



Special Telephonic Council Meeting
(712) 770-4344, access code 836617#
April 13, 2020 at 7:00 p.m.

The Honorable Mayor Elizabeth Carr-Hurst, Presiding

The Honorable Mayor Pro-Tem Ulysses J. Smallwood
The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Hattie Portis-Jones
The Honorable Pat Pallend
The Honorable James Whitmore

Mr. Randy Turner

City Attorney

I. Meeting Called to Order:

The Honorable Mayor Carr-Hurst

II. Roll Call:

Arika Birdsong-Miller
City Clerk

III. Invocation:

Pastor John Culbreth
City of Fairburn

IV. Adoption of City Council Minutes:

Councilmembers

- February 24, 2020 Regular Meeting and Executive Session Minutes
- March 25, 2020 Emergency Special Called Telephonic Meeting Minutes
- March 26, 2020 Emergency Special Called Telephonic Meeting Minutes
- March 31, 2020 Emergency Special Called Telephonic Meeting Minutes

V. Adoption of the City Council Agenda:

Councilmembers

VI. Presentations:

1. Property Management

Mr. Harvey Stokes

Update on Fire Station 23.

2. Planning and Zoning

Ms. Tarika Peeks

Announcement of the 2035 Comprehensive Plan 5- year update.

VII. Agenda Items:

- 1. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of the Construction Agreement with GDOT for the Downtown LCI Streetscape Project.
- 2. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of the Contract Award with Precision 2000, Inc. for Construction Services on the Downtown LCI Streetscape Project.
- 3. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of Task Order #2 with Atlas for Construction Engineering and Inspection Services.
- 4. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of the 2017 CDBG Contract with Fulton County.
- 5. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of the 2018 CDBG Contract with Fulton County.
- 6. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the Ratification of the 2019 CDBG Contract with Fulton County.
- 7. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the 2020 T-SPLOST Pedestrian Improvements Project Contract Award.
- 8. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve the 2020 LMIG/T-SPLOST Roadway Improvements Project Contract Award.
- 9. Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve Task Order #3 with Atlas Technical Consultants for Construction Engineering and Inspection Services.
- 10. Parks and Recreation** **Mr. John Culbreth**
For Mayor and Council to approve the rental agreement with G. Pat Green for use of 129 W. Broad Street for the City of Fairburn Youth Center daily and event parking.

11. Fire Department

Chief Cornelius Robinson

For Mayor and Council to approve the Target Solutions Software Training Package.

12. Fire Department

Chief Cornelius Robinson

For Mayor and Council to approve the Purchase and Installation of Air (Cascade System) and Light Unit for Air Light 22.

VIII. Council Comments

Councilmembers

IX. Adjournment

Councilmembers

*When an Executive Session is required, one will be called for the following issues:

(1) Personnel (2) Real Estate or (3) Litigation.



City of Fairburn
Mayor and Council Meeting Minutes
February 24, 2020
7:00 p.m. @ City Hall

- I. The meeting was called to order at 7:00 p.m. by the Honorable Mayor Carr-Hurst.
- II. Roll Call was taken by City Clerk, Arika Birdsong-Miller with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable James Whitmore

Mayor Pro-Tem Ulysses J. Smallwood was absent.

The attendance of Council constituted a quorum and the meeting proceeded.

- III. The invocation was led by Apostle Danita Jones of In His Great Name Ministries.
- IV. The Pledge of Allegiance was recited in unison.
- V. Presentation:
Mr. John Childs, Executive Director of Mental Fitness 21st Century Learning, informed Mayor and Council that Fulton County Community Service Program awarded Mental Fitness a \$50,000 Scholarship. The donation will be used to subsidize tuition cost for families needing financial assistance to attend the afterschool program as well as the summer enrichment program. Another \$3,000 donation was also made by Waste Industries for scholarships.

Mr. Childs also stated that Bright from the Start Georgia Department of Early Care and Learning performed an annual review of the program offered by Mental Fitness and the review yielded great results. Mental Fitness results were good standings, which is the highest rank you can receive from the evaluation.
- VI. Public Comment: There was no public comment.
- VII. Adoption of the Council Agenda. Mayor Carr-Hurst with the addition of Item #10 and Item #11 for Resolutions to abandon Public Right of Way and to Authorize Disposition in favor of Landmark Christian School. Motion to approve the Council Agenda with additions was made by Councilman Whitmore and the second was provided by Councilman Heath.

Vote: 5-0: Motion Carried.

- VIII. Adoption of Consent Agenda Items: Agenda Item #1, #3, #4, #5, #6, #7, #8, and #9 were moved to the Consent Agenda. Motion to approve the Consent Agenda items was made by Councilman Heath and the second was provided by Councilwoman Davis.

Vote (5-0) Motion Carried.

The Consent Agenda Items were:

1. **Office of the Mayor** **Mayor Elizabeth Carr-Hurst**
For Mayor and Council to approve Appointments to the Art Advisory Council.
2. **Police Department** **Chief Stoney Mathis**
For Mayor and Council to approve the purchase of Radar Speed Detection Trailer in the amount of \$15,000.
3. **Finance Department** **Ms. Angela Jackson**
For Mayor and Council to approve the Proposed Funding for Utility Projects approved on February 10, 2020.
4. **Engineering/Community Development** **Mr. Lester Thompson**
For Mayor and Council to approve Contract Award with Clark Patterson Lee for Parking Lot Design Services at the Train Depot; future location of Casablanca Restaurant.
5. **Utility Department** **Mr. Steven Jackson**
For Mayor and Council to approve the Landscape Irrigation System Requirements Ordinance.
6. **Utility Department** **Mr. Steven Jackson**
For Mayor and Council to approve the Licensing and Conversion from the Itron Meter Reading System to the Neptune Cloud based Electronic Meter Reading System from Delta Municipal in the amount of \$26,000.
7. **Parks and Recreation** **Mr. Dennis Stroud**
For Mayor and Council to approve the Usage Agreement for Southside Kickers Kickball League.
8. **Parks and Recreation** **Mr. Dennis Stroud**
For Mayor and Council to approve the Usage Agreement for South Fulton Little League.

- IX. Adoption of City Council Meeting and Executive Session Minutes from February 10, 2020 was presented and approved. Motion to approve the Council Meeting Minutes was made by Councilwoman Davis and the second was provided by Councilman Heath.

Vote: 5-0: Motion Carried.

- X. Public Hearing: There was no public hearing.

- XI. Agenda Items:

1. **Human Resources** **Mrs. Linda Johnson**
For Mayor and Council to approve the proposed changes to the City of Fairburn Personnel Policy Handbook Section 2-52.16 (Resignation), Section 2-53.5 (Education Assistance) and Section 2-53.13 (Bereavement Leave). Mrs. Linda Johnson explained to Council the changes made to the Personnel Policy Handbook would include Section 2-52.16 (Resignation): The

City of Fairburn's Personnel Handbook, Section 2-52.16 (Resignation), did not specify who would present the exit interview form to the employee upon their resignation or involuntary termination nor by whom the exit interview would be conducted. The proposed revisions provide the exiting employee with a direct point of contact.

Additionally, the proposed addition to the City of Fairburn's Personnel Handbook, Section 2-52.16 (Resignation) notifies the exiting employee of a required doctor's note for use of sick leave during the two-week notice of resignation-period, and that the employee may use accrued vacation leave for such absences. Also, this proposed language deters misuse and abuse of sick leave.

Section 2-53.5 (Education Assistance): The City of Fairburn's Personnel Handbook, Section 2-53.5 Educations Assistance references eligible employees may be entitled to reimbursement of certain tuition and related expenses for certain job-related training or education, pursuant to the City's Education Assistance Plan. It further references a copy of the Education Assistance Plan as available from the Human Resources Department upon request. This section is inaccurate, irrelevant and misleading. No Education Assistance Plan is in place nor in use. Eligible employees attend job-related conferences and training, approved and budgeted by each department. Therefore, it is proposed to delete this section in its entirety.

Section 2-53.13 (Bereavement Leave): A proposal to revise this section to limit the use of bereavement leave to employee's immediate family members: spouse, children, parents, brothers, sisters, grandparents, and grandchildren, and any other person who resides in the employee's household and who is recognized by federal law as a dependent of the employee; thus, removing mother-in-law, father-in-law, son-in-law or daughter in-law. However, employees may take such leave for non-qualifying relatives by using annual leave.

Councilwoman Portis-Jones expressed concerns about the bereavement leave policy revision removing Mother-In-Law and Father-In-Law and proposed offering at least 1 day for bereavement leave to employees.

Councilwoman Portis-Jones made a motion to revise the proposed changes to the Personnel Policy Section 2-53.13 (Bereavement Leave) to add 1-day for bereavement if the Mother-In-Law or Father-In-Law of the employees dies. The motion failed due to a lack of a second.

Motion to approve the proposed changes to the City of Fairburn Personnel Policy Handbook Section 2-52.16 (Resignation), Section 2-53.5 (Education Assistance) and Section 2-53.13 (Bereavement Leave) was made by Councilman Whitmore and the second was provided by Councilwoman Davis.

Vote: 4-1: Motion Carried.

Opposed: Councilwoman Portis-Jones

2. City Attorney

Mr. Randy Turner

For Mayor and Council to approve the Resolution of the Mayor and City Council of the City of Fairburn, Georgia to Fully and Forever Abandon Approximately 0.29 Acres of Public Rights of Way and to Authorize Disposition of Same in Favor of Landmark Christian School, Inc. to be used for Educational Purposes; to Provide for an Effective Date; and For Other Purposes. Attorney Randy Turner explained to Mayor and Council that

the land would be used by Landmark Christian School, Inc. for educational purposes.

Vote: 5-0: Motion Carried.

3. City Attorney

Mr. Randy Turner

For Mayor and Council to approve the Resolution of the Mayor and City Council of the City of Fairburn, Georgia to Fully and Forever Abandon Approximately 0.28 Acres of Public Rights of Way and to Authorize Disposition of Same in Favor of Landmark Christian School, Inc. to be used for Educational Purposes; to Provide for an Effective Date; and For Other Purposes. . Attorney Randy Turner explained to Mayor and Council that the land would be used by Landmark Christian School, Inc. for educational purposes.

Vote: 5-0: Motion Carried.

XII. Council Comments:

Councilwoman Portis-Jones thanked Mr. John Childs for his contribution to the youth in the City of Fairburn.

Councilman Pallend had no comment.

Councilwoman Davis had no comment.

Councilman Heath thanked the employees for the hard work being done on the construction of the STEAM School.

Councilman Whitmore expressed gratitude to Mr. John Childs for bringing Mental Fitness to the City of Fairburn.

Mayor Carr-Hurst stated that it has been a pleasure working with Mr. John Childs and looks forward to many more years. Mayor Carr-Hurst acknowledged the new Director of Economic Development Mr. Kalanos Johnson. Mayor Carr-Hurst reminded citizens of the State of the City Address that will be held on Monday, March 23, 2020 at 7 p.m.

XIII. Executive Session: At 7:38 p.m. a Motion to enter executive session for real estate and pending litigation was made by Councilman Whitmore and the second was provided by Councilman Heath.

Vote: 5-0: Motion Carried.

At 8:28 p.m. a Motion to reconvene the open regular meeting was made by Councilman Heath and the second was provided by Councilman Whitmore.

Vote: 5-0: Motion Carried.

