need to be removed for the project. We will also be installing a cast concrete restroom facility which reduces construction waste and is highly energy efficient.

### **Recommendation**

Staff request that Council authorize the mayor, city manager, or designee to execute all documents necessary and proper to enter into contracts for the construction of Perimeter Center East Park with Integrated Construction and Nobility in an amount not to exceed \$2,820,643, Comprehensive Program Services in an amount not to exceed \$82,500 and with Nova Engineering in an amount not to exceed \$45,000. The total request for the project is \$2,948,143. Funding is set aside in the ARP Fund with a total project budget of \$3,000,000. All contracts include a ten percent contingency.



**ITB 22-02 Bids Received**

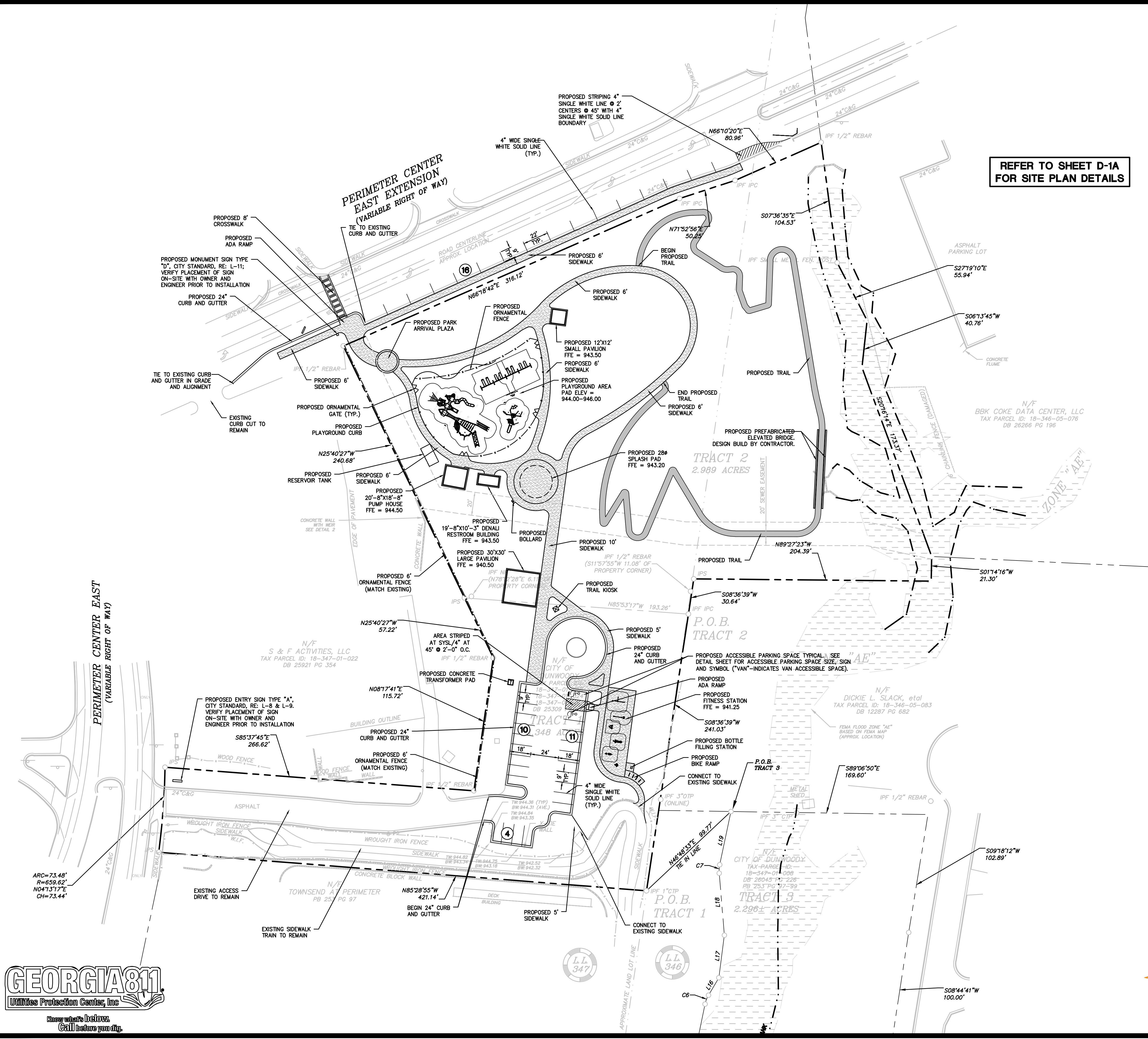
Integrated Construction and Nobility	\$2,564,220.33
Multiplex LLC	\$2,800,000
Magnum Contracting LLC	\$2,999.762
Triscapes Inc.	\$3,179,385.67

**Project Management Services**

Comprehensive Program Services	\$75,000
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**Geotechnical and Testing Services**

Nova	\$ 39,960
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LOCATION MAP  
NOT TO SCALE

### SITE AREA DEMISE

TRACT 1	1.348 ±	AC.
TRACT 2	2.989 ±	AC.
TRACT 3	2.296 ±	AC.
<b>SITE AREA</b>	<b>6.633 ±</b>	<b>AC.</b>

NOTE:  
THIS CHART IS FOR CONCEPTUAL PURPOSES ONLY. ACREAGE ARE APPROXIMATE  
AND MAY VARY DEPENDING ON ACTUAL BOUNDARY SURVEY.

### PARKING CALCULATIONS

<b>REQUIRED PARKING</b>	<b>SPACES</b>
<b>ONSITE PARKING</b>	<b>21 SPACES</b>
<b>OFFSITE PARKING</b>	<b>16 SPACES</b>
<b>TOTAL PARKING</b>	<b>37 SPACES</b>

### SITE PLAN NOTES

1. ALL WORK AND MATERIALS SHALL COMPLY WITH ALL CITY REGULATIONS AND CODES AND O.S.H.A. STANDARDS.
2. ALL DISTURBED AREAS ARE TO RECEIVE FOUR INCHES OF TOPSOIL, SEED, MULCH AND WATER UNTIL A HEALTHY STAND OF GRASS IS ESTABLISHED.
3. ALL ISLANDS WITH CURB & GUTTER SHALL BE LANDSCAPED. THOSE ISLANDS ARE TO HAVE 18" CURB & GUTTER. ALL REMAINING ISLANDS ARE TO BE STRIPED AS SHOWN.
4. ALL CURBED RADII ARE TO BE 3' UNLESS OTHERWISE NOTED. STRIPED RADII ARE TO BE 3'.
5. ALL DIMENSIONS AND RADII ARE TO THE FACE OF CURB UNLESS OTHERWISE NOTED.
6. EXISTING STRUCTURES WITHIN CONSTRUCTION LIMITS ARE TO BE ABANDONED, REMOVED OR RELOCATED AS NECESSARY. ALL COST SHALL BE INCLUDED IN BASE BID.
7. CONTRACTOR SHALL BE RESPONSIBLE FOR ALL RELOCATIONS, INCLUDING BUT NOT LIMITED TO, ALL UTILITIES, STORM DRAINAGE, SIGNS, TRAFFIC SIGNALS & POLES, ETC. AS REQUIRED. ALL WORK SHALL BE IN ACCORDANCE WITH GOVERNING AUTHORITIES' SPECIFICATIONS AND SHALL BE APPROVED BY SUCH. ALL COST SHALL BE INCLUDED IN BASE BID.
8. TOTAL LAND AREA IS 6.633± ACRES.
9. THE SITE WORK FOR THIS PROJECT SHALL MEET OR EXCEED "THE SITE WORK SPECIFICATIONS".
10. REFER TO ELECTRICAL PLANS FOR SITE LIGHTING ELECTRICAL PLAN.
11. ALL BOUNDARY AND TOPOGRAPHICAL INFORMATION SHOWN WAS TAKEN FROM A SURVEY BY PLANNERS AND ENGINEERS COLLABORATIVE DATED 08/21/2020.
12. A PORTION OF THE PROPERTY LIES IN A 100-YEAR FLOODPLAIN OR IN AN IDENTIFIED "FLOOD PRONE AREA", AS DEFINED PURSUANT TO THE FLOOD DISASTER PROTECTION ACT OF 1973, AS AMENDED AS REFLECTED BY FLOOD INSURANCE RATE MAP PANEL 130893C0012K DATED 08/19/2019.
13. THE CURRENT ZONING OF ALL PROPERTY SHOWN FOR DEVELOPMENT IS "O-F". ADJACENT PROPERTY ZONED AS SHOWN.
14. ALL GENERAL CONTRACTOR WORK TO BE COMPLETED (EARTHWORK, FINAL UTILITIES, AND FINAL GRADING) BY THE MILESTONE DATE IN PROJECT DOCUMENTS. OUTLOT AREA TO BE KEPT FREE OF JOB TRAILERS AND STORAGE AFTER THE CONTRACT MILESTONE DATE FOR THE OUTLOT. THE GENERAL CONTRACTOR TO PROVIDE CLEAR ACCESS FOR OUTLOT CONTRACTOR TO THE SPECIFIC PARCEL AT ALL TIMES AFTER MILESTONE DATE. PURCHASER OF OUTLOT TO PROVIDE PERMIT DOCUMENTS AND SWPPP REQUIRED BY STATE/LOCAL REQUIREMENTS FOR SPECIFIC OUTLOT.