XIV. Adjournment: At 8:28 p.m., with no further business of the City of Fairburn, the Motion to adjourn was made by Councilman Whitmore and the second was provided by Councilman Heath.

Vote: 5-0: Motion Carried.



City of Fairburn
Mayor and Council Emergency Called Meeting
March 25, 2020
6:00 p.m. Telephonic Meeting

- I. The meeting was called to order at 6:00 p.m. by the Honorable Mayor Elizabeth Carr-Hurst.
- II. Roll Call was taken with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Mayor Pro-Tem Ulysses J. Smallwood
The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Pat Pallend
The Honorable Hattie Portis-Jones
The Honorable James Whitmore

The attendance of Council constituted a quorum and the meeting proceeded.

- III. Also present: Arika Birdsong-Miller, City Clerk
- IV. Agenda Item: To discuss and approve Emergency Ordinance of the City of Fairburn, Georgia, to provide for the Health, Safety and Welfare of the General Public; to address the Global COVID-19 Pandemic; to provide for the closure of locations of Public Gatherings; to Require Certain Best Practices in Response to the Threat; to Encourage the Implementation of Best Practices for Individuals and Businesses; to provide for an Effective Date; to provide for a Future Reevaluation of Such Practices in the Future; and for other Purposes.

Mayor Carr-Hurst began the meeting by stating that this Emergency Ordinance is being proposed to help slow the spread of the continually evolving COVID-19 pandemic. Mayor Carr-Hurst also stated that businesses will be allowed to continue to sell food for takeout or delivery and alcohol may be sold to help them continue to generate revenue.

Motion to approve the Emergency Ordinance of the City of Fairburn, Georgia, to provide for Health, Safety and Welfare of the General Public; to address the Global COVID-19 Pandemic was made by Councilman Pallend and the second was provided by Councilman Whitmore.

Vote: 6-0: Motion Carried.

Mayor Carr-Hurst informed Council that she was working on an Emergency Operations Plan because the current plan was outdated.

A consensus amongst Council to close City Hall on Thursday, March 26, 2020 until best practices for dealing with COVID-19 could be discussed with Medical Director, Dr. Chris Edens after Mayor Carr-Hurst informed Council that an employee at City Hall lives with a relative that tested positive for COVID-19.

Mayor Carr-Hurst stated that there would be a Special Called Meeting on Thursday, March 26, 2020 to get expert advice from Dr. Edens between the hours of 2pm-4pm depending on Dr. Edens availability. Mayor Carr-Hurst informed Council that an email invite to join the Special

Called Telephonic Meeting would be sent out after confirmation of Dr. Edens availability was received.

- V. At 6:28 p.m., with no further business of the City of Fairburn, the meeting was adjourned.

Arika Birdsong-Miller, City Clerk

Elizabeth Carr-Hurst, Mayor

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City of Fairburn
Mayor and Council Emergency Called Meeting
March 26, 2020
3:00 p.m. Telephonic Meeting

- I. The meeting was called to order at 3:00 p.m. by the Honorable Mayor Elizabeth Carr-Hurst.
- II. Roll Call was taken with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Linda J. Davis
The Honorable Alex Heath
The Honorable Pat Pallend

The Honorable Hattie Portis-Jones
The Honorable James Whitmore

Mayor Pro-Tem Ulysses J. Smallwood was absent.

The attendance of Council constituted a quorum and the meeting proceeded.

- III. Also present: Dr. Chris Edens, Medical Director for Fairburn's Fire Department, Attorney Randy Turner, and Fire Chief Cornelius Robinson.
- IV. Agenda Item: To address the potential closure of municipal facilities in response to the existing COVID-19 pandemic. Pursuant to Section 50-14-1(g) of the Georgia Open Meetings Act, this Emergency Called Meeting will be conducted telephonically.

Mayor Carr-Hurst began the meeting with an overview of the Emergency Called Meeting on Wednesday, March 25, 2020 in which the Emergency Ordinance in response to the COVID-19 global pandemic was approved by Council and went into effect March 26, 2020 at 12:01 a.m. The Emergency Ordinance was signed and distributed to all merchants on Highway 29 and Highway 74 by Code Enforcement. Mayor Carr-Hurst also explained that City Hall was closed to all employees for the day due to an employee being exposed to the COVID-19 virus by a family member.

Dr. Chris Edens introduced himself as an Emergency Medical Physician at Piedmont Hospital in Newnan and Upton Regional Medical Center. Dr. Edens stated that the COVID-19 virus can remain in your system for 14 days and if you feel sick or have an elevated temperature you should self-quarantine. Dr. Edens recommends office business remain steady, allowing employees to work from home if they can perform their tasks from home. Dr. Edens also recommended that employees that are required to be in the office be checked daily upon arrival to monitor body temperature.

City Attorney Randy Turner inquired about what should be done if an employee reports to work with an elevated temperature or a cold. Dr. Edens stated that employees should self-quarantine for 14 days or if the employee is essential to the business operation, they should be tested for COVID-19 at a testing facility. If the results from the COVID-19 test is positive they must quarantine for 14 days; if the results are negative the employee can return to work.

Chief Cornelius Robinson stated that for first responders to be tested at a testing facility you need a referral on City letterhead from the Fire Chief.

Mayor Carr-Hurst stated that City Hall is scheduled for sanitizing on Friday, March 27, 2020. After the building has been sanitized it needs to remain unoccupied for 24 hours.

Councilwoman Hattie Portis-Jones asked if all employees were reporting to work daily or just essential employees. Mayor Carr-Hurst stated that all employees are reporting to work unless they show signs of being sick or have an elevated body temperature. Councilwoman Portis-Jones wanted to make sure thermometers were distributed to all departments for all employees to be tested daily and a log sheet would be kept for records. Mayor Carr-Hurst stated that all departments will have a thermometer in place by Monday for daily body temperature checks.

A vote of solidarity was made by Mayor and Council to keep City Hall closed until Monday to allow the building to be sanitized before employees return.

- V. At 3:28 p.m., with no further business of the City of Fairburn, the meeting was adjourned.

Arika Birdsong-Miller, City Clerk

Elizabeth Carr-Hurst, Mayor



City of Fairburn
Mayor and Council Emergency Called Meeting
March 31, 2020
4:00 p.m. Telephonic Meeting

- I. The meeting was called to order at 4:00 p.m. by the Honorable Mayor Elizabeth Carr-Hurst.
- II. Roll Call was taken with the following members present:

Mayor Elizabeth Carr-Hurst

The Honorable Mayor Pro-Tem Ulysses J. Smallwood
The Honorable Linda J. Davis
The Honorable Alex Heath

The Honorable Pat Pallend
The Honorable Hattie Portis-Jones
The Honorable James Whitmore

The attendance of Council constituted a quorum and the meeting proceeded.

- III. Also present: Arika Birdsong-Miller, City Clerk
- IV. Agenda Item: To discuss and decide the format for the City Council Meeting scheduled on Monday, April 13, 2020 due to the COVID-19 global pandemic and social distancing requirements set by the Center for Disease Control (CDC).

Mayor Carr-Hurst began the meeting by informing Council that City Administrator Dennis Stroud submitted his letter of resignation effective April 13, 2020. Mayor Carr-Hurst informed Council that she accepted his resignation but made it effective March 30, 2020.

Mayor Carr-Hurst informed Council that she and Mayor Pro-Tem Smallwood attended a phone conference with Fulton County Superintendent Dr. Looney. Mayor Carr-Hurst learned from the conference call that Dr. Looney will meet with the Board of Education in the next few weeks to decide if schools will re-open this school year. Mayor Carr-Hurst stated other issues mentioned on the conference call were students not having access to the internet to do online learning and students not having access to the lunches provided by the school because of transportation to the distribution location.

Mayor Carr-Hurst stated that the City of Atlanta's Mayor Keisha Lance-Bottoms spoke to surrounding cities Mayors about expanding curfews and the shelter in place ordinance. Mayor Carr-Hurst stated that as of today Fulton County has 547 cases of people infected with the COVID-19 virus and have had 17 deaths; Georgia has over 3,800 cases with 800 people currently hospitalized and 108 deaths.

Mayor Carr-Hurst thanked Councilwoman Hattie Portis-Jones for assisting with the Pandemic Operation Plan for the City of Fairburn. Mayor Carr-Hurst will make the Operation Plan available for all Councilmembers by Wednesday, April 1, 2020 for input before the plan is finalized. Georgia Municipal Association (GMA) and Fulton County Health Department suggested we have a plan in place in the next 72 hours. Mayor Carr-Hurst stated that staff has

been attempting to go to stores to secure necessary supplies but have not been very successful because stores are sold out of the essential items.

Mayor Carr-Hurst informed Council that all the chairs will be removed from Council Chambers because the Chambers will serve as the command center if needed.

Mayor Carr-Hurst discussed different virtual meeting options with Council to facilitate the April 13th Council Meeting that allows citizens access to the information being discussed. Mayor and Council had a consensus that the Council Meeting would be held telephonically, and an ad would be run in the South Fulton Neighbor informing citizens.

Mayor Carr-Hurst explained to Council that there are stimulus packages available through the Federal Government that is designed to reimburse the City's to help pay employees needing sick time in response to COVID-19 that may not have the time accrued. There are 2 new employees who fit in the category. Mayor Carr-Hurst suggested advancing 80 hours to ensure no employees have a financial hardship. Council agreed that advancing hours to employees in need during the pandemic was a great idea.

V. At 5:11 p.m., with no further business of the City of Fairburn, the meeting was adjourned.

Arika Birdsong-Miller, City Clerk

Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: ANNOUCEMENT OF THE 2035 COMPREHENSIVE PLAN 5-YEAR UPDATE

<input type="checkbox"/> AGREEMENT	<input type="checkbox"/> POLICY / DISCUSSION	<input type="checkbox"/> CONTRACT
<input type="checkbox"/> ORDINANCE	<input type="checkbox"/> RESOLUTION	<input checked="" type="checkbox"/> OTHER

Submitted: 04/08/20

Work Session: N/A

Council Meeting: 04/13/20

DEPARTMENT: Community Development/Office of Planning and Zoning

BUDGET IMPACT: N/A

PUBLIC HEARING: ☐ Yes ☒ No

PURPOSE: To announce the planning process for the 2035 Comprehensive Plan 5-Year Update.

HISTORY: In 1989, the Georgia General Assembly passed the Georgia Planning Act, which established a coordinated planning program for the State of Georgia. This program, administered by the Department of Community Affairs (DCA), provides local governments with a framework to create a long-term plan that will address their planning issues and opportunities. The DCA approved the City's 2035 Comprehensive Plan in April 2015 and the plan was adopted by the Mayor and City Council on May 14, 2015.

FACTS AND ISSUES: The Comprehensive Plan acts as a guide for communities in achieving their goals and objectives and as a decision-making guide for City staff and local elected officials over a twenty-year period. A Comprehensive Plan update is required by DCA every five years. Staff will begin the 5-year comprehensive plan update process in the month of April. The 5-year update will establish and guide public policy in terms of transportation, land use, recreation, and housing. The completion deadline, set by DCA, for the 5-year update is October 31, 2020. The Atlanta Regional Commission (ARC) will provide assistance with the Comprehensive Plan update under the requirements set by the Minimum Requirements for Local Comprehensive Planning in the Georgia Planning Act.