### TRAIL NOTE

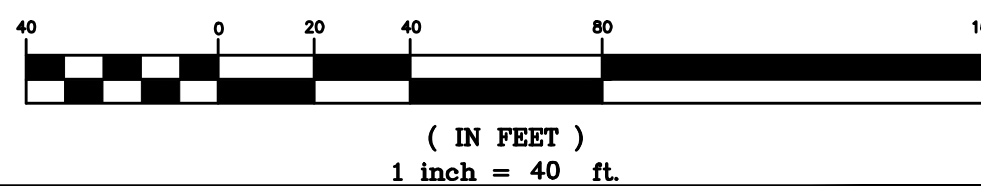
TRAIL ALIGNMENT SHOWN IS FOR BUILDING PURPOSES ONLY. BASIS OF TRAIL DESIGN HAS BEEN DEVELOPED BY USING SURVEYED TOPOGRAPHY, AND APPLYING DESIRED HIKING TRAIL DETAILS AND GRADIENTS. ALL LAYOUT AND FINAL TRAIL ALIGNMENTS TO BE FIELD VERIFIED PRIOR TO CONSTRUCTION. SEE SHEET L-7 FOR MORE DETAIL.

### LEGEND FOR PROPOSED IMPROVEMENTS

	PROPOSED BUILDING
	PROPOSED CURB AND GUTTER
	PROPOSED PARKING SPACES
	STANDARD DUTY ASPHALTIC PAVEMENT
	PROPOSED TRAIL
	PROPOSED SIDEWALK

### SITE PLAN

GRAPHIC SCALE



Project Title

PERIMETER CENTER EAST PARK  
CITY OF DUNWOODY, GEORGIA  
4800 ASHFORD DUNWOOD RD  
DUNWOODY, GA 30338

REVISIONS BY

DRAWN BY DMN  
CHECKED BY CLM  
DATE: 11/01/2021  
SCALE: 1" = 40'  
JOB No. 20-LD-025 / 061694.00  
SHEET NUMBER

C-1



January 24, 2022

Mr. John Gates  
**City Procurement Manager**  
**City of Dunwoody**  
 4800 Ashford Dunwoody Road  
 Dunwoody, Georgia 30338

***Re: City of Dunwoody Perimeter Center East Park Project  
 Program Management Services Proposal***

Dear Mr. Gates,

CPS appreciates the opportunity to continue our working relationship with Dunwoody through this proposal to provide Program Management services for the above referenced Project. We have outlined below our scope of services as well as our fees to manage this Project through completion. For clarity, CPS will manage this Project exactly how we managed the Brook Run Park Project.

#### **Project Scope**

- 1 Management of all project team member's contracts on the project.
- 2 Conduct all Meetings for the Owner including bi-weekly meetings on site.
- 3 Budget and Contingency management and advisement on all Change Orders, Amendments, and other encumbrances.
- 4 Schedule management through Project Completion.
- 5 Review and approval of all Invoices and Pay Applications through the end of the project.
- 6 Management of the selection, procurement, and installation of Furniture, Fixtures and Equipment not included within the Bid Documents.
- 7 Management of the Closeout process, ensuring all activities are completed in a timely manner, including Final Clean, Punchlist, Permits and Operational Certificates, Training, and Turnover of Attic Stock, Warranties, Operations & Maintenance Manuals, etc.
- 8 Monthly Project Update Reporting and presentation to Dunwoody City Staff, Mayor and Council, as needed.

#### **Fee Proposal**

Our lump sum fee for managing the Project is \$75,000 with work starting immediately. We understand the construction schedule provides for (180) days after official "Notice to Proceed" although we will manage the close-out and one-year warranty period after completion. This is not inclusive of minor reimbursables, such as any printing that may be required.

3368 HARDEE AVENUE  
 ATLANTA, GEORGIA 30341  
 PHONE (770) 451-7670 FAX (770) 451-7672

This is our understanding of the services required. We sincerely appreciate the opportunity to continue our wonderful working relationship with the City of Dunwoody and are available to address any questions regarding this proposal.

Sincerely,

**Comprehensive Program Services, Inc.**



Eric Johnson  
Program Manager

Cc: Steve Mauro, CPS  
Megan Kocikowski, CPS  
Jalen Johnson, CPS



Estimated Costs  
Special Inspections, Construction Materials Testing & Engineering Services

**Perimeter Center East Park**

NOVA Proposal Number

Activity	Unit Rate	Comments	Proposed Units	Cost Proposed
<b>1 Site Preparation, Grading, Utility Excavations, Backfill, Subgrade and Asphalt Paving (Part Time During Construction)</b>				
ICC Soil Inspector	\$60.00	HR Estimated 16 Weeks at avg. 20 hrs./wk.	320.00	\$19,200.00
Laboratory Standard Proctor Test (Soils)	\$120.00	EA Estimated 2 Proctors	2.00	\$240.00
Laboratory Modified Proctor Test (GAB)	\$145.00	EA Estimated 1 Proctor	1.00	\$145.00
Mileage	\$0.00	EA trips	0.00	\$0.00
<b>Sub Total:</b>				<b>\$19,585.00</b>
<b>2 Conventional Shallow Foundations and Subgrade Observations</b>				
Project Engineer for Foundation Observation	\$80.00	HR Estimated 10 visits at avg. 4 hrs./visit	40.00	\$3,200.00
Mileage	\$0.00	EA trips	0.00	\$0.00
<b>Sub Total:</b>				<b>\$3,200.00</b>
<b>3 Structural Concrete and Reinforcing Steel Inspections, Sampling and Testing</b>				
ICC Reinforced Concrete Special Inspector	\$60.00	HR Estimated 25 visits at avg. 4 hrs./visit	100.00	\$6,000.00
Compressive Strength Testing Cylinders	\$12.00	EA Estimated 25 set of 5 Cylinders	125.00	\$1,500.00
Cylinder Pick Up-Transportation and Log In	\$100.00	EA 25 trips	25.00	\$2,500.00
Mileage	\$0.00	EA trips	15.00	\$0.00
<b>Sub Total:</b>				<b>\$10,000.00</b>
<b>4 Structural Masonry Inspection, Sampling and Testing</b>				
ICC Masonry Special Inspector	\$60.00	HR Estimated 2 weeks at avg. 20 hrs./week	40.00	\$2,400.00
Grout Prism for Compressive Strength Testing	\$15.00	EA Estimated 3 set of 3 Prisms	21.00	\$315.00
Mileage	\$0.00	EA 0 trips	6.00	\$0.00
<b>Sub Total:</b>				<b>\$2,715.00</b>
<b>5 Asphalt Core Thickness and Densities</b>				
Asphalt Coring and Drilling	\$250.00	HR Estimated 1 visits lump sum per event	1.00	\$250.00
Asphalt Cores Thickness and Densities	\$24.00	HR Estimated 15 cores	15.00	\$360.00
Mileage	\$0.00	EA 1 trips	0.00	\$0.00
<b>Sub Total:</b>				<b>\$610.00</b>
<b>6 Project Management &amp; Engineering Consultation</b>				
Project Manager	\$110.00	HR Estimated 35 hours	35.00	\$3,850.00
<b>Sub Total:</b>				<b>\$3,850.00</b>
<b>Total Budget Estimate:</b>				<b>\$39,960.00</b>

**NOTES:**

- Budget estimate based on the plans provided and our experience with previous similar projects.
- Budget estimate does not include cost for retesting failing items or standby costs due to delays during construction
- Any addition services will be base off our hourly rate in accordance with the attached schedule of fees

## DRAFT SAMPLE CONTRACT

**AGREEMENT BETWEEN THE CITY OF DUNWOODY AND INTEGRATED CONSTRUCTION AND NOBILITY, INC.**

This Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, **2022**, by and between Integrated Construction and Nobility, Inc. Company (hereinafter referred to as "Company"), and the City of Dunwoody, Georgia ("Dunwoody").

**WITNESSETH**

**WHEREAS**, Company is engaged in the business of providing the necessary labor, supervision, equipment, materials and supplies necessary for the execution of the work specified in the Contract Documents or as necessary to complete the Work in the manner therein specified within the time specified, as therein set forth, for; and

**WHEREAS**, the City of Dunwoody solicited ITB 22-02 Perimeter Center East Park Construction project in the City of Dunwoody, Georgia for the Department of Parks and Recreation for the consideration herein mentioned and under the provision of the Specifications to furnish all equipment, tools, materials, skill and labor necessary to carry out and complete in a professional and workmanlike manner, the work specified, in conformity with the standards set forth in the ITB 22-02 Perimeter Center East Park Construction project and this Contract, shall all form essential parts of this Contract. Unless otherwise specified all work shall be completed in accordance with all pertinent Americans with Disabilities Act standards. Any variations to the above specified details and specifications will be approved by the Parks and Recreation Director or his representative. The Invitation to Bid is referenced, attached and incorporated herein as Exhibit A, and

**WHEREAS**, Company is willing and able to render said services;

**NOW, THEREFORE**, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

**1. Services.**

Company agrees to render services (the "Services") to the City of Dunwoody to furnish all specified materials or approved equivalent, equipment, and labor to complete the required Perimeter Center East Park Construction project as described in its entirety to the specifications as directed by the Parks and Recreation Director or his representative or as set forth in Exhibit "A" specifically as detailed in the Scope of Services. Company agrees to perform the Services at the direction of the appropriate department head, or his designee, in the manner and to the extent required by the

parties herein, as may be amended hereafter in writing by mutual agreement of the parties.

## **2. Compensation.**

a. Fee. In consideration for services, Dunwoody shall pay a fee of \$2,564,220.33.

b. Manner of Payment. The City agrees to pay said invoices within thirty (30) days of receiving same. As the City is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the proposal, Company acknowledges that the City shall not be responsible for payment of any sales taxes on any invoices submitted for the services provided under this Agreement.

## **3. Relationship of Parties.**

a. Independent Contractors. Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between Dunwoody and Company. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between Dunwoody and Company. It is expressly agreed that Company is acting as an independent contractor and not as an employee in providing the Services under this Agreement.

b. Employee Benefits. Company shall not be eligible for any benefit available to employees of Dunwoody including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

c. Payroll Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Company under this Agreement. Company shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for Dunwoody.

## **4. Term**

This Agreement shall be effective upon its execution (the "Effective Date") shall terminate at the time of the completion of the Service as described in the Proposal, but in any event no later than December 31, 2022. If the Service has not been completed by December 31, 2022, this Agreement shall automatically renew for the part of the year necessary to conclude the Service unless the City of Dunwoody chooses to terminate this Agreement pursuant to the provisions of this Agreement by giving written thirty (30) days' notice to Company.

## **5. Termination For Cause and For Convenience.**

Either party shall have the right to terminate this Agreement if the other party is in default of any obligation hereunder and such default is not cured within ten (10) days of receipt of a notice from the other party specifying such default. "Default" shall mean:

- a. If Dunwoody fails to make payments when due or fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- b. If Company fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- c. If either Dunwoody or Company shall have made any warranty or representation in connection with this Agreement which is found to have been false at the time such warranty or representation was made and is materially harmful to the other party.

This Agreement may also be terminated by Dunwoody for convenience by giving Company written notice sixty (60) days prior to the effective date of termination.

## **6. Compensation in Event of Termination.**

If this Agreement is terminated by Dunwoody for convenience, Company shall be exclusively limited to receiving only compensation for the pro-rata work performed and appropriately documented to and including the effective date identified in the written termination notice, but in no event shall Company receive less than a prorated amount of the service fees hereunder. Any amount over the amount otherwise due by Dunwoody for the services provided prior to the termination date shall be refunded by the Company within ten (10) days of the date of termination, with the exception of any costs incurred by the Company in removal of equipment and shutting down the project, which costs shall be borne by Dunwoody in the event of termination for convenience.

## **7. Termination of Services and Return of Property.**

Upon the expiration or earlier termination of this Agreement, Company shall immediately terminate the Services hereunder and shall deliver promptly to Dunwoody all property relating to the Services that is owned by Dunwoody.

## **8. Standard of Performance and Compliance with Applicable Laws.**

Company warrants and represents that it possesses the skill and professional competence, expertise and experience to undertake the obligations imposed by this

Agreement. Company agrees to perform in a reasonably diligent, efficient, competent and skillful manner commensurate with the industry standards of the profession for similar services performed at the same time and in the same locality, and to otherwise perform as is necessary to undertake the Services required by this Agreement, including the requirements set forth in the Certification of Sponsor Drug Free Workplace Exhibit "C".

Company warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations, relating to the provision of the Services to be provided by Company hereunder or which in any manner affect this Agreement which are in effect at the time of Company's performance thereof. Notwithstanding anything in this Agreement or an Exhibit to the contrary, Company shall not have control over or charge of, and shall not be responsible for, acts or omissions of the contractor or of any other persons or entities performing portions of the work.

#### **9. Conflicts of Interest.**

Company warrants and represents that:

- a. the Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing; and
- b. Company is not presently subject to any agreement with a competitor or with any other party that will prevent Company from performing in full accord with this Agreement; and
- c. Company is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement. The parties agree that Company shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

Notwithstanding the foregoing, Company may perform similar services for other government sector clients during the term of this Agreement and realize no implications.

#### **10. Proprietary Information**

Company acknowledges that it may have access to and become acquainted with confidential and other information proprietary to Dunwoody including, but not limited to, information concerning Dunwoody, its operations, customers, citizens, business and financial condition, as well as information with respect to which Dunwoody has an obligation to maintain confidentiality (collectively referred to herein as "Proprietary Information"). Company agrees not to disclose, directly or indirectly, to anyone or to use or to allow others to use, for any purpose whatsoever, any Proprietary Information of any type, whether or not designated confidential or proprietary, acquired in the course

of performing under this Agreement. The obligations of Company under this section shall survive the termination of this Agreement.

**11. Insurance.**

Company agrees to defend, indemnify and hold harmless the City of Dunwoody, its officers, employees and agents, to the extent allowed by applicable law, from and against any and all third party claims, losses, liabilities or expenses (including, without limitation, attorneys' fees) to the extent they arise out of a breach by the Indemnitor of its obligations under this Agreement. Insurance requirements are attached hereto as Exhibit "D".

**12. Assignment.**

Company shall not assign this Agreement without the prior express written consent of Dunwoody, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment by Company without the prior express written approval of Dunwoody shall at Dunwoody's sole option terminate this Agreement without any notice to Company of such termination.

**13. Notices.**

All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

**If to the City:**

City Manager  
Dunwoody City Hall  
4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338

**With copies to:**

City Clerk  
Dunwoody City Hall  
4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338

**If to the Company:**

Integrated Construction and Nobility, Inc.  
Attn: Mr. Dwayne S. Singleton, President  
3335 Carrollton Villa Rica Hwy.  
Carrollton, Georgia 30116

**14. Governing Law and Consent to Jurisdiction.**

This Agreement is made and entered into in the State of Georgia and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any disputes arising from this Agreement shall be in the State Courts of DeKalb County, Georgia.

**15. Waiver of Breach.**

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

**16. Severability.**

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

**17. Entire Agreement.** This Agreement which includes the exhibits hereto contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written. This Agreement incorporates the Company's Proposal in full and is referenced in Exhibit A. In case of conflict between any term of the Company's Proposal and this Agreement, the terms of this Agreement shall control unless otherwise stated herein.

**IN WITNESS WHEREOF**, the parties have executed this Agreement through their duly authorized representatives.

**CITY OF DUNWOODY, GEORGIA**

By: \_\_\_\_\_  
Lynn P. Deutsch

Title: Mayor

Date of Execution \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

Attest:

\_\_\_\_\_  
City Clerk

Integrated Construction and Nobility, Inc.

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

Title: \_\_\_\_\_

Date of Execution \_\_\_\_\_

**EXHIBIT "A"**  
**INVITATION AND SCOPE OF SERVICES**

**EXHIBIT "C"****CERTIFICATION OF SPONSOR****DRUG-FREE WORKPLACE**

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_, ("Contractor"), whose address is

\_\_\_\_\_, and I further certify 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 Contractor's employees during the performance of the Agreement; and
- (3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with Contractor, \_\_\_\_\_ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor's employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3"; and
- (4) 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 Agreement.

CONTRACTOR:

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT D****INSURANCE REQUIREMENTS**

Within 10 days of execution of this Agreement, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-6 or higher and acceptable to the City covering:

1. Statutory Workers' Compensation Insurance

(a) Employers Liability:

Bodily Injury by Accident - \$1,000,000 each accident

Bodily Injury by Disease - \$1,000,000 policy limit

Bodily Injury by Disease - \$1,000,000 each employee

2. Comprehensive General Liability Insurance

(a) \$1,000,000 limit of liability per occurrence for bodily injury and property damage Owner's and Contractor's Protective

(b) Blanket Contractual Liability

(c) Blanket "X", "C", and "U"

(d) Products/Completed Operations Insurance

(e) Broad Form Property Damage

(f) Personal Injury Coverage

3. Automobile Liability

(a) \$ 500,000 limit of liability

(b) Comprehensive form covering all owned, non-owned and hired vehicles

4. Umbrella Liability Insurance

(a) \$1,000,000 limit of liability

(b) Coverage at least as broad as primary coverage as outlined under Items 1, 2 and 3 above

5. The City of Dunwoody, Georgia, and its subcontractors and affiliated companies, their officers, directors, employees shall be named on the Certificates of Insurance as additional insured and endorsed onto the policies for Comprehensive General Liability, Automobile Liability and Umbrella Liability insurance maintained pursuant to this Contract in connection with

liability of the City of Dunwoody and their affiliated companies and their officers, directors and employees arising out of Contractor's operations. Copies of the endorsements shall be furnished to the City upon execution of this Agreement. Such insurance is primary insurance and shall contain a Severability of Interest clause as respects each insured. Such policies shall be non-cancelable except on thirty (30) days written notice to the City. Any separate insurance maintained in force by the additional insured named above shall not contribute to the insurance extended by Contractor's insurer(s) under this additional insured provision.