DCA requires updates on the following Plan Elements:


- Community Goals
- Needs and Opportunities
- Community Work Program (CWP)
- Report of Accomplishments (Document the status of each item in the previous CWP)
- Broadband Services
- Land Use Element

The planning process will include the following community involvement methods:

- Three (3) steering committee meetings
- Two (2) public meetings, to include online surveys

Please note: If it becomes necessary to postpone or cancel public engagement activities or other work for the Comprehensive Plan 5-year update due to the COVID-19 pandemic, ARC will work with Staff and DCA to pursue a variance for the October 31, 2020 deadline.

RECOMMENDED ACTION: None required.



Elizabeth Carr-Hurst, Mayor



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF A CONSTRUCTION AGREEMENT WITH GDOT FOR THE DOWNTOWN LCI STREETScape PROJECT

(X) AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The budget impact of the proposed Construction Agreement is \$4,768,791.60. The proposed expenditures will come out of the LCI Implementation Grant Account (250-4203-54-1403).

PUBLIC HEARING: () Yes (X) No

PURPOSE: For Mayor and Council to approve (ratify) a Construction Agreement with the Georgia Department of Transportation (GDOT) for the Downtown Livable Centers Initiative (LCI) Streetscape Project (SR14; CS 4130.W Campbellton Road & CS 4050/Smith Street-LCI) for an amount of \$4,768,791.60 (\$4,755,366.60 base bid + \$13,425.00 Construction Oversight).

HISTORY: The City of Fairburn received the Construction Agreement from the Department of Transportation (GDOT) on February 24th, 2020, The City was instructed to execute the agreement within the Contract Authorization Tracking System (CATS) using the DocuSign® electronic signature system and to send payment in the amount of \$13,425.00 for Construction Oversight activities with the understanding that once the Department received the check for oversight and the contract agreement, they would execute the construction agreement and issue the City of Fairburn a Notice to Proceed to Construction.

FACTS AND ISSUES: The City of Fairburn received a Conditional Notice to Proceed (NTP) from GDOT District Seven Construction Manager Scott Lee on Friday, March 13th, 2020. This allowed the City of Fairburn to in turn issue the Notice of Award to the lowest responsive and responsible bidder. This also allowed the City of Fairburn to secure the pricing submitted in their bid on September 18th, 2019 (almost seven months ago). However, in accordance with the Conditional NTP, no land disturbing activity may take place until the conditional status has been lifted by GDOT. Upon receipt of the final amended Contract between the City of Fairburn and GDOT, the GDOT District Construction Office will issue the revised notification.

The preconstruction meeting will be scheduled upon receipt of the full NTP from GDOT. The Notice to Proceed (NTP) with Construction will be issued to the Contractor at the preconstruction meeting.

- Please note, only the first 13 pages of the Agreement have been included in your packages. The complete document is available for review at City Hall.

RECOMMENDED ACTION: Staff recommends that Mayor and City Council to approve the Construction Agreement with GDOT. for the Downtown LCI Streetscape Project.


Elizabeth Carr-Hurst, Mayor



Russell R. McMurtry, P.E., Commissioner
One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308
(404) 631-1000 Main Office

February 13, 2020

Honorable Elizabeth Carr-Hurst
Mayor of City of Fairburn
56 Malone Street
Fairburn, GA 30213
Attn: Lester Thompson, MPA Director

Subject: Construction Agreement for Execution
P.I. 0012636, Fulton County
SR 14; CS 4130/W Campbellton Rd & CS 4050/Smith Street

Dear Mayor Carr-Hurst,

The Department accepts the recommendation from the City of Fairburn to award Precision 2000 the contract for construction services concerning the above referenced project. In addition, the Department is requesting that the City of Fairburn submit payment for Construction Oversight activities that will be used to fund GDOT staff man-hours and any other associated expenses incurred by any GDOT employee. The estimated amount for the GDOT Construction Oversight is \$13,425.00. **Please send payment in the amount of \$13,425.00 made out to the Georgia Department of Transportation as follows and include the above P.I. No. on the transaction:**

For payments made by check:
Georgia Department of Transportation
P.O. Box 117138
Atlanta, GA 30368-7138

For payments made by ACH:
Bank Routing (ABA) # 021052053
Account # 43125093

Please review the attached agreement and if satisfactory, execute the agreement within the Contract Authorization Tracking System (CATS) using the DocuSign® electronic signature system. Once the Department has received the check for oversight and the contract agreement, we will execute the construction agreement and issue the City of Fairburn a Notice to Proceed to Construction.

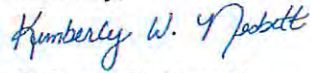
Construction Agreement for Execution

P.I. 0012636, Fulton County

SR 14; CS 4130/W CAMPBELLTON ROAD & CS 4050/SMITH STREET-LCI

Should you have any questions or concerns, please contact the Department's Project Manager, Gabrielle Williams, at 404-347-0607.

Sincerely,



Kimberly W. Nesbitt

State Program Delivery Administrator



KWN:KESD:MKR:GTW

Attachments

Cc: Kevin Stone-General Accounting, ARBillings@dot.ga.gov

Kathy Zahul, District 7 Engineer

Scott Lee, District 7 Construction Manager

CONSTRUCTION AGREEMENT
Between
DEPARTMENT OF TRANSPORTATION
STATE OF GEORGIA
And
CITY OF FAIRBURN

Please indicate which Catalog of Domestic Federal Assistance Number (CFDA) applies to this agreement (Check only one):

- ☒ CFDA # 20.205 - Highway Planning and Construction Cluster
☐ CFDA # 20.219 - Recreational Trails Program

This Agreement, made and entered into this _____ day of _____ 2020, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and City of Fairburn, Georgia, hereinafter called the "SPONSOR."

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Federal-aid Project which consists of the construction of Project P.I. 0012636, 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, 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 covenant 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 streetscape enhancements along US 29 from Malone Street to north of Strickland Street where US 29 will remain four lanes. Improvements include a vegetated median, removal of a turn lane, expansion of pedestrian facilities & signal upgrades, as set forth in Exhibit A, WORK PLAN, which is further defined by the PROJECT estimate sheets ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set forth herein.

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 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 work with the Georgia Department of Transportation District to advise the SPONSOR on the WORK PLAN and provide guidance during implementation of the PROJECT.

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 guidelines; FHWA guidelines; 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, if required, 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. The SPONSOR is required and does agree to abide by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to 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", Current Edition; "Supplemental Specifications Book", current edition; and any Supplemental Specifications and Special Provisions as applicable for the PROJECT.

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, in 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 effected 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, shall complete the Project no later than 490 Calendar Days after receipt of the written "Notice to Proceed"(based on the construction time). The work shall be carried on in accordance with the schedule attached to this Agreement as "Exhibit C", WORK SCHEDULE, with 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 estimated construction cost of the PROJECT as outlined in this Article and as shown in Exhibit "D", BUDGET ESTIMATE, attached hereto and incorporated as if fully set out herein, is four million, seven hundred eighty-two thousand, three hundred twenty-six dollars and thirty-five cents (\$4,782,326.35). The total estimated cost of the PROJECT to be financed using Federal/State programmed funds through the Georgia Department of Transportation is three million, eight hundred twenty-five thousand, eight hundred sixty-one dollars and zero cents (\$3,825,861.00), which is the total federal contribution to the PROJECT 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 contribution of the project exceed three million, eight hundred twenty-five thousand, eight hundred sixty-one dollars and zero cents (\$3,825,861.00), 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 obligation 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 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.

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.

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
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 XVII
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 seventeen percent (17%) 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 American 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.

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.

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 FAIRBURN, Georgia

By: _____
Commissioner

By: _____ (Seal)
MAYOR

Attest:

Signed, sealed and delivered
This ____ day of _____,
2020, in the presence of:

Treasurer

Witness

Notary Public

This Agreement, approved by
City of Fairburn, the _____
day of _____, 2020

Attest:

Name and Title

58-6000575
Federal Employer Identification
Number:



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF CONTRACT AWARD WITH PRECISION 2000, INC FOR CONSTRUCTION SERVICES ON THE DOWNTOWN LCI STREETScape PROJECT

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Community Development/Public Works

BUDGET IMPACT: The budget impact will be \$4,909,319.35. The expenditures will come out of account number [250-4203-54-1403 LCI Implementation Grant account (Expenditures/Outlay)].

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve (ratify) a contract with Precision 2000, Inc., for construction services associated with the Downtown LCI Streetscape Project.

HISTORY: The bid opening was conducted on September 18th, 2019; three (3) bids were received. The bid evaluation revealed that Precision 2000, Inc. was the lowest responsive and responsible bidder with a base bid of \$4,782,326.35, and overall bid of \$4,909,319.35.

FACTS AND ISSUES: The City of Fairburn received a conditional Notice to Proceed (NTP) from GDOT on March 13th, 2020. This allowed the City of Fairburn to in turn issue the Notice of Award to Precision 2000 and to secure the pricing submitted in their bid on September 18th, 2019 (almost seven months ago).

RECOMMENDED ACTION: Staff recommends that City Council approve a contract award with Precision 2000, Inc., for Construction Services associated with the Downtown LCI Streetscape Project and authorize the Mayor to sign the Agreement for Professional Services for these services.


Elizabeth Carr-Hurst, Mayor

BID OPENING RESULTS
IFB 19-005 SR 14; CS 4130/W. Campbellton Road CS 4050-Smith Street - LCI
CITY OF FAIRBURN, GEORGIA

BID OPENING: September 18, 2019 - 2:00 P.M.

	PLAN HOLDERS	ADDENDUM 1	ADDENDUM 2	BID BOND	BASE BID AMOUNT	ADD ALT. #1	TOTAL AMOUNT
1	Precision 2000, Inc.	✓	✓	✓	\$ 4,782,326.35	\$ 126,993.00	\$ 4,909,319.35
2	iSq. Ft.						
3	Amcon	✓	✓	✓	\$ 5,852,727.05	\$ 144,355.89	\$ 5,997,082.94
4	CMES, Inc.						
5	Excellere Construction						
6	Construction 57, Inc.						
7	E. R. Snell Contractor, Inc.						
8	Astra Group, Inc.						
9	JHC Corporation	✓	✓	✓	\$ 5,320,871.40	\$ 121,250.00	\$ 5,442,121.40

Notes:

1. Addendum 1
2. Addendum 2

Bids were opened and read aloud in accordance with the project advertisement and invitation for bid. Unit price calculations and certifications will be verified and a certified tabulation release at a later date.



September 18, 2019

LESTER THOMPSON



MARCEIA LINDLEY

September 18, 2019



Russell R. McMurry, P.E., Commissioner
One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308
(404) 631-1000 Main Office

March 13, 2020

Mr. Lester Thompson
Director, Community Development/Public Works
City of Fairburn
56 Malone Street SW
Fairburn, Georgia 30213

RE: PI 0012636, SR 14/Campbellton Road & CS 4050/Smith Street
Conditional Notice to Proceed

Dear Mr. Thompson,

This correspondence serves as your conditional Notice to Proceed (NTP) for the construction of project PI 0012636. The City should coordinate with the Area Three Office regarding the preconstruction conference, materials testing, and construction funds reimbursement.

Due to this being a conditional Notice to Proceed, there shall be no land disturbing activities until the conditional NTP is lifted. Upon receipt of the final amended contract between the City and the Georgia Department of Transportation (GDOT), the District Construction Office will issue a revised notification.

The contract identification number will be provided with the revised NTP.

If you have any questions or need further assistance, please contact Gabrielle Williams at 404-347-0607 or gawilliams@dot.ga.gov.