Certificate Holder should read: The City of Dunwoody, 4800 Ashford Dunwoody Road, Dunwoody, Georgia 30338.

*Affidavit Verifying Status*  
*For City Public Benefit Application*

By executing this affidavit under oath, as an applicant for a(n) \_\_\_\_\_ [type of public benefit], as referenced in O.C.G.A. § 50-36-1, from \_\_\_\_\_ [name of government entity], the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) \_\_\_\_\_ I am a United States citizen.
- 2) \_\_\_\_\_ I am a legal permanent resident of the United States.
- 3) \_\_\_\_\_ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is: \_\_\_\_\_.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:  
\_\_\_\_\_.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in \_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:

**DRAFT SAMPLE CONTRACT**

**OWNER'S REPRESENTATIVE AGREEMENT**

**Between**

**The City of Dunwoody, Georgia**

**And**

**Comprehensive Program Services, Inc.**

CITY OF DUNWOODY, GA/COMPREHENSIVE PROGRAM SERVICES  
 OWNER'S REPRESENTATIVE AGREEMENT

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## OWNER'S REPRESENTATIVE AGREEMENT

**THIS AGREEMENT** is made and entered into as of the 13th day of November 2017, by and between **THE CITY OF DUNWOODY, GEORGIA** (hereinafter referred to as "Owner"), and **COMPREHENSIVE PROGRAM SERVICES, INC.**, a Georgia corporation (hereinafter referred to as "Owner's Representative").

### BACKGROUND INFORMATION

Owner desires to retain the services of an Owner's Representative to assist Owner in managing the planning, design and construction services required to oversee the *Perimeter Center East Park Construction*. Owner has selected Owner's Representative as the entity to be engaged as the Owner's Representative for this Project. Owner and Owner's Representative desire to execute and enter into this Agreement for the purpose of setting forth their agreement with regard to the foregoing.

### STATEMENT OF AGREEMENT

In consideration of the mutual covenants and agreement herein contained, the compensation to be paid to Owner's Representative hereunder, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE 1. DEFINITIONS

In addition to any other terms which are defined in this Agreement, each of the following terms, when used in this Agreement with an initial capital letter, shall have the following meaning:

1.1 **"Schedule"** means the schedule of all activities to be managed by Owner's Representative, including estimated duration for each activity, as submitted by Owner's Representative to Owner with Owner's Representative's request for Owner's approval thereof as, and as approved by Owner as, the Approved Schedule.

1.2 **"Completion"** means the later of (a) substantial completion of construction of the Improvements constituting the Project to be constructed, which shall in any event be deemed to have occurred upon the occurrence of any of the following events: (i) the issuance by the Project Architect of a certificate of substantial completion of those Improvements; (ii) the issuance by the appropriate governmental authority of a certificate of occupancy for those Improvements; or (iii) the commencement of beneficial occupancy of those Improvements by Owner or persons or entities claiming under Owner.

1.3 **"Owner's Representative Fee"** means the fee to be paid by Owner to Owner's Representative pursuant to Sections 7.1 and 7.2 of this Agreement.

1.4 **"Expiration Date"** means the date three hundred sixty-five (365) days after the date of Completion of the last project completed by Owner's Representative, during which time the Owner's Representative will assist the Owner in obtaining punch list completion, training, close out documents and construction warranty satisfaction from the parties who construct the Improvements, and assisting Owner in occupying, equipping and furnishing the Project.

1.5 **"Improvements"** means, collectively, all buildings, structures and other improvements (including all site development improvements and landscaping) to be developed on the Site pursuant to this Agreement.

1.6 **"Project"** means the Site and the Improvements.

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1.7 **“Project Costs”** means the total of all costs and expenses incurred by or on behalf of Owner with respect to the Development Matters, including all amounts to be paid under agreements entered into by Owner's Representative or Owner with third parties pursuant to this Agreement.

1.8 **“Site”** means certain tracts or parcels of land located within Brook Run Park located at 4770 North Peachtree Road Dunwoody GA 30338.

**ARTICLE 2. ENGAGEMENT OF OWNER'S REPRESENTATIVE**

2.1 Engagement of Owner's Representative. Owner hereby engages Owner's Representative to perform the service specified in this Agreement, subject to and in accordance with the terms and provisions of this Agreement.

2.2 Acceptance by Owner's Representative. Owner's Representative hereby accepts its engagement by Owner, and agrees to perform the services specified in this Agreement for the benefit of and on behalf of Owner, subject to and in accordance with the terms and provisions of this Agreement.

**ARTICLE 3. NATURE OF ENGAGEMENT**

3.1 Status of Owner's Representative. In the performance of its duties and obligations under this Agreement, Owner's Representative is, and shall at all times during the term of this Agreement be, an independent contractor, and not an employee of Owner. Owner's Representative shall act solely as the agent of Owner in the performance of its duties and obligations under this Agreement. Except for agreements between Owner's Representative and persons providing it with personnel as provided in Section 5.3 of this Agreement, Owner's Representative shall obtain Owner's prior approval of such contracts and agreements by presenting such contracts and agreements to The City of Dunwoody, Georgia in an open meeting.

3.2 No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be deemed or construed to create a partnership or joint venture between Owner and Owner's Representative.

**ARTICLE 4. TERM OF AGREEMENT**

4.1 Term. The term of this Agreement shall commence on the date hereof, and shall continue, unless sooner terminated as herein provided, until the Expiration Date.

4.2 Performance. Owner's Representative shall not be obligated to perform services under this Agreement after the Expiration Date unless authorized for additional services and compensation.

**ARTICLE 5. OWNER'S REPRESENTATIVE'S SERVICES**

5.1 Description of Services. The Owner's Representative's basic services to be performed by Owner's Representative are set forth on Exhibit “A,” attached hereto and incorporated herein by reference.

5.2 Nature of Owner's Representative's Services and Responsibilities. Owner acknowledges and agrees that Owner's Representative's responsibilities under this Agreement consist solely of advising and consulting with Owner in connection with certain matters pertaining to the Project, and coordinating and monitoring the activities of the design and engineering professionals, contractors and other third parties on behalf of Owner. Owner further acknowledges that Owner's Representative is not itself preparing any design or engineering plans or specifications or performing any of the construction or furnishing any of the materials required for the Project; and, accordingly, Owner agrees that Owner's Representative shall have potential liability only with regard to the management services rendered and not for any “professional” services rendered involving plans, designs or specifications provided, construction work performed, or materials furnished by others (including without limitation any architect, engineer, Owner's Representative or contractor) in connection with Owner's Representative's responsibilities under this Agreement. Owner's

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Representative is not providing legal assistance or advice to Owner in connection with such negotiations or otherwise. Owner's Representative will use its best efforts to assist the Owner in identifying and mitigating any hazardous materials that may exist relative to the Project.

5.3 Owner's Representative's Team. Owner hereby authorizes Owner's Representative to enter into appropriate agreements, if deemed necessary, to procure the services of additional personnel to carry out Owner's Representative's obligations under this Agreement. The services of any such additional personnel are included within the Owner's Representative's Fee. Owner's Representative shall be responsible for directing and monitoring the performance of such personnel.

5.4 Key Personnel. Owner's Representative shall assign Eric L. Johnson and Todd Stuart to the project and maintain these key personnel on the project throughout the term of this Agreement. The key personnel shall not be removed from the project unless consented to in writing from the Owner. Owner shall not unreasonably withhold consent for the release of key personnel. Pursuant to the work, additional key personnel can be identified.

5.5 Owner's Representative's Services Not Exclusive. Owner's Representative shall be free to provide services to other local governments and private clients during the term of this Agreement. Owner's Representative shall disclose to the Owner potential conflict of interest or actual conflict of interest. The City of Dunwoody, Georgia maintains the authority to terminate this Agreement if the Owner's Representative has an actual conflict of interest.

## ARTICLE 6. OWNER'S OBLIGATIONS

6.1 Costs and Expenses. Except as expressly set forth in this Agreement to the contrary, Owner shall bear all approved costs and expenses of the project. Services performed by Owner's Representative under this Agreement shall be paid by the Owner in accordance with the terms of this Agreement.

6.2 Owner's Cooperation. In performing its functions hereunder, Owner shall act diligently and in good faith in cooperation with Owner's Representative in matters relating to the projects. Owner shall act as reasonably expeditiously as possible and in accordance with applicable law on all requests by Owner's Representative for approval and execution of any contract, agreement or other document pertaining to the projects. In exercising its rights of approval, Owner shall use its discretion, act reasonably and in good faith.

## ARTICLE 7. COMPENSATION

7.1 Owner's Representative Fee. The Owner's Representative shall submit monthly payments for services rendered.

The Owner's Representative's Fee for services detailed in "Exhibit A" shall be a lump sum of \$75,000.

7.2 Additional Services. If the scope of the Project or the services required of Owner's Representative materially expand, or if Owner's Representative is materially delayed through no fault of its own in providing its services, from the terms of this Agreement, any exhibits to this Agreement, any documents incorporated herein, and any written amendments or modifications of this Agreement, the Owner's Representative's Fee for such additional services shall be negotiated and agreed to in a written amendment to this Agreement by the Owner's Representative and Owner.

7.3 Reimbursable Expenses. Owner's Representative shall be reimbursed for out-of-pocket costs and expenses incurred by virtue of a specific request of the Owner. Such costs and expenses include reproduction and printing services for Construction Documents, courier services and overnight delivery if specifically requested by Owner. Owner's Representative shall notify the Owner of any such cost and will obtain prior approval for all reimbursable expenses.

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7.4 Contracted Services. Owner's Representative shall be reimbursed for services contracted at Owner's request within thirty (30) days after submission to Owner of statement therefore, together with such supporting material and detail as may be reasonably required by Owner.

**ARTICLE 8. DEFAULT AND REMEDIES**

8.1 Default by Owner's Representative. Owner's Representative shall be in default under this Agreement if Owner's Representative fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Owner with respect thereto; provided, however, that, if such failure to perform shall necessitate longer to cure than such thirty (30) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if Owner's Representative commences such cure within thirty (30) days after receipt of written notice from Owner and thereafter proceeds diligently and in good faith to cure.

8.2 Owner may terminate this Agreement by giving Owner's Representative written notice of such termination, in which event this Agreement shall be terminated at the time designated by Owner in its notice of termination to Owner's Representative.

8.2.1 With or without terminating this Agreement, Owner may bring an action against Owner's Representative as a result of, by reason of or in connection with such default.

8.3 Default by Owner. Owner shall be in default under this Agreement if Owner fails to perform any of its duties and obligations under this Agreement and does not cure or remedy such failure to perform within thirty (30) days after receipt of written notice from Owner's Representative with respect thereto; provided, however, that, if such failure to perform shall necessitate longer to cure than such thirty (30) day period, then such cure period shall be extended for such period of time as is reasonably necessary to cure such failure to perform if Owner commences such cure within thirty (30) days after receipt of written notice from Owner's Representative and thereafter proceeds diligently and in good faith to cure.

8.4 Recovery of Expenses. In the event of the occurrence of a default hereunder, the prevailing party shall, in addition to its other rights and remedies hereunder, have the right to recover from the party in default all reasonable costs and expenses incurred by the prevailing party in enforcing its rights and remedies hereunder, including reasonable attorneys' fees. The termination of this Agreement by either Owner's Representative or Owner by reason of default by the other party shall not relieve either party of any of its duties and obligations theretofore accrued under this Agreement prior to the effective date of such termination.

**ARTICLE 9. EXPIRATION, TERMINATION, SUSPENSION OR ABANDONMENT**

9.1 Terminating Events. The engagement of Owner's Representative hereunder may be terminated upon the happening of any of the following events pursuant to the provisions described below:

9.1.1 Either Owner or Owner's Representative defaults under this Agreement and the non-defaulting party elects to terminate this Agreement as provided in Article 8 hereof.

9.1.2 The giving of written notice from Owner in the event: (i) any receiver, trustee or custodian shall be appointed for all or any substantial part of the property or assets of Owner's Representative; (ii) Owner's Representative shall commence any voluntary proceeding under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights; or (iii) an "order for relief" or other judgment or decree by any court of competent jurisdiction is entered against Owner's Representative in any involuntary proceeding against Owner's Representative under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights, or any such involuntary proceeding shall be commenced against Owner's Representative and shall continue for a period of ninety (90) days after commencement without dismissal.

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9.1.3 The giving of written notice from Owner's Representative in the event: (i) any receiver, trustee or custodian shall be appointed for all or any substantial part of the property or assets of Owner; (ii) Owner shall commence any voluntary proceeding under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights; or (iii) an "order for relief" or other judgment or decree by any court of competent jurisdiction is entered against Owner in any involuntary proceeding against Owner under present or future federal bankruptcy laws or under any other bankruptcy, insolvency or other laws respecting debtor's rights, or any such involuntary proceeding shall be commenced against Owner and shall continue for a period of ninety (90) days after commencement without dismissal.

9.1.4 Termination Provisions. The contract, mutually agreed upon and entered into between The City of Dunwoody, Georgia and the Owner's Representative, may terminate upon any of the following conditions:

- a. Suspension of Operation – Should The City of Dunwoody, Georgia suspend or cease operations for any reason, this Agreement shall become void at the option of The City of Dunwoody, Georgia
- b. Termination of Contract for Non-Performance – The City of Dunwoody, Georgia may terminate this contract at any time the performance of the contract is unreasonably delayed or the provider fails to carry out the provisions of the contract, or if, in the opinion of The City of Dunwoody, Georgia or their designee, the performance of the contract is unreasonably delayed, or the provider is violating the contract conditions. Such determination of delay or non-performance shall be in the sole discretion of The City of Dunwoody, Georgia or their designee. The City of Dunwoody, Georgia shall give reasonable notice to the provider of any conditions which are hindering provider's performance and if, after such notice, the provider fails to remedy such conditions, The City of Dunwoody, Georgia may, in writing and at its option, terminate the contract without further notice to the provider and order the provider to immediately vacate the premises.
- c. Funding-Out Clause – Notwithstanding any contrary provision of this Agreement, each payment obligation of The City of Dunwoody, Georgia created by this Agreement is conditioned upon the availability of funds that are appropriated or allocated for the payment of services. If such funds are not allocated and available, this agreement may be terminated by The City of Dunwoody, Georgia at the end of the period for which funds are available. The City of Dunwoody, Georgia shall notify the provider at the earliest possible time before such termination. No penalty shall accrue to The City of Dunwoody, Georgia in the event this provision is exercised, and The City of Dunwoody, Georgia shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section.
- d. Limitation of Local Debt – The parties specifically agree that this contract is governed by O.C.G.A. § 36-60-13(a) and Article 9, § 5, I of the Georgia Constitution (1983). Thus: (1) this contract shall terminate absolutely and without further obligation on the part of The City of Dunwoody, Georgia at the close of the calendar year in which it is executed and at the close of each succeeding calendar year for which the contract may be renewed as provided for in O.C.G.A. § 36-60-13(a); (2) this contract will automatically renew unless The City of Dunwoody, Georgia informs the Owner's Representative within thirty (30) days of the end of the calendar year that such contract is terminated, or if the contract is terminated in accordance with the other termination provisions specified in this contract; and (3) The City of Dunwoody, Georgia total obligation for this contract is \$150,000.00, and any additional amounts owed under this contract will be specified per year by an addendum.
- e. Lack of Funding – In accordance with O.C.G.A. 36-30-13 (b) (1) this contract will terminate immediately and absolutely at such time as appropriated funds and otherwise un-obligated funds are no longer available to satisfy the obligations of The City of Dunwoody, Georgia.

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9.2 Owner's Representative's Obligations. Upon the expiration or earlier termination of this Agreement, Owner's Representative shall promptly:

9.2.1 Upon request by Owner, deliver to Owner or such other person, as Owner shall designate all materials, supplies, equipment, keys, contracts and Project documents.

9.2.2 Subject to Owner's Representative's obtaining any consent of any third party required therefore, assign all existing contracts approved by Owner relating to the projects to Owner or such other person or entity, as Owner shall designate. Any contract or agreement that Owner's Representative negotiates on behalf of Owner that is subject to this paragraph shall contain a statement that prohibits such third party from unreasonably withholding the requisite consent.

9.2.3 Furnish all such information, take all such other action, and cooperate with Owner as Owner shall reasonably require in order to effectuate an orderly and systematic termination of Owner's Representative's services, duties, obligations and activities hereunder.

9.2.4 Within thirty (30) days after the expiration or termination of this Agreement, cause to be furnished to Owner a report similar in form and content to Owner's Representative's monthly reports covering the period from the last previous monthly report to the date of expiration or termination of this Agreement.

9.2.5 Furnish a report of all outstanding orders for services, materials and supplies ordered by Owner's Representative as a result of its obligations arising under this Agreement at the time of expiration or termination. Such report shall include the status of payment for such services, i.e., whether they have been charged to or paid by Owner's Representative, and whether they have been charged to or paid by Owner. Such report shall be furnished no later than thirty days after the date of expiration or termination.

9.3 Owner's Obligations. Upon the expiration or earlier termination of this Agreement, Owner shall promptly:

9.3.1 Pay Owner's Representative for the cost of all services, materials and supplies, if any, which may have been ordered by Owner's Representative and have been authorized by Owner as a result of its obligations arising under this Agreement that are due and owing or have been paid for by Owner's Representative and were included in the report submitted pursuant to Section 9.2.5; provided, however, that Owner actually receives such services, materials and supplies in a satisfactory manner or condition; provided further that demand for such payment is in a reasonable and timely manner.

9.4 Suspension. If the Project is suspended by Owner for more than sixty (60) consecutive days, Owner's Representative shall be compensated for services prior to notice of such suspension.

## **ARTICLE 10. INSURANCE**

10.1 Owner's Representative's Insurance Requirements. Throughout the term of this Agreement, Owner's Representative shall carry and maintain in force the insurance coverage described in Subsections 10.1.1 through 10.1.4 below of a form and with a carrier acceptable to The City of Dunwoody, Georgia.

10.1.1 General Liability Insurance for the benefit of the Owner's Representative, against claims for personal injury, bodily injury and property damage, with a limit of not less than One Million Dollars (\$1,000,000) for any one occurrence.