Sincerely,

A handwritten signature in blue ink that reads "W-Scott Lee". The signature is stylized with a large "W" and a long horizontal line extending from the end.

Wm Scott Lee
District Construction Manager

For: Kathy Zahul, P.E.
Metro District Engineer

cc: Kimberly Nesbitt, State Program Delivery Engineer (letter only)
Gabrielle Williams, Project Manager (letter only)
Lankston Johnson, Area Three Manager
file



City of Fairburn

March 13, 2020

Mr. Carlos Sanchez
President
Precision 2000, Inc.
2215 Lawson Way
Atlanta, GA 30341

Re: Notice of Award- **IFB # 19-005, SR 14; CS 4130/W CAMPBELLTON ROAD & CS 4050/SMITH STREET – LCI FULTON: PI #0012636**

The Owner has considered the bid submitted by your firm for the above described Work in response to its Invitation for Bids dated September 18th, 2019.

You are hereby notified that your bid has been accepted for construction services associated with the aforementioned project in the amount of \$4,909,319.35.

Attached is a copy of a proposed agreement for consideration. It is imperative that this agreement be finalized for approval within the next two weeks, along with Payment and Performance bonds required on the project. So, please expedite any legal review and approvals necessary.

You are required to return acknowledged copies of this Notice of Award to the Owner within ten days of receipt of these documents.

Sincerely,

A handwritten signature in blue ink, appearing to read "L. Thompson", is written over the "Sincerely," and extends to the right.

Lester Thompson, MPA
Director
Community Development/Public Works

ACCEPTANCE OF NOTICE

Receipt of the Notice of Award is hereby acknowledged by:

Precision 2000, Inc.

Signature

Date

Printed Name

Title

**Engineering Department
56 Malone Street, Fairburn, GA 30213
(770) 683-4286 (770) 306-6919 FAX**

SR 14; CS 4130/W CAMPBELLTON ROAD & CS 4050/SMITH STREET-LCI
Fulton; PI #0012636
City of Fairburn, GA

Section 01300-1
Contract

SECTION 01300

CONTRACT

THIS AGREEMENT made and entered into this _____ day of _____, 20____ by and between the City of Fairburn, Georgia (Party of the First Part, hereinafter called the Owner) and _____ (Party of the Second Part, hereinafter called the Contractor).

WITNESSETH: That the said Contractor has agreed, and by these presents does agree with the said Owner, for the consideration herein mentioned in his Proposal and under the penalty expressed in Bonds hereto attached, to furnish all equipment, tools, materials, skill, and labor of every description necessary to carry out and complete in good, firm and substantial and workmanlike manner, the Work specified, in strict conformity with the Drawings and the Specifications hereinafter set forth, which Drawings and Specifications together with the foregoing Proposal made by the Contractor, the Instructions to Bidders, General Conditions, Special Conditions, Detailed Specifications and this Agreement, shall all form essential parts of this Agreement. The Work covered by this Agreement includes all work shown on Plans and Specifications and listed in the Proposal, to-wit:

**SR 14; CS 4130/W CAMPBELLTON ROAD & CS 4050/SMITH STREET-LCI
Fulton; PI #0012636**

The Contractor shall commence the work with adequate force and equipment on a date to be specified in a written order of the Owner and shall complete the work within three hundred sixty-five (365) consecutive calendar days from and including said date.

If said work is not complete within the time stated above, the Contractor shall be liable and hereby agrees to pay to the Owner, as liquidated damages and not as a penalty, for each and every day or part of a day thereafter that said work remains substantially incomplete in accordance with Ga. D.O.T. Specification 108.08. The Owner shall pay and the Contractor shall receive the prices stipulated in the Proposal hereto attached as full compensation for everything furnished and done by the Contractor, the full sum of:

_____ Dollars (\$_____).

Based on the quantities shown in the Proposal, which sum shall be paid in the manner and terms specified in the Contract Documents, but before issuance of certificate of payments, if the Contractor shall not have submitted evidence satisfactory to the Owner that all payrolls, material bills, and other indebtedness connected with the work have been paid, the Owner may withhold payment until satisfactory evidence is provided indicating that said claims for labor and services rendered and materials in and about the work have been paid. It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bonds hereto attached for its faithful performance, the First Party shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the Work, the Second Party shall, at its expense, within five (5) days after the receipt of notice from the First Party so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the First Party. In such event no further payment to the Second Party shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the First Party.

Responsibility for Claims and Liability:

The City of Fairburn shall be responsible for any and all damages to property or persons and shall indemnify and save harmless the Georgia Department of Transportation, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the negligence of the City of Fairburn in the performance of work under this Agreement.

It is understood by the City of Fairburn 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 City of Fairburn's negligence or improper representation in the plans.

This Contract, executed in quadruplicate, constitutes the full agreement between the parties, and the Contractor shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm or corporation without the previous consent of the Owner in writing.

Notwithstanding any provision to the contrary, the parties to this contract agree that any disputes to any of the terms and conditions of this contract may be, at the option of the owner, resolved in the Superior Court of Fulton County, Georgia. To this extent, the parties agree that venue for the resolution of any disputes under this contract shall lie exclusively in Fulton County, Georgia. This does not preclude the resolution of any disputes through arbitration or other means of alternative dispute resolution.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in quadruplicate, on the date first mentioned above.

ATTEST:

(OWNER)

By: _____(SEAL)

Title: _____

ATTEST:

(CONTRACTOR)

By: _____(SEAL)

Title: _____

Executed in
Quadruplicate

_____ of 4

APPROVED AS TO FORM:

By: _____

By Attorney for
The City of Fairburn

END OF SECTION



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF TASK ORDER #2 WITH ATLAS FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

☐ AGREEMENT ☐ POLICY / DISCUSSION ☐ CONTRACT
☐ ORDINANCE ☐ RESOLUTION ☒ OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Community Development/Public Works

BUDGET IMPACT: The budget impact of this task order will be \$234,000. The proposed expenditures will come out of account number [250-4203-54-1403 LCI Implementation Grant account (Expenditures/Outlay.

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: For Mayor and Council to approve (ratify) Task Order #2 with Atlas Technical Consultants (Moreland Altobelli) for Construction Engineering and Inspection (CEI) Services on the Downtown LCI Streetscape Project.

HISTORY: The City of Fairburn entered into a Master Services Agreement with Moreland Altobelli Associates, LLC on July 22nd, 2019 for On-Call Construction Management Services. The firm subsequently changed its name to Atlas Technical Consultants, LLC on January 1, 2020.

FACTS AND ISSUES: The agreement with Moreland Altobelli (Atlas) was approved with the understanding that task orders associated with Construction Management Services would be issued on an as need basis. As such, Task Order #2 for said services has been submitted for review and approval.

RECOMMENDED ACTION: Staff recommends that the City Council approve Task Order #2 with Atlas Technical Consultants for Construction Engineering and Inspection Services on the Downtown LCI Streetscape Project and authorize the Mayor to sign the Task Order for an amount not to exceed \$234,000.


Elizabeth Carr-Hurst, Mayor



To: City of Fairburn
P.O. Box 145
Fairburn, Georgia 30213
Attn: Mr. Lester Thompson

Date: March 13, 2020
From: Chris Parypinski
Copy to: Buddy Gratton

Project: SR 14/CS 4130/W Campbellton Road & CS 4050 Smith
Street LCI project, PI 0012636
TO No.: 2

Scope of Work: Provide Construction Engineering and Inspections Services to monitor the resurfacing work on Project PI 0012636

BACKGROUND INFORMATION

Atlas Technical Consultants, has prepared this Task Order (TO) in accordance with our Master Services Agreement dated July 22, 2019. This task order has been prepared to assist the City of Fairburn with Construction Management Services. The services proposed will better enable the City to complete the project on time, within budget, and meet the project-specific objectives outlined in the scope of services described below. Accordingly, the City will be able to focus its efforts on more strategic goals.

Task 1 – Construction, Engineering and Inspection Services

- Provide inspection services for the SR 14/CS 4130/W Campbellton Road & CS 4050 Smith Street LCI project, PI 0012636
- Provide management of the applicable federal aid DBE paperwork and certified contractor payroll information.
- Provide engineering services to review contractor pay submittals.

The total not to exceed budget of \$234,000.00 as outlined in the attached fee proposal includes staff time and expenses necessary to perform the scope of work outlined above.

If the City requires additional services, Atlas Technical Consultants, will provide those services in accordance with the existing Unit Rates agreed to with the City. A scope and budget for additional services would be prepared for City approval prior to performing the work.

Authorization:

As our authorization to proceed with the scope of work, schedule and fee structure outlined herein, please sign in the space provided below and return one copy to Atlas Technical Consultants for our records.

Authorized by: Elizabeth Carr-Hurst

Title: Mayor

Print Name: Elizabeth Carr-Hurst

Date: 3-30-2020

March 10, 2020



SR 14; CS 4130/W. Campbellton Road & CS 4050/Smith Street LCI - PI 0012636
CEI Services
City of Fairburn

PERSONNEL COSTS:	EST HRS	RATE/HR	COST(\$)	
CONSTRUCTION ENGINEERING AND INSPECTION				
CONSTRUCTION SERVICES MGR	400	\$125.00	\$50,000	
SENIOR INSPECTOR	2080	\$75.00	\$156,000	
		SUBTOTAL	\$206,000	
FEDERAL AID PAPERWORK MANAGEMENT				
CONSTRUCTION SERVICES MGR	48	\$125.00	\$6,000	
CONTRACT COMPLIANCE	208	\$85.00	\$17,680	
		SUBTOTAL	\$23,680	
DIRECT COSTS				
		REPRODUCTION/PLOTTING		\$0
		TRAVEL AND MISC. DIRECT COSTS		\$4,320
		TOTAL DIRECT COSTS		\$4,320
		TOTAL COST		\$234,000

Assumptions:

1. Plan RFI's will be handled by others
2. Shop drawing review will be handled by others



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF THE 2017 CDBG CONTRACT WITH FULTON COUNTY

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The 2017 CDBG Contract award is \$72,240. These funds are provided through reimbursement request(s).

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve (ratify) a supplementary 2017 CDBG Contract with Fulton County for the Lightning Community Development Study and demolition of a blighted property for an amount of \$72,240.

HISTORY: Fulton County has year 2015 and 2016 CDBG allocations previously awarded to the City of Fairburn in which a fund balance in the amount of (\$17,533.85 for GY15) and (\$54,706.16 for GY16) can be used for the Lightning Community Development Study and the demolition of a property that is on the City of Fairburn's Blighted Properties List.

FACTS AND ISSUES: Both the Lightning Community Development Study and the demolition of 155 Dodd Street have already been completed. Approval (ratification) of this contract will allow the City to be reimbursed for our efforts.

- Please note, only the first 14 pages of the Contract have been included in your packages. The complete document is available for review at City Hall.

RECOMMENDED ACTION: Staff recommends that Mayor and City Council to approve the 2017 CDBG Contract with Fulton County for \$72,240.