10.1.2 Workers' Compensation Insurance covering all employees of Owner's Representative employed in, on or about the Project in order to provide statutory benefits as required by the laws of the State of Georgia.

10.1.3 Vehicular Liability Insurance when operating vehicles within the Project limits, the following coverage is required:

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Vehicular Liability \$300,000  
 \$300,000 combined single limit per accident for bodily injury and property damage. Owner shall be named as additional insured for this coverage.

10.2 The City of Dunwoody, Georgia shall be named as additional insured on all insurance coverage required in this Article 10.

10.3 The Owner's Representative liability under the indemnification agreement provided for in Article 11 hereof shall be insured as a contractual obligation of Owner's Representative insurers.

10.4 Each policy shall provide that: (1) the insurer hereunder shall provide The City of Dunwoody, Georgia with written notice of any cancellation or adverse material change in the insurance coverage required by this Article 10, and (2) such cancellation or adverse material change shall not be effective as to the benefit and/or interest of the additional insured for thirty (30) days after written notice of such cancellation or adverse material change is received by The City of Dunwoody, Georgia.

10.5 Owner's Representative agrees to furnish The City of Dunwoody, Georgia with Certificates of Insurance evidencing maintenance and compliance with the insurance required above when it returns signed agreements to The City of Dunwoody, Georgia; said Certificates are to be inspected and approved by The City of Dunwoody, Georgia prior to the commencement of the contract. Certificates shall state that the policy or policies will not be canceled or altered without at least thirty (30) days prior written notice to The City of Dunwoody, Georgia. Furthermore, Owner's Representative agrees to forward immediately any notice of cancellation of insurance to The City of Dunwoody, Georgia. Within three business days of receiving such notice of cancellation, Owner's Representative will forward a detailed explanation of such, and will also forward a detailed plan to remedy the situation.

#### **ARTICLE 11. LIABILITY: INDEMNIFICATION**

A. The Owner's Representative agrees to secure and protect itself, and shall secure and indemnify The City of Dunwoody, Georgia from any liability, expense, causes of action, loss, or damage whatsoever for any injury, including death, to any person or property arising out of the performance of the Work and to protect and indemnify The City of Dunwoody, Georgia from any and all loss arising out of or in connection with the Work performed under this Agreement, unless such loss is due to the gross negligence of The City of Dunwoody, Georgia.

B. Any party that seeks to have Owner's Representative defend, indemnify and hold harmless such party pursuant hereto shall so notify Owner's Representative in writing within fifteen (15) business days of such party's receipt of the claim for which indemnification is sought. In the event any party fails to give such timely notice to Owner's Representative of such a claim, Owner's Representative shall be relieved of its obligation to defend, indemnify and hold harmless such party only to the extent that Owner's Representative is prejudiced thereby.

#### **ARTICLE 12. REPRESENTATIONS AND WARRANTIES.**

12.1 Of Owner. Owner represents and warrants to Owner's Representative that Owner is a political subdivision of the State of Georgia, validly existing and in good standing under the laws of the State of Georgia, is qualified to transact business in the State of Georgia, and has the full and complete right, power and authority to enter into this Agreement and perform Owner's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement.

12.2 Of Owner's Representative. Owner's Representative represents and warrants to Owner that: (i) Owner's Representative is a corporation, duly organized, validly existing and in good standing under the laws of the State of Georgia, is qualified to transact business in the State of Georgia, and has the full and complete right, power and authority to enter into this Agreement and perform Owner's Representative's duties and obligations under this Agreement in accordance with the terms and conditions of this Agreement; and (ii) Owner's Representative has obtained or will obtain all necessary licenses,

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insurance and permits which are required for Owner's Representative to perform Owner's Representative's services pursuant to this Agreement.

**ARTICLE 13. GENERAL PROVISIONS.**

13.1 Relationship Between Parties. The relationship of the parties shall be limited to the Project. Nothing herein shall be deemed to authorize Owner's Representative to act as the general agent of Owner.

13.2 Notices. Whenever any notice, demand or request is required or permitted under this Agreement, such notice, demand or request shall be in writing and shall be delivered by hand, be sent by registered or certified mail, postage prepaid, return receipt requested, or be sent by nationally-recognized commercial courier for next business day delivery, to the addresses set forth below or to such other addresses as are specified by written notice given in accordance herewith, or shall be transmitted by facsimile to the number for each party set forth below or to such other numbers as are specified by written notice given in accordance herewith:

**OWNER:**

The City of Dunwoody, Georgia  
 41 Perimeter Center East  
 Dunwoody, GA 30346  
 Attn: Mr. Eric Linton, City Manager

**OWNER'S  
 REPRESENTATIVE:**

Comprehensive Program Services, Inc.  
 3368 Hardee Avenue  
 Atlanta, Georgia 30341  
 Attention: Mr. Eric L. Johnson, President  
 Email: ejohnson@cps-atlanta.com

13.3 Binding Affect: This Agreement shall be binding upon and will inure to the benefit of the parties hereto and their respective successors, assigns and representatives. The Contractor shall not, however, assign or otherwise transfer any of its rights under this Agreement without prior written consent of The City of Dunwoody, Georgia.

13.4 Entire Agreement and Order of Contract Documents: This Agreement constitutes the final, complete and exclusive written agreement of the parties with respect to the Owner's Representative Agreement and will supersede all previous communications, representations, agreements or statements, whether oral or written, by any party or between the parties.

13.5 Modification: No modification of any of the terms and conditions of this Agreement will be effective unless such modifications is expressed, in writing, and signed by all parties to this Agreement.

13.6 Waiver: The failure of either party to enforce any of the terms of this Agreement, on one or more occasions, will not constitute a waiver of the right to enforce such term or each and every term of the Agreement on any other occasion.

13.7 Contract Assignment: A successful proposer(s) may not assign any part of a resultant contractual agreement (except contract payments) without the prior written authorization of The City of Dunwoody, Georgia.

13.8 Governing Law And Venue: The laws of the State of Georgia will govern this Agreement. The obligations of the parties to this Agreement are performable in DeKalb County, Georgia, and if legal action is necessary to enforce same, exclusive venue shall lie in DeKalb County, Georgia.

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 OWNER'S REPRESENTATIVE AGREEMENT

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**13.9 Severability:** Should any part or parts of this Agreement be found void, unenforceable, invalid, or unconscionable for any reason by a court of competent jurisdiction, such judgment shall not affect the validity of the balance of the terms of this Agreement, which shall remain in full force and effect.

**13.10 Time Is Of The Essence:** Both parties agree that time is of the essence.

IN WITNESS WHEREOF, Owner and Owner's Representative have caused their respective duly authorized representatives to execute, seal and deliver two (2) copies of this Agreement, each of which shall be considered an original, all as of the day and year first above written.

**13.11 Owner Provision:** All parties acknowledge that The City of Dunwoody, Georgia is subject to O.C.G.A. § 13-10-90 et seq. (Georgia Security and Immigration Compliance Act of 2006).

**Comprehensive Program  
 Services, Inc**

**The City of Dunwoody, Georgia**

By: \_\_\_\_\_  
 Eric L. Johnson  
 President

By: \_\_\_\_\_  
 Denis Shortal  
 Mayor of Dunwoody, GA

Approved as to form:

\_\_\_\_\_  
 City Attorney

Attest:

\_\_\_\_\_  
 City Clerk

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 OWNER'S REPRESENTATIVE AGREEMENT

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**EXHIBIT "A"**

**OWNER'S REPRESENTATIVE'S BASIC SERVICES**

The Owner's Representative shall assist Owner in the following:

**PHASE 1: Work Plan / Implementation**

**1.0 WORK PLAN**

- 1.01 Prepare overall plan for project including:
  - 1.01.1 Information flow
  - 1.01.2 Approval levels and procedures
  - 1.01.3 Budget
  - 1.01.4 Schedule

**1.1 Compile Source Data**

- 1.10 Review existing material with respect to site(s)
- 1.11 Review with Owner existing program and needs assessment
- 1.12 Recommend additional data required such as Geotechnical data etc.(if necessary)
- 1.13 Obtain the following data (if necessary)
  - 1.13.1 Boundary Survey
  - 1.13.2 Topographic Survey
  - 1.13.3 Geotechnical data
  - 1.13.4 Environmental restrictions
  - 1.13.5 Building codes
  - 1.13.5 Water Retention Requirements
  - 1.13.6 Easements
  - 1.13.7 Traffic Analysis
  - 1.13.8 Zoning restrictions

**1.2 Site Analysis / Conceptual Design**

- 1.20 Coordinate work from outside sources such as surveyors, geotechnical data, etc
- 1.21 Review existing sites for program coordination/verification

**1.3 Prepare Budget and Develop Schedule**

- 1.30 Prepare/confirm budget
- 1.31 Prepare list of tasks
- 1.32 Prepare estimated schedule

**1.4 Prepare Project Delivery Methods**

- 1.40 Identify and present project delivery methods
- 1.41 Prepare implementation plan for selected project delivery method
- 1.42 Implement plan
- 1.43 Prepare RFP / advertisements for Architect / Contractor selection based on selection of delivery method

**1.5 Assist with Public Relations / Information**

- 1.50 Assist information campaign/activities
- 1.51 Attend meetings
- 1.52 Assist in development of materials for public use

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**PHASE 2: Architect/Contractor Selection Based on Delivery Method**

**2.0 Architect / Contractor Selection**

- 2.01 Generate master schedule
- 2.02 Prepare a list of critical dates
- 2.03 Develop selection criteria
- 2.04 Assemble selection package
- 2.05 Issue RFP
- 2.06 Conduct pre-proposal meeting
- 2.07 Manage question and addenda process
- 2.08 Receive and distribute proposals
- 2.09 Prepare analysis of proposals
- 2.10 Coordinate development of shortlist of qualified firms
- 2.11 Assist in developing interview format and criteria
- 2.12 Develop interview results report
- 2.13 Assist in selection

**2.1 Contract Negotiations**

- 2.10 Develop range of fee and analysis
- 2.11 Coordinate negotiation meeting
- 2.12 Assist in final negotiations

**2.2 Project Orientation**

- 2.20 Develop agenda and conduct project orientation meeting
- 2.21 Integrate team into project development process
- 2.22 Arrange meetings with key The City of Dunwoody, Georgia officials
- 2.23 Develop briefings for summary of planning documents

**PHASE 3: Design**

**3.0 Design Phase Management – Perimeter Center East Park**

- 3.01 **Construction** Monitor design for compliance with budget and Owner intent
- 3.02 Conduct design meetings with Owner staff
- 3.03 Forward design review comments to team
- 3.04 Monitor design for programmatic and operational objectives
- 3.05 Monitor design for adherence to codes and standards
- 3.06 Assist in developing alternatives for Owner Review
- 3.07 Conduct formal presentations at key milestones during design

**3.1 Management Information Control System**

- 3.10 Information tracking, reporting and administration, including:
  - Cost
  - Schedule
  - Cash flow
  - Funding
  - Technical issues
  - Quality
- 3.11 System tailored to the reporting needs of The City of Dunwoody, Georgia.

**3.2 Cost Management**

- 3.20 Implement cost management system
- 3.21 Frequent cost estimating
- 3.22 Cost monitoring for compliance
- 3.23 Continuous value engineering

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3.24 Development of bid packages based on delivery method

**3.3 Quality Management**

3.30 Monitor and enforce adherence to objectives

3.31 Monitor each individual system as well as the overall project

**3.4 Schedule Management**

3.41 Monitor and control master schedule

3.42 Monitor and control of design issues relating to schedule

3.43 Long lead equipment procurement monitoring

3.44 Manage decision making for schedule control

**PHASE 4: CONSTRUCTION: Perimeter Center East Park Construction**

**4.0 Bid / Award Representation**

4.01 Assist / prepare bid documents

4.02 Preparation of bidders list

4.03 Stimulate competition including advertising

4.04 Conduct pre-bid conference with The City of Dunwoody, Georgia as needed

4.05 Assist in evaluation of bids and recommendation for award

4.06 Contract negotiations

4.07 Preparation and award of contract

**4.1 Construction Representation**

4.10 On-site construction representation based on delivery method

4.11 Monitor labor and materials progress

4.12 Coordinate information flow

4.13 Coordinate progress payments

4.14 Resolve conflicts

4.15 Change order control and processing

4.16 Technical inspections

4.17 Detailed check-out and punch lists

4.18 Quality control monitoring

4.19 Monitor and address quality of workmanship

4.20 Monitor and address quality of materials

4.21 Continuous monitoring and reporting

**4.3 Financial Management**

4.30 Status reports on payments, funding, allocations and project cost

4.31 Cash flow projections

4.32 Budget impact analysis

**4.4 Claims Control**

4.40 Prevention measures through aggressive management

4.41 Reporting on potential claims and recommended action

4.42 Impact analysis

4.43 Recommendation for action

**4.5 Schedule Management**

4.50 Upfront review of construction sequencing and methods

4.51 Detailed monitoring and coordination of construction scheduling

4.52 Continuous updates of schedule

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**PHASE 5: Transition into Facilities (as needed)**

**5.0 FFE Management**

- 5.01 Assist in development of list of reuse of existing FFE items
- 5.02 Assist in development of new FFE items
- 5.03 Assist in move management issues
- 5.04 Coordinate procurement of new FFE
- 5.05 Coordinate installation of new and reused FFE

**5.1 Operational transition**

- 5.10 Assist in development of policy and procedure manuals
- 5.11 Detailed check out of systems
- 5.12 Develop energy management plan
- 5.13 Assist in negotiations with utilities

## DRAFT SAMPLE CONTRACT

# **AGREEMENT BETWEEN THE CITY OF DUNWOODY AND NOVA ENGINEERING & ENVIRONMENTAL, LLC**

This Agreement (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, **2021**, by and between NOVA Engineering & Environmental, LLC (hereinafter referred to as "Company"), and the City of Dunwoody, Georgia ("Dunwoody").

## **WITNESSETH**

**WHEREAS**, Company is engaged in the business of providing the necessary labor, supervision, equipment, materials and supplies necessary for the execution of the work specified in the Contract Documents or as necessary to complete the Work in the manner therein specified within the time specified, as therein set forth, for; and

**WHEREAS**, the City of Dunwoody solicited RFQ 21-01 Stand-By Construction Materials Testing/Environmental Services/Geotechnical Services Unit Price Contract Project in the City of Dunwoody, Georgia for the Department of Public Works for the consideration herein mentioned and under the provision of the Specifications to furnish all equipment, tools, materials, skill and labor necessary to carry out and complete in a professional and workmanlike manner, the work specified, in conformity with the standards set forth in the RFQ 21-01 Stand-By Construction Materials Testing/Environmental Services/Geotechnical Services Unit Price Contract Project and this Contract, shall all form essential parts of this Contract. Unless otherwise specified all work shall be completed in accordance with all pertinent Americans with Disabilities Act standards. Any variations to the above specified details and specifications will be approved by the Public Works Director or his representative. The Request for Qualifications and Proposal are referenced, attached and incorporated herein as Exhibit A, and

**WHEREAS**, Company is willing and able to render said services;

**NOW, THEREFORE**, in consideration of the mutual terms, conditions and covenants set forth herein, the parties hereto agree as follows:

### **1. Services.**

Company agrees to render services (the "Services") to the City of Dunwoody to furnish all specified materials or approved equivalent, equipment, and labor to complete the required Stand-By Construction Materials Testing/Environmental Services/Geotechnical Services Unit Price Contract Project as described in its entirety to the specifications as directed by the Public Works Director or his representative or as set forth in Exhibit "A" specifically as detailed in the Scope of Services. Company agrees to

perform the Services at the direction of the appropriate department head, or his designee, in the manner and to the extent required by the parties herein, as may be amended hereafter in writing by mutual agreement of the parties.

## **2. Compensation.**

a. Fee. In consideration for services, Dunwoody shall pay for services on an as-needed basis for capital projects based on a submitted schedule of unit prices.

b. Manner of Payment The City agrees to pay said invoices within thirty (30) days of receiving same. As the City is a local government entity and thus exempt from sales taxation, notwithstanding the terms of the proposal, Company acknowledges that the City shall not be responsible for payment of any sales taxes on any invoices submitted for the services provided under this Agreement.

## **3. Relationship of Parties.**

a. Independent Contractors. Nothing contained herein shall be deemed to create any relationship other than that of independent contractor between Dunwoody and Company. This Agreement shall not constitute, create, or otherwise imply an employment, joint venture, partnership, agency or similar arrangement between Dunwoody and Company. It is expressly agreed that Company is acting as an independent contractor and not as an employee in providing the Services under this Agreement.

b. Employee Benefits. Company shall not be eligible for any benefit available to employees of Dunwoody including, but not limited to, workers' compensation insurance, state disability insurance, unemployment insurance, group health and life insurance, vacation pay, sick pay, severance pay, bonus plans, pension plans, or savings plans.

c. Payroll Taxes. No income, social security, state disability or other federal or state payroll tax will be deducted from payments made to Company under this Agreement. Company shall be responsible for all FICA, federal and state withholding taxes and workers' compensation coverage for any individuals assigned to perform the Services for Dunwoody.

## **4. Term**

This Agreement shall be effective upon its execution (the "Effective Date") shall terminate at the time of the completion of the project as described in the Solicitation, but in any event no later than December 31, 2021. The term of the contract will be for one year and shall automatically renew for two additional years for the duration of the contract term or part of the year necessary to conclude the Project unless the City of Dunwoody

chooses to terminate this Agreement pursuant to the provisions of this Agreement by giving written thirty (30) days' notice to Company.

**5. Termination For Cause and For Convenience.**

Either party shall have the right to terminate this Agreement if the other party is in default of any obligation hereunder and such default is not cured within ten (10) days of receipt of a notice from the other party specifying such default. "Default" shall mean:

- a. If Dunwoody fails to make payments when due or fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- b. If Company fails to perform or observe any of its duties or obligations under the terms of this Agreement;
- c. If either Dunwoody or Company shall have made any warranty or representation in connection with this Agreement which is found to have been false at the time such warranty or representation was made and is materially harmful to the other party.

This Agreement may also be terminated by Dunwoody for convenience by giving Company written notice sixty (60) days prior to the effective date of termination.