Elizabeth Carr-Hurst, Mayor



FULTON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
Community Development Block Grant Program
137 Peachtree Street, Suite 300
Atlanta GA, 30303

**AN AGREEMENT BETWEEN FULTON COUNTY
and
The City of Fairburn
STATE OF GEORGIA, COUNTY OF FULTON**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
2020 PUBLIC FACILITIES/INFRASTRUCTURE CONTRACT
CFDA Number 14.218 – Community Development Block Grants**

Federal Award Identification Number:	B-15-UC-13-0003	\$17,533.85
	B-16-UC-13-0003	\$54,706.16
City of Fairburn's DUNS Number:	099631004	
Federal Award Date:	01/01/2015	
	01/01/2016	
CDBG Municipality Agreement:	\$72,240.00	

THIS AGREEMENT, between Fulton County, Georgia, the Department of Community Development (hereinafter referred to as "the County"), a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners, and the **City of Fairburn** (hereinafter referred to as "the Subrecipient"), a municipality organized and existing in Fulton County under the laws of the State of Georgia.

WITNESSETH THAT:

WHEREAS, on June 17, 2015 the Fulton County Board of Commissioners approved the 2015 – 2019 Consolidated Plan BOC agenda item 15-0503 and on May 18, 2016, the Fulton County Board of Commissioners approved the 2016 Action Plan and the approved BOC agenda item 16-0422 which includes Community Development objectives and the projected uses of funds for the Community Development Block Grant (CDBG) program activities, as prescribed under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the City of Fairburn has been provided CDBG funds by Fulton County for **Public Facility and Improvements** services as set forth in 24 CFR §570.201(c) and to meet a national objective benefiting low/moderate income persons; as set forth in 24 CFR §570.208(a)(1)(i); and

WHEREAS, the Twenty Percent (20%) cap on Administrative Cost expenditures pursuant to CFR §570.200(g) has been reached; and,

WHEREAS, the year 2015 and 2016 CDBG allocations previously awarded to the City of Fairburn in which a fund balance in the amount of **(\$17,533.85 for GY15) and (\$54,706.16 for GY16)**, shall be specifically used for the Lighting Community Development Study to execute community planning activities, and public health and safety concerns with the demolition of a blighted property and shall not be used towards any Program Administrative Costs. The activities are designed to benefit low-/moderate income persons as required to meet the CDBG national objective; and

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2
3 **WHEREAS**, these activities are designed to benefit low- and moderate-income persons as required to
4 meet the CDBG national objective; and
5

6 **WHEREAS**, this Agreement constitutes the contractual arrangement for said improvements and/or
7 services that have been prepared for execution between the County and the City as consistent with the Fulton
8 County's Consolidated Plan Annual Action Plan for fiscal year 2017 to support the 2015-2019 Consolidated
9 Plan goals.

10
11 **NOW, THEREFORE**, for and in consideration of the mutual covenants contained herein, the parties hereby
12 agree as follows:
13

14 **SECTION 1.0 – STATEMENT OF WORK**
15

- 16 1. Under this Agreement, the Subrecipient shall provide the services under this Agreement in accordance
17 with the "Statement of Work" attached hereto and made a part hereof as *Attachment A*, consistent with
18 applicable federal rules and regulations governing the use of CDBG funds. Additionally, the
19 Subrecipient shall perform the work according to the "Implementation Schedule" attached hereto and
20 made a part hereof as *Attachment A*.
21
22 2. Under this Agreement, the Subrecipient shall perform the public facility or improvements work
23 according to the "Implementation Schedule," which shall be executed in accordance with the
24 Agreement. The "Implementation Schedule" was submitted in the Subrecipient's year 2017 CDBG
25 application and is attached hereto and made a part hereof as *Attachment B*.
26
27 3. Under this Agreement, the Subrecipient shall also provide a CDBG "Cost Reimbursement Budget" for
28 the project that is being executed with CDBG funds, as submitted in the Subrecipient's 2017 CDBG
29 application. The "Cost Reimbursement Budget" is attached hereto and made a part hereof as
30 *Attachment C*.
31
32 4. Under this Agreement, the Subrecipient shall submit, on not less than a monthly basis, a "Monthly
33 Performance Report" detailing project progress as attached hereto and made a part hereof as
34 *Attachment D and Attachment D-2*.
35
36 5. All work described in *Attachments A, B, and C* must be consistent with applicable federal rules and
37 regulations governing the use of CDBG funds, and the Subrecipient shall ensure that none of the work
38 described constitutes a Program Administrative Cost.
39

40 **SECTION 2.0 – COMPENSATION FOR SERVICES AND WORK**
41

- 42 1. The County shall make reimbursement compensation for the services described in Section 1.0
43 (*Statement of Work*) herein, during the performance of this contract, in accordance with the "Cost
44 Reimbursement Budget" attached hereto and made a part hereof as *Attachment C*.
45
46 2. The County shall make payment to the Subrecipient upon conditional commitment of funds as the
47 project is subject to Environmental Review. Payment shall then be made through reimbursement of
48 costs incurred by the Subrecipient in the performance and execution of the services under this
49 contract. Payments shall be made timely upon the County's receipt of proper and sufficient
50 documentation of such costs and as satisfactory to the County. The County shall have the right not to
51 pay any request for reimbursement or part thereof if not properly supported, or if the costs requested
52 or a part thereof, as determined by the County, are reasonably in excess of the actual stage of
53 completion.
54
55 3. Such documentation shall include, but not be limited to time sheets, vendors' and suppliers' invoices or
56 vouchers, mileage logs, etc.
57
58 4. This documentation, along with a written request for reimbursement and a statement of costs incurred
59 shall be submitted to the attention of the assigned Community Development Specialist at the Fulton

County Department of Housing and Community Development, 137 Peachtree Street, SW, Suite 300, Atlanta, GA, 30303. A minimum of one copy of the request and the statement shall be included with the submission. One copy must be accompanied by documentation supporting the eligible costs.

SECTION 3.0 – TERM OF AGREEMENT

1. The completion date of this Agreement shall be December 31, 2020, unless otherwise extended in writing, terminated by mutual agreement, or by the County, or in accordance with other terms and provisions contained herein. Any modifications to the term of the Agreement shall be documented through an amendment process as outlined in the County's Citizen Participation Plan as executed by the County. The term of this Agreement shall be in compliance with the Fiscal Year 2018-2020 Cooperative Agreement between Fulton County and the City.
2. The completion date of this Agreement is computed on the basis that the Subrecipient is eligible to receive retroactive costs incurred on or after January 1, 2016. The United States Department of Housing and Urban Development (HUD) with the County will make funds available for eligible incurred costs upon execution of the year 2016 grant agreement.
3. Although the completion date shall be (24) months and the completion date shall be December 31, 2020 the County periodically reports CDBG accomplishments and expenditures to HUD. By November 1, 2020, HUD traditionally reviews the County's collective accomplishments and expenditures, thus the County strongly encourages all Subrecipient services and work to be near completion by September 15, 2020 with no less than seventy percent (70%) of its eligible reimbursement costs submitted appropriately for review.

SECTION 4.0 - MODIFICATIONS TO AGREEMENT

1. In the event the Subrecipient chooses to modify its pre-approved "Statement of Work" by adding or deleting a project, the Subrecipient shall submit to the County a written request for the approval of such changes 30 days after execution of the contract. No such modification shall become effective unless and until approved by the County in the form of a formal amendment to the Subrecipient's "Statement of Work".
2. Additions or deletions to the "Statement of Work", which have been approved as a part of the County's Consolidated Plan may be allowed one time per Fiscal Year, subject to County approval. The Subrecipient must submit its request within the time frame referenced above.
3. The County must adhere to 24 CFR 91.505 "Amendments to the Consolidated Plan". The Subrecipient's failure to request modifications 30 days after execution of the contract shall result in the County's automatic denial of any such modifications to said Agreement and shall be construed as the Subrecipient's failure to properly and timely fulfill its obligations under this Agreement and will result in the County's right to exercise its options under Section 6.0 (*Termination of Agreement for Cause*) of this Agreement.
4. This Agreement constitutes the entire contractual arrangement between the County and the Subrecipient, and there are no further written or oral agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the County's and the Subrecipients' duly authorized representatives.
5. Further, in the event of any material change or modification in the Subrecipient's Agreement or agreement with any other funding source during the course of this Agreement, the Subrecipient shall immediately notify the County of such change. In such event, the County shall have the right to terminate its obligations under this Agreement, discontinue future funding hereunder, and demand the refund or return of funds previously advanced.

1
2
3 **SECTION 5.0 – EXTENSIONS**
4

5 In the event the Subrecipient determines that it cannot begin projects as scheduled or complete
6 projects within the time frame indicated by the Subrecipient in Attachment B, no extension will be
7 granted.
8

9 **SECTION 6.0 – SUSPENSION OF WORK**
10

- 11 1. The County may by written notice to the Subrecipient suspend at any time the performance of all or
12 any portion of the services to be performed under this Agreement. Upon receipt of a suspension
13 notice, the Subrecipient must unless the notices requires otherwise: (i) immediately discontinue
14 suspended services; (ii) place no further orders or subcontracts for material, services or facilities with
15 respect to suspended services, other than to the extent required in the notice; and (iii) take any other
16 reasonable steps to minimize costs associated with the suspension.
17
- 18 2. The County may elect to resume suspended service upon written notice to the Subrecipient. Upon
19 receipt of notice to resume suspended services, the Subrecipient will immediately resume performance
20 under this Agreement as required in the notice.
21
22

23 **SECTION 7.0 – TERMINATION OF AGREEMENT**
24

25 1. **Termination for Cause**
26

27 Time is of the essence and if, through any cause, the Subrecipient shall fail to fulfill in a timely and
28 proper manner its obligations under this Agreement, or in the event that any of the provisions or
29 stipulations of this Agreement are violated by the Subrecipient, the County shall thereupon have the
30 right to terminate this Agreement by providing written notice to the Subrecipient of the County's intent
31 to terminate the Agreement, specifying the reasons for such intention for termination. Unless within
32 ten (10) calendar days after serving of such notice (by hand delivery or posting in the U.S. Mail) to the
33 Subrecipient such violation or delay shall cease or arrangements for correction satisfactory to the
34 County be made, the Agreement shall, upon expiration of said ten (10) calendar days, be terminated
35 without further notice. Upon such termination, the Subrecipient will be compensated by the County for
36 expenses deemed by the County to be due and reasonable.
37

38 The Subrecipient shall be liable for any damage to the County resulting from the Subrecipient's refusal
39 or failure to complete the work within the specified time period, and said damages shall include, but not
40 be limited to, any additional costs associated with the County obtaining the services of another
41 Subrecipient to complete the project.
42

43 2. **Termination for Convenience of the County**
44

45 In the event the County determines that it is no longer feasible or in its best interest to continue
46 assisting the service covered by this Agreement, or should the U.S. Department of Housing and Urban
47 Development institute corrective and/or remedial actions against the County in accordance with
48 regulations under the CDBG program where such actions impede or halt the disbursement of the
49 County CDBG funds for this project, the County may terminate this Agreement by giving at least fifteen
50 (15) calendar days prior notice in writing (by hand delivery or posting in the U.S. mail) to the
51 Subrecipient.
52

53 In addition, in the event this agreement has been terminated due to the default of the Subrecipient, and
54 if it is later determined that the Subrecipient was not in default pursuant to the provisions of this
55 Agreement at the time of termination, then such termination shall be considered a termination for
56 convenience pursuant to this paragraph.
57

58 **SECTION 8.0 – INDEPENDENT SUBRECIPIENT STATUS**
59

Nothing herein contained shall be deemed to create a relationship other than that of independent

Subrecipient between the County and the Subrecipient. Under no circumstances shall the Subrecipient, its principals, employees, subcontractors, associates, or agents be deemed employees, agents, partners, successors, assigns, or legal representatives of the County except as specifically required herein.

SECTION 9.0 – ASSIGNMENT OF AGREEMENT

The Subrecipient shall not make any purported assignment of this Agreement or any part thereof, or delegate the duties herewith without prior written consent of the County. Any attempted assignment or delegation of duties by the Subrecipient without prior expressed written consent of the County shall at the County's sole option terminate this Agreement without any notice to the Subrecipient of such termination. The Subrecipient binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

SECTION 10.0 – PROGRAM INCOME

1. Program income, as defined in 24 CFR 570.500 (a), means any gross income received by the recipient (County) or a Subrecipient (the Subrecipient) directly generated from the use of CDBG funds, except as provided in paragraph (a)(4) of 570.500. When program income is generated by an activity that is only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of CDBG funds used. The Subrecipient shall provide information regarding program income, with a breakdown of the CDBG allocation, to the County concurrently with the quarterly reports described and required by Section 13.0 of this Agreement.
2. Any program income received or generated by the Subrecipient as a result of the CDBG assistance provided under this Agreement is to be retained by the Subrecipient during the duration of this Agreement. The activities undertaken with any program income generated shall conform to *Attachment A* of this Agreement ("Statement of Work") and shall comply with all other provisions of this Agreement.
3. If at any time during the duration of this Agreement the Subrecipient retains program income, transfers of grant funds by the County to the Subrecipient shall be adjusted according to the principles described in paragraphs (b) (2) (i) and (ii) of §570.504, which state that all program income must be disbursed for eligible activities before additional cash withdrawals are made by the recipient from the U.S. Treasury.

SECTION 11.0 – REVERSION OF ASSETS

1. Upon expiration or termination of this Agreement, any remaining program income that is either on hand or to be received after the Agreement's expiration, shall be transferred by the Subrecipient to the County as required by 24 CFR 570.503(b)(7) "Agreements with Subrecipients".
2. Further, in the event that the Subrecipient should sell or otherwise dispose of any property acquired with the County CDBG funds, the manner of said disposition shall result in the County being reimbursed in the amount of the current fair market value of the property at that time less any portion of the value attributable to expenditures of non-County CDBG funds. In the event that such a sale or disposition occurs more than ten (10) years after expiration or termination of this Agreement, such reimbursement shall not be required.

SECTION 12.0 – COPYRIGHT AND PUBLICITY

1. No report, map, or other document produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Subrecipient without the prior written consent of the County. All such reports, maps, or other documents shall become and be deemed the property of the County and title therein shall automatically vest in the County.
2. Further, any publicity given to this project must identify the County prominently as a sponsoring agency. Specifically, at all places of, and in all publications concerning, this project, the Subrecipient agrees to display and make known that the project was assisted under the auspices of the Fulton

County Community Development Block Grant program. In the event of new construction or substantial rehabilitation, and at the County's discretion, the Subrecipient shall acknowledge the use of CDBG funds for the project by installation of a permanent plaque at the project site. The County in collaboration with the Subrecipient shall determine design and replica for the plaque.

SECTION 13.0 – RECORDS AND REPORTS

1. Records

The Subrecipient shall maintain accounts and records, (including an annual Audit) personal property and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be requested by the County including financial data pertaining to the preparation of the U.S. Department of Housing and Urban Development (HUD) Consolidated Annual Performance and Evaluation Report (CAPER) to assure proper accounting for all funds, both public and private. Said records shall be made available for audit purposes to the County, HUD, or any authorized representative thereof, upon reasonable request and within three (3) days of said request.

Retention

Pursuant to 24 CFR 570.502(a) (7) (ii), the retention period of individual CDBG activities shall be the longer of 3 years after the expiration or termination of the subrecipient agreement under 24 CFR 507.503, or 3 years after the submission of the annual performance and evaluation report, as prescribed in 24 CFR 91.520 of this title, in which the specific activity is reported on for the final time. In addition, records for individual activities subject to the reversion of assets provisions at §570.503(b) (7) or change of use provisions at §570.505 must be maintained for as long as those provisions continue to apply to the activity. Moreover, records for individual activities for which there are outstanding loan balances, other receivables, or contingent liabilities must be retained until such receivables or liabilities have been satisfied.

The Subrecipient's records and accounts shall at all times meet or exceed the applicable requirements of federal, state, and local laws, rules, and regulations. The Subrecipient's duty to retain records and permit inspections and copying shall remain in force and effect even after the expiration or termination of this Agreement.

2. Reports

The Subrecipient shall provide the County with a written plan that outlines the activities and processes of the program that will be funded by CDBG. Further, the Subrecipient shall submit detailed reports on the progress made and services of their programs based on the objectives they establish in response to local needs and goals. Objectives reflect the common ways that Subrecipients work to achieve their goals. The Objectives incorporated into the proposed Outcome Measurement System are: Suitable Living Environment, Decent Housing, and Economic Opportunity. Outcome measurements will be based on (a) Availability /Accessibility (b) Affordability (c) Sustainability. Outcomes show how programs benefit a community or people served. Indicators tell whether an outcome is occurring.

At a minimum, these reports shall be submitted on a monthly basis. The monthly reports are due the fifth (5th) of the following month for activities which occurred in the previous month, and shall be submitted on the "Public Facility Monthly Performance Report" attached hereto and made a part hereof as *Attachment D*. The year-end reports are due no later than thirty (30) days after the contract expires for activities which occurred during the funding year in the "Year End Performance Report" attached hereto and made a part hereof as *Attachment D-2*.

Said reports shall be submitted to the County, to the attention of the assigned Community Development Specialist at the Fulton County Department of Housing and Community Development, 137 Peachtree Street, SW, Suite 300, Atlanta, GA., 30303. Two (2) copies of the report shall be included in each submission, one (1) copy for the Community Development Specialist and the other one (1) copy addressed to the CDBG Community Development Grant Manager.

SECTION 14.0 – INSPECTION OF FILES AND RECORDS

The County shall at all reasonable times have access to the pertinent offices and books and records (including an annual Balance Sheet or Independent Audit) of the Subrecipient for inspection of the activities performed and expenses incurred under this Agreement. The County will perform and the

Subrecipient shall be prepared to meet the requirements of, at least, one (1) audit per year.

SECTION 15.0 – CITIZEN PARTICIPATION MEETINGS AND TECHNICAL ASSISTANCE MEETINGS

Subrecipient representative must attend at least one (1) CDBG related Citizen Participation meeting, participate in every Technical Assistance (TA)/Needs Assessment session and the annual Monitoring session during each contract year. The County shall provide meeting dates and locations timely, and shall provide comprehensive information to assist the Subrecipient to perform efficiently and effectively.

SECTION 16.0 -- MONITORING

Through on-site and remote monitoring, the County determines whether the Subrecipient's performance meets CDBG program requirements and assists to improve the Subrecipient's performance by providing guidance and making recommendations. Monitoring visits are conducted no less than once per contract term with a specific purpose to validate the accuracy of information presented in the program participant's performance reports. On-site and remote monitoring is also conducted to follow-up on problems identified during the Consolidated Annual Performance and Evaluation Report (CAPER) assessment that are not resolved as of the date of the monitoring, to determine compliance for those activities where there is sufficient information, to make eligibility and/or national objective determinations, and to ascertain the Subrecipient's ability to ensure that activities meet compliance requirements.

SECTION 17.0 - FINDINGS / NON-COMPLIANCE

1. The Subrecipient shall be notified in writing by the County of any Findings or Concerns identified during each monitoring visit. The Subrecipient shall be given thirty (30) calendar days from the time of written notification by the County for corrective actions to take place. The County will not unreasonably withhold acceptance of corrective actions taken in good faith by the Subrecipient. Upon the Subrecipient proving satisfactory corrective action, a letter shall be sent to the Subrecipient stating that such findings or concerns have been addressed. Pursuant to 24 CFR 570.501, in the event the Subrecipient fails to correct the findings or fails to comply with terms and provisions of this Agreement, the County may take corrective and remedial actions such as those described in 24 CFR 570.910. Such remedial actions may include, but are not limited to, the following:
 - a. Temporarily withhold cash payments pending correction of the deficiency;
 - b. Disallow all or part of the cost of the activity or action not in compliance;
 - c. Wholly or partly suspend or terminate the current award;
 - d. Withhold further award; or
 - e. Take other remedies that may be legally available.

SECTION 18.0 – UNIFORM ADMINISTRATIVE REQUIREMENTS

During its performance under this Agreement, the Subrecipient shall comply with the requirements and standards of the Office of Management and Budget (OMB) codified at 2 CFR part 200 and guidance at a new part, 2 CFR part 2400 which streamlines the Federal government's guidance on administrative requirements, cost principles, and audit requirements to more effectively focus Federal resources on improving performance and outcomes, while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-andbudgets-uniform>

The uniform guidance supersedes, consolidates, and streamlines requirements from eight OMB Circulars:

- A-21, Cost Principles for Educational Institutions,
- A-87, Cost Principles for State, Local and Indian Tribal Governments,
- A-89, Catalog of Federal Domestic Assistance,
- A-102, Grants and Cooperative Agreements With State and Local Governments,
- A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,
- A-122, Cost Principles for Non-Profit Organizations,
- A-133, Audits of States, Local Governments, and Non-Profit Organizations, and
- The guidance in OMB Circular A-50, Audit Follow-up, on Single Audit Act follow-up.

SECTION 19.0 – EQUAL OPPORTUNITY AND NON-DISCRIMINATION

1. Civil Rights Act of 1964 (As amended)

The Subrecipient shall comply with all Federal requirements imposed by or pursuant to Title VI and Title VII of the Civil Rights Acts, as Amended; Age Discrimination In Employment Act; Rehabilitation Act of 1973, as Amended, Section 504; Equal Pay Act; The American with Disabilities Act of 1990, as Amended; Fair Housing Act, as Amended; and other applicable Acts which prohibits discrimination on the ground of race, color, religion, sex, age, national origin, handicap, disability, or familial status. No person in the United States shall be excluded from participation in, be denied the benefit of, or be subjected to discrimination under this Agreement.

2. Section 109 of the Housing and Community Development Act of 1974 (As amended)

The Subrecipient shall also comply with Section 109 of the Housing and Community Development Act of 1974, as amended, which requires that no person in the United States shall on the ground of race, color, national origin, sex, age, disability, or familial status, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part with community development funds made available pursuant to said Act.

3. Further, during the performance of this Agreement, the Subrecipient agrees as follows

- (A) The Subrecipient shall not discriminate against any employee, or applicant for employment, because of race, religion, color, sex, national origin, age, disability, or familial status. As used herein, the word "employment" means and includes without limitation the following:
 - Recruiting, whether by advertising or other means; compensation or wages, whether in the form of rates of pay, or other forms of compensation; selection for training including apprenticeship; promotions; upgrades; demotions; downgrades; transfers; layoffs; and terminations.
 - The Subrecipient shall post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of the non-discrimination clause.
- (B) The Subrecipient shall in all solicitations or advertisements for employees, placed by or on behalf of itself, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, age, disability or familial status.
- (C) The Subrecipient shall, when applicable, send to each labor union or representative of workers with which the Subrecipient has a collective bargaining agreement or other Agreement or understanding, a notice representative of the Subrecipient's commitment under the Equal Opportunity Program of the County and under this Article and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (D) The Subrecipient shall file compliance reports at reasonable times and intervals with the

County in the form and to the extent prescribed by the County. Compliance reports filed when directed shall contain information as to the employment practices, policies, programs, and statistics of the Subrecipient and his Subrecipients.

(E) The Subrecipient shall include the provisions of paragraph (A) through (F) of this Equal Employment Opportunity Clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.

(F) The Subrecipient shall comply with the provisions of Section 109 of the Act which provides, in part, that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act and provided hereunder. These provisions shall also be binding upon each subcontractor or vendor.

4. Section 3 of the Housing and Urban Development Act of 1968

(A) The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low income persons residing within the unit of local government in which the project is located, and that Agreements for work in connection with the project be awarded to businesses which are located in, or owned in substantial part, by persons residing in the area of the project.

(B) Accordingly, the Subrecipient shall, when applicable, send to each labor organization or representative of workers with which it has a collective bargaining agreement or other Agreement or understanding, a notice of its commitment under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

(C) The Subrecipient shall include this Section 3 clause in every subcontract for work in connection with the project and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. The Subrecipient shall not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of those regulations. The Federal Section 3 Provisions are attached hereto and made a part hereof as *Attachment G*.

5. Equal Access to Housing in HUD Programs

(A) Through final rule effective March 5, 2012 (Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity) 24 CFR Parts 5, 200,203, 236, 400, 570, 574, 882, 891, and 982, HUD implements a policy to ensure that its core programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status.

(B) It is important that HUD and Fulton County ensure that their programs do not involve discrimination against any individual or family otherwise eligible for HUD-assisted or -insured housing, but that its policies and programs serve as models for equal housing opportunity. Failure to comply with the requirements of this Rule will be considered a violation of the program requirements and will subject the non-compliant grantee to all sanctions and penalties available for program requirement violations.

(C) Under 24 CFR 5.100 "sexual orientation" is defined -as "homosexuality, heterosexuality, or bisexuality," a definition that the Office of Personnel Management (OPM) uses in the context of the federal workforce in its publication "Addressing Sexual Orientation in Federal Civilian Employment: A Guide to Employee Rights."

- (D) To promote equal access to HUD's housing programs without regard to sexual orientation or gender identity, HUD prohibits unlawful inquiries regarding sexual orientation or gender identity. The prohibition precludes owners and operators of HUD-assisted housing or housing whose financing is insured by HUD from inquiring about sexual orientation or gender identity of an applicant for, or occupant of, the dwelling, whether renter- or owner-occupied.

SECTION 20.0 – MINORITY BUSINESS ENTERPRISE (MBE/FBE) PARTICIPATION

Federal MBE/FBE Policy

It is national policy to award a fair share of contracts to small and minority business firms. All HUD grantees and subrecipients must take appropriate affirmative action to support minority and women's enterprises, and are encouraged to procure goods and services from labor surplus areas. Therefore, the Subrecipient shall take affirmative steps to ensure that minority (MBE) and female (FBE) business enterprises are utilized during the course of this Agreement, and that a fair share of any contracts generated during such course are awarded to such firms.

SECTION 21.0 – LABOR STANDARDS

The Subrecipient shall comply with all Federal Labor Standards Requirements imposed by the Davis-Bacon Act; the Contract Work Hours and Safety Standards Act; the Copeland Act; and the Fair Labor Standards Act. As a requirement of the Fair Labor Standards Act, the Subrecipient must ensure that a copy of the applicable wage rate decision is included in each contract and subcontract and the Notice to Employees poster that pertains to all federally-funded projects is to be posted, along with a copy of the wage decision, on all construction sites. This information must be posted in a conspicuous location accessible to those employed under any contract funded with CDBG funds. The Federal Labor Standards Provisions are attached hereto and made a part hereof as *Attachment E*.

SECTION 22.0 - HB 87 ILLEGAL IMMIGRATION REFORM

Among other measures, the Illegal Immigration and Reform Enforcement Act of 2011 requires subcontractor and sub-subcontractors to submit their E-Verify affidavits to the Subrecipients working on public projects. The Subrecipient then must forward affidavits to the local government within five (5) days of receipt. The Department of Audits will create a form affidavit.

Attached hereto and made a part hereof as *Attachment F* is The Georgia Security and Immigration Compliance Act Applicant for Public Benefits Affidavit, the Subrecipient, Subcontractor and Sub-subcontractor Affidavits.

SECTION 23.0 – ENVIRONMENTAL REQUIREMENTS

The County, Sub-Recipients, Contractors, Owners, and Developers shall not undertake any activities that would adversely impact or limit the choice of reasonable alternatives for a project until an Environmental Review has been completed and approved by the County. To this end, the County, Sub-Recipients, Subcontractors, Owners, and Developers must not expend public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. Using any portion of federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before, completing the Environmental Review process requires the denial of any federal funds for that project. The Environmental Review Assurances are attached hereto and made a part hereof as *Attachment H*.

Conditional Commitment of Funds

Further, notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of Environmental Review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development (HUD), under 24 CFR Part §58. Additionally, the Sub-Recipient or Subcontractor are prohibited from undertaking or committing any funds to physical or choice-limiting actions,

including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the Agreement. The parties further agree that the provision of any funds to the project is conditioned on the County's determination to proceed with, modify or cancel the project based on the results of a subsequent Environmental Review.

Environmental Conditional Clause

Responsible entities may enter into an Agreement for the conditional commitment of CDBG funds for a specific project prior to the completion of the Environmental Review process. The responsible entity must ensure that any such agreement does not provide the County Recipient, Sub-Recipient, or Subcontractor any legal claim to any amount of CDBG fund to be used for the specific project or site unless and until the site has received environmental clearance.

SECTION 24.0 – LEAD BASED PAINT

On September 15, 2000, HUD published the final rule concerning the control of lead-based paint hazards in housing receiving federal assistance and federally owned housing being sold. These regulations published at 24 CFR Part 35 specify the requirements for treating lead hazards to protect those who occupy housing constructed before 1978. This regulation also implements the new requirements, concepts, and terminology established by the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992. Should the Subrecipient propose to use CDBG funds for the rehabilitation or conversion of residential units, the Subrecipient must meet the requirements of 24 CFR Part 35. The County shall provide ongoing technical assistance to the Subrecipient to assist in meeting these requirements.

SECTION 25.0 – CONFLICT OF INTEREST

No member, officer, or employee of the County or its designee or agents, no member of the governing body of the County, and no other official of the County who exercises or has exercised any functions or responsibilities with respect to the CDBG-assigned activities or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit in any Agreement, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or for those with whom they have family or business ties, during their tenure or for one (1) year thereafter, unless an exemption in writing from this provision is specifically granted by the U. S. Department of Housing and Urban Development.

SECTION 26.0 – PROHIBITION OF USE OF FEDERAL FUNDS FOR LOBBYING

1. By signing this Agreement, the undersigned Subrecipient certifies that all activities under this Agreement will adhere to 24 CFR Part 87 (New Restrictions on Lobbying) and, to the best of his/her knowledge and belief, that:
 - (A) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient or the undersigned, to any person for influencing or attempting to influence an officer or employee of any 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 Agreement, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal Agreement, 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Agreement, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - (C) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and Agreements

under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

- (D) 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 Title 31, U. S. Code, Section 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.

SECTION 27.0 – INDEMNIFICATION AND HOLD HARMLESS

The Subrecipient hereby warrants, represents, covenants and agrees to release, indemnify, defend and hold harmless the County, its commissioners, officers, and employees, from any and all claims, losses, liabilities, damages, deficiencies or costs (including without limitation, reasonable attorney's fees and legal expenses) suffered or incurred by such parties, whether arising in tort, contract, strict liability or otherwise, and including without limitation, personal injury, wrongful death or property damage, arising in any way from the actions or omissions of the Subrecipient, its agents, employees, Subrecipients, officers, or directors. The Subrecipient does further hereby agree to release, indemnify, defend and hold harmless the County, its commissioners, officers, and employees, from any injury (including death resulting there from), loss, claim or damage sustained by the Subrecipient's agents and employees, without regard to negligence. The language of this indemnification clause shall survive termination of this Agreement, even if the County terminates the Agreement for its convenience.

SECTION 28.0 – GOVERNING LAW

1. This Agreement shall be governed in all respects, as to validity, construction, capacity, and performance or otherwise, by the laws of the State of Georgia.
2. A waiver by either party of any breach or any provision, term, covenant or condition of this Agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant or condition.
3. The parties agree that each of the provisions included in this Agreement is separate, distinct and severable from the other remaining provisions of this Agreement, and that the invalidity of any agreement provision shall not affect the validity of any other provision of this agreement.
4. The parties agree that the terms of this Agreement include the entire Agreement between the parties and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this Agreement.
5. Any notices or communications required or permitted herein shall be sufficiently given if sent by Registered or certified mail, return receipt request, postage prepaid, addressed as follows:
As to the County:
Kim Benjamin, Community Development Manager
Fulton County Community Development Department
137 Peachtree Street, SW, Suite 300
Atlanta, GA 30303

As to the Subrecipient:
Elizabeth Carr-Hurst, Mayor
City of Fairburn
56 Malone Street
Fairburn, Georgia 30213

Alternatively, such other addressed as shall be furnished by such notice of the other party.

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IN WITNESS HEREOF, the parties hereunto have set their hands and seal.

CITY OF FAIRBURN

FULTON COUNTY

Elizabeth Carr-Hurst, Mayor
City of Fairburn

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

ATTEST

ATTEST

Arika Birdsong-Miller, City Clerk
City of Fairburn

Tonya Grier, Interim Clerk to the Commission
Fulton County Board of Commissioners

DATE:

DATE:

SEAL:

SEAL:
APPROVED AS TO CONTENT:

Dr. Pamela Roshell, Interim Director
Department of Community Development

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Office of the County Attorney

DATE:

DATE:

Fulton County Community Development Block Grant Program
ATTACHMENT A: Statement of Work
City of Fairburn – Lightning Community Development Study & Demolition

Provide a succinct description of the project submitted in your CDBG application that will be reimbursed with County CDBG funds. Please include specific details related to the following.

- A. Goal
- B. Target Population
- C. National Objective
- D. Number of Beneficiaries

Do not include information on other activities not funded with CDBG.

This project consists of a neighborhood Comprehensive Development Study for the Lightning Community. The study will analyze relevant characteristics of the study area such as demographics, land use, housing, infrastructure, economic development, and urban design. Socio-economic analysis will address characteristics such as populations, age distribution, racial composition, households, employment, wages and trade. A land use and housing analysis will provide an inventory and assessment of existing land uses and housing types within the study area; an assessment of appropriateness of relevant policies contained in the City's comprehensive Plan; and an assessment of ability of existing land use regulations, such as the zoning ordinance and subdivision regulations to facilitate mixed-use development. A transportation analysis will provide an inventory and assessment of existing and planned transportation facilities such as streets, roads, sidewalks, parking, transit, and bicycle lanes/multi-purpose paths. The study should also incorporate recommendations from the City of Fairburn's 2009 Livable Communities Initiative (LCI) Study as appropriate.

This project also consists of the demolition of one property within the Lightning Neighborhood that is on the City of Fairburn's Blighted Properties List. This property is dangerous, dilapidated, and unsightly. This property is also vacant and uninhabitable and has been found to present an imminent danger to the safety and welfare of the community in general.

The service area of the Fairburn program is approximately 500 homes within the quarter-mile radius of the project limits. Based on our occupancy records, we anticipate this project will positively impact over 1,000 residents in the area. Job creation is most likely negligible; however, the project will create work for approximately 20 employees, contractors, and suppliers. Because the intent of the project is to complete a construction project and create a fixed asset, no continuing employment will be affected by it.

The City of Fairburn completed a planning initiative in 2009, with significant public involvement, which identified this type of project as being a priority for the Lightning Neighborhood. This program is the result of the 2009 Livable Centers Initiative (LCI) study and aligns with the recommendations identified in the short term strategies for the City as we continue to improve the Lightning District.

Part of this grant will be used to conduct a neighborhood plan in conjunction with the strategic CDBG development plan. The CDBG award grant will also be used to demolish a single family home on Dodd Street.



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF THE 2018 CDBG CONTRACT WITH FULTON COUNTY

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The 2018 CDBG Contract award is \$162,487. These funds are received through reimbursement request(s).

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve (ratify) the 2018 CDBG Contract with Fulton County for the Dodd Street Utility Relocation Project.

HISTORY: Fulton County has allocated \$162,487 in 2018 CDBG funding that can be used for utility relocation on Dodd Street.

FACTS AND ISSUES: It is our goal to use the funds derived from the 2018 Fulton County CDBG Program to continue the infrastructure project initiated with the additional 2017 grant funding. This project consists of the purchase of the remaining material and the actual infrastructure/utility relocation work required to install sidewalks on the north side of Dodd Street on a future project.

- Please note, only the first 14 pages of the Contract have been included in your packages. The complete document is available for review at City Hall.

RECOMMENDED ACTION: Staff recommends that Mayor and City Council to approve the 2018 CDBG Contract with Fulton County for \$162,487.


Elizabeth Carr-Hurst, Mayor



FULTON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
Community Development Block Grant Program
137 Peachtree Street, Suite 300
Atlanta GA, 30303



**AN AGREEMENT BETWEEN FULTON COUNTY
and
City of Fairburn
STATE OF GEORGIA, COUNTY OF FULTON**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
2020 PUBLIC INFRASTRUCTURE IMPROVEMENTS CONTRACT AGREEMENT
CFDA Number 14.218 – Community Development Block Grants**

Federal Award Identification Number:	B-18-UC-13-0003
City of Fairburn DUNS Number:	099631004
Federal Award Date:	01/01/2019
Fulton County 2018 CDBG Funds Award Amount:	\$162,487.00

THIS AGREEMENT, between Fulton County, Georgia, the Department of Community Development (hereinafter referred to as "the County"), a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners, and the **City of Fairburn** (hereinafter referred to as "the Subrecipient"), a municipality organized and existing in Fulton County under the laws of the State of Georgia.

WITNESSETH THAT:

WHEREAS, on June 20, 2018, the Fulton County Board of Commissioners approved the 2018 Annual Action Plan and substantial amendments as part of the overall Fulton County 2015 – 2019 Consolidated Planning document which includes Community Development objectives and the projected uses of funds for the Community Development Block Grant (CDBG) program activities, as prescribed under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the City of Fairburn has been provided CDBG funds by Fulton County for **Public Infrastructure Improvements** services as set forth in 24 CFR §570.201(c) and to meet a national objective benefiting low/moderate income persons; as set forth in 24 CFR §570.208(a)(1)(i); and

WHEREAS, the Twenty Percent (20%) cap on Administrative Cost expenditures pursuant to CFR §570.200(g) has been reached; and,

WHEREAS, the year 2018 CDBG allocation awarded to the City of Fairburn in the amount of **\$162,487.00**, shall be specifically used for Dodd Street Underground Utility Relocation for citizens of Fulton County and shall not be used towards any Program Administrative Costs. The activities are designed to benefit low-/moderate income persons as required to meet the CDBG national objective; and

WHEREAS, these activities are designed to benefit low and moderate income persons as required to meet the CDBG national objective; and

WHEREAS, this Agreement constitutes the contractual arrangement for said improvements and/or services that have been prepared for execution between the County and the City as consistent with the Fulton County's Consolidated Plan Annual Action Plan for fiscal year 2019 to support the 2015-2019 Consolidated Plan goals.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1 **SECTION 1.0 – STATEMENT OF WORK**

- 2
- 3 1. Under this Agreement, the Subrecipient shall provide the services under this Agreement in accordance
- 4 with the "Statement of Work" attached hereto and made a part hereof as *Attachment A*, consistent with
- 5 applicable federal rules and regulations governing the use of CDBG funds. Additionally, the
- 6 Subrecipient shall perform the work according to the "Implementation Schedule" attached hereto and
- 7 made a part hereof as *Attachment A*.
- 8
- 9 2. Under this Agreement, the Subrecipient shall perform the public facility or improvements work
- 10 according to the "Implementation Schedule," which shall be executed in accordance with the
- 11 Agreement. The "Implementation Schedule" was submitted in the Subrecipient's year 2019 CDBG
- 12 application and is attached hereto and made a part hereof as *Attachment B*.
- 13
- 14 3. Under this Agreement, the Subrecipient shall also provide a CDBG "Cost Reimbursement Budget" for
- 15 the project that is being executed with CDBG funds, as submitted in the Subrecipient's 2019 CDBG
- 16 application. The "Cost Reimbursement Budget" is attached hereto and made a part hereof as
- 17 *Attachment C*.
- 18
- 19 4. Under this Agreement, the Subrecipient shall submit, on not less than a monthly basis, a "Monthly
- 20 Performance Report" detailing project progress as attached hereto and made a part hereof as
- 21 *Attachment D and Attachment D-2*.
- 22
- 23 5. All work described in *Attachments A, B, and C* must be consistent with applicable federal rules and
- 24 regulations governing the use of CDBG funds, and the Subrecipient shall ensure that none of the work
- 25 described constitutes a Program Administrative Cost.
- 26

27 **SECTION 2.0 – COMPENSATION FOR SERVICES AND WORK**

- 28
- 29 1. The County shall make reimbursement compensation for the services described in Section 1.0
- 30 (*Statement of Work*) herein, during the performance of this contract, in accordance with the "Cost
- 31 Reimbursement Budget" attached hereto and made a part hereof as *Attachment C*.
- 32
- 33 2. The County shall make payment to the Subrecipient upon conditional commitment of funds as the
- 34 project is subject to Environmental Review. Payment shall then be made through reimbursement of
- 35 costs incurred by the Subrecipient in the performance and execution of the services under this
- 36 contract. Payments shall be made timely upon the County's receipt of proper and sufficient
- 37 documentation of such costs and as satisfactory to the County. The County shall have the right not to
- 38 pay any request for reimbursement or part thereof if not properly supported, or if the costs requested
- 39 or a part thereof, as determined by the County, are reasonably in excess of the actual stage of
- 40 completion.
- 41
- 42 3. Such documentation shall include, but not be limited to time sheets, vendors' and suppliers' invoices or
- 43 vouchers, mileage logs, etc.
- 44
- 45 4. This documentation, along with a written request for reimbursement and a statement of costs incurred
- 46 shall be submitted to the attention of the assigned Community Development Specialist at the Fulton
- 47 County Department of Housing and Community Development, 137 Peachtree Street, SW, Suite 300,
- 48 Atlanta, GA, 30303. A minimum of one copy of the request and the statement shall be included with
- 49 the submission. One copy must be accompanied by documentation supporting the eligible costs.
- 50

51 **SECTION 3.0 – TERM OF AGREEMENT**

- 52
- 53 1. The completion date of this Agreement shall be on or before December 31, 2021, unless otherwise
- 54 extended in writing, terminated by mutual agreement, or by the County, or in accordance with other
- 55 terms and provisions contained herein. Any modifications to the term of the Agreement shall be
- 56 documented through an amendment process as outlined in the County's Citizen Participation Plan as
- 57 executed by the County. The term of this Agreement shall be in compliance with the Fiscal Year 2018-
- 58 2020 Cooperative Agreement between Fulton County and the City.
- 59

2. The completion date of this Agreement is computed on the basis that the Subrecipient is eligible to receive retroactive costs incurred on or after January 1, 2019. The United States Department of Housing and Urban Development (HUD) with the County will make funds available for eligible incurred costs upon execution of the year 2018 grant agreement.
3. Although the completion date shall be (24) months, on or before December 31, 2021, the County periodically reports CDBG accomplishments and expenditures to HUD. By November 1, 2020, HUD traditionally reviews the County's collective accomplishments and expenditures, thus the County strongly encourages all Subrecipient services and work to be near completion by September 15, 2020 with no less than seventy percent (70%) of its eligible reimbursement costs submitted appropriately for review.

SECTION 4.0 - MODIFICATIONS TO AGREEMENT

1. In the event the Subrecipient chooses to modify its pre-approved "Statement of Work" by adding or deleting a project, the Subrecipient shall submit to the County a written request for the approval of such changes 30 days after execution of the contract. No such modification shall become effective unless and until approved by the County in the form of a formal amendment to the Subrecipient's "Statement of Work".
2. Additions or deletions to the "Statement of Work", which have been approved as a part of the County's Consolidated Plan may be allowed one time per Fiscal Year, subject to County approval. The Subrecipient must submit its request within the time frame referenced above.
3. The County must adhere to 24 CFR 91.505 "Amendments to the Consolidated Plan". The Subrecipient's failure to request modifications 30 days after execution of the contract shall result in the County's automatic denial of any such modifications to said Agreement and shall be construed as the Subrecipient's failure to properly and timely fulfill its obligations under this Agreement and will result in the County's right to exercise its options under Section 6.0 (*Termination of Agreement for Cause*) of this Agreement.
4. This Agreement constitutes the entire contractual arrangement between the County and the Subrecipient, and there are no further written or oral agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the County's and the Subrecipients' duly authorized representatives.
5. Further, in the event of any material change or modification in the Subrecipient's Agreement or agreement with any other funding source during the course of this Agreement, the Subrecipient shall immediately notify the County of such change. In such event, the County shall have the right to terminate its obligations under this Agreement, discontinue future funding hereunder, and demand the refund or return of funds previously advanced.

SECTION 5.0 – EXTENSIONS

In the event the Subrecipient determines that it cannot begin projects as scheduled or complete projects within the time frame indicated by the Subrecipient in Attachment B, no extension will be granted.

SECTION 6.0 – SUSPENSION OF WORK

1. The County may by written notice to the Subrecipient suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Subrecipient must unless the notices requires otherwise: (i) immediately discontinue suspended services; (ii) place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and (iii) take any other reasonable steps to minimize costs associated with the suspension.

- 1
2 2. The County may elect to resume suspended service upon written notice to the Subrecipient. Upon
3 receipt of notice to resume suspended services, the Subrecipient will immediately resume performance
4 under this Agreement as required in the notice.
5
6

7 **SECTION 7.0 – TERMINATION OF AGREEMENT**
8

9 **1. Termination for Cause**

10 Time is of the essence and if, through any cause, the Subrecipient shall fail to fulfill in a timely and
11 proper manner its obligations under this Agreement, or in the event that any of the provisions or
12 stipulations of this Agreement are violated by the Subrecipient, the County shall thereupon have the
13 right to terminate this Agreement by providing written notice to the Subrecipient of the County's intent
14 to terminate the Agreement, specifying the reasons for such intention for termination. Unless within
15 ten (10) calendar days after serving of such notice (by hand delivery or posting