**6. Compensation in Event of Termination.**

If this Agreement is terminated by Dunwoody for convenience, Company shall be exclusively limited to receiving only compensation for the pro-rata work performed and appropriately documented to and including the effective date identified in the written termination notice, but in no event shall Company receive less than a prorated amount of the service fees hereunder. Any amount over the amount otherwise due by Dunwoody for the services provided prior to the termination date shall be refunded by the Company within ten (10) days of the date of termination, with the exception of any costs incurred by the Company in removal of equipment and shutting down the project, which costs shall be borne by Dunwoody in the event of termination for convenience.

**7. Termination of Services and Return of Property.**

Upon the expiration or earlier termination of this Agreement, Company shall immediately terminate the Services hereunder and shall deliver promptly to Dunwoody all property relating to the Services that is owned by Dunwoody.

**8. Standard of Performance and Compliance with Applicable Laws.**

Company warrants and represents that it possesses the skill and professional competence, expertise and experience to undertake the obligations imposed by this Agreement. Company agrees to perform in a reasonably diligent, efficient, competent and skillful manner commensurate with the industry standards of the profession for similar services performed at the same time and in the same locality, and to otherwise perform as is necessary to undertake the Services required by this Agreement, including the requirements set forth in the Certification of Sponsor Drug Free Workplace Exhibit "C".

Company warrants and represents that it will, at all times, observe and comply with all federal, state, local and municipal ordinances, rules, regulations, relating to the provision of the Services to be provided by Company hereunder or which in any manner affect this Agreement which are in effect at the time of Company's performance thereof. Notwithstanding anything in this Agreement or an Exhibit to the contrary, Company shall not have control over or charge of, and shall not be responsible for, acts or omissions of the contractor or of any other persons or entities performing portions of the work.

#### **9. Conflicts of Interest.**

Company warrants and represents that:

- a. the Services to be performed hereunder will not create an actual or apparent conflict of interest with any other work it is currently performing; and
- b. Company is not presently subject to any agreement with a competitor or with any other party that will prevent Company from performing in full accord with this Agreement; and
- c. Company is not subject to any statute, regulation, ordinance or rule that will limit its ability to perform its obligations under this Agreement. The parties agree that Company shall be free to accept other work during the term hereof; provided, however, that such other work shall not interfere with the provision of Services hereunder.

Notwithstanding the foregoing, Company may perform similar services for other government sector clients during the term of this Agreement and realize no implications.

#### **10. Proprietary Information**

Company acknowledges that it may have access to and become acquainted with confidential and other information proprietary to Dunwoody including, but not limited to, information concerning Dunwoody, its operations, customers, citizens, business and financial condition, as well as information with respect to which Dunwoody has an obligation to maintain confidentiality (collectively referred to herein as "Proprietary Information"). Company agrees not to disclose, directly or indirectly, to anyone or to use or to allow others to use, for any purpose whatsoever, any Proprietary Information of any type, whether or not designated confidential or proprietary, acquired in the course of

performing under this Agreement. The obligations of Company under this section shall survive the termination of this Agreement.

**11. Insurance.**

Company agrees to defend, indemnify and hold harmless the City of Dunwoody, its officers, employees and agents, to the extent allowed by applicable law, from and against any and all third party claims, losses, liabilities or expenses (including, without limitation, attorneys' fees) to the extent they arise out of a breach by the Indemnitor of its obligations under this Agreement. Insurance requirements are attached hereto as Exhibit "D".

**12. Assignment.**

Company shall not assign this Agreement without the prior express written consent of Dunwoody, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment by Company without the prior express written approval of Dunwoody shall at Dunwoody's sole option terminate this Agreement without any notice to Company of such termination.

**13. Notices.**

All notices or other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally in hand, or when mailed by certified or registered mail, return receipt requested with proper postage prepaid, addressed to the appropriate party at the following address or such other address as may be given in writing to the parties:

**If to the City:**

City Manager  
Dunwoody City Hall  
4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338

**With copies to:**

City Clerk  
Dunwoody City Hall  
4800 Ashford Dunwoody Road  
Dunwoody, Georgia 30338

**If to the Company:**

NOVA Engineering & Environmental, LLC  
Attn: Mr. Dennis L. Southern  
1859 Beaver Ridge Circle, Suite B  
Norcross, Georgia 30071

**14. Governing Law and Consent to Jurisdiction.**

This Agreement is made and entered into in the State of Georgia and this Agreement and the rights and obligations of the parties hereto shall be governed by and construed according to the laws of the State of Georgia without giving effect to the principles of conflicts of laws. The jurisdiction for resolution of any disputes arising from this Agreement shall be in the State Courts of DeKalb County, Georgia.

**15. Waiver of Breach.**

The waiver by either party of a breach or violation of any provision of this Agreement shall not operate or be construed to constitute a waiver of any subsequent breach or violation of the same or other provision thereof.

**16. Severability.**

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

**17. Entire Agreement.** This Agreement which includes the exhibits hereto contains the entire agreement and understanding of the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior discussions, representations and understandings, whether oral or written. This Agreement incorporates the Company's Proposal in full and is referenced in Exhibit A. In case of conflict between any term of the Company's Proposal and this Agreement, the terms of this Agreement shall control unless otherwise stated herein.

**IN WITNESS WHEREOF**, the parties have executed this Agreement through their duly authorized representatives.

**CITY OF DUNWOODY, GEORGIA**

By: \_\_\_\_\_  
Lynn P. Deutsch

Title: Mayor

Date of Execution \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

Attest:

\_\_\_\_\_  
City Clerk

NOVA Engineering & Environmental, LLC

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

Title: \_\_\_\_\_

Date of Execution \_\_\_\_\_

**EXHIBIT "A"**  
**PROPOSAL AND SCOPE OF SERVICES**

**EXHIBIT "C"****CERTIFICATION OF SPONSOR****DRUG-FREE WORKPLACE**

I hereby certify that I am a principle and duly authorized representative of \_\_\_\_\_, ("Contractor"), whose address is

\_\_\_\_\_, and I further certify 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 Contractor's employees during the performance of the Agreement; and
- (3) Each Subcontractor hired by Contractor shall be required to ensure that the subcontractor's employees are provided a drug-free workplace. Contractor shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with Contractor, \_\_\_\_\_ certifies to Contractor that a drug-free workplace will be provided for the Subcontractor's employees during the performance of this Agreement pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated, Section 50-24-3"; and
- (4) 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 Agreement.

CONTRACTOR:

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT D****INSURANCE REQUIREMENTS**

Within 10 days of execution of this Agreement, and at all times that this Contract is in force, the Contractor shall obtain, maintain and furnish the City Certificates of Insurance from licensed companies doing business in the State of Georgia with an A.M. Best Rating A-6 or higher and acceptable to the City covering:

1. Statutory Workers' Compensation Insurance

(a) Employers Liability:

Bodily Injury by Accident - \$1,000,000 each accident

Bodily Injury by Disease - \$1,000,000 policy limit

Bodily Injury by Disease - \$1,000,000 each employee

2. Comprehensive General Liability Insurance

(a) \$1,000,000 limit of liability per occurrence for bodily injury and property damage Owner's and Contractor's Protective

(b) Blanket Contractual Liability

(c) Blanket "X", "C", and "U"

(d) Products/Completed Operations Insurance

(e) Broad Form Property Damage

(f) Personal Injury Coverage

3. Automobile Liability

(a) \$ 500,000 limit of liability

(b) Comprehensive form covering all owned, non-owned and hired vehicles

4. Umbrella Liability Insurance

(a) \$1,000,000 limit of liability

(b) Coverage at least as broad as primary coverage as outlined under Items 1, 2 and 3 above

5. The City of Dunwoody, Georgia, and its subcontractors and affiliated companies, their officers, directors, employees shall be named on the Certificates of Insurance as additional insured and endorsed onto the policies for Comprehensive General Liability, Automobile Liability and Umbrella Liability insurance maintained pursuant to this Contract in connection with liability

of the City of Dunwoody and their affiliated companies and their officers, directors and employees arising out of Contractor's operations. Copies of the endorsements shall be furnished to the City upon execution of this Agreement. Such insurance is primary insurance and shall contain a Severability of Interest clause as respects each insured. Such policies shall be non-cancelable except on thirty (30) days written notice to the City. Any separate insurance maintained in force by the additional insured named above shall not contribute to the insurance extended by Contractor's insurer(s) under this additional insured provision.

Certificate Holder should read: The City of Dunwoody, 4800 Ashford Dunwoody Road, Dunwoody, Georgia 30338.

*Affidavit Verifying Status*  
*For City Public Benefit Application*

By executing this affidavit under oath, as an applicant for a(n) \_\_\_\_\_ [type of public benefit], as referenced in O.C.G.A. § 50-36-1, from \_\_\_\_\_ [name of government entity], the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) \_\_\_\_\_ I am a United States citizen.
- 2) \_\_\_\_\_ I am a legal permanent resident of the United States.
- 3) \_\_\_\_\_ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My alien number issued by the Department of Homeland Security or other federal immigration agency is:\_\_\_\_\_.

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:  
\_\_\_\_\_.

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in \_\_\_\_\_ (city), \_\_\_\_\_ (state).

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE  
\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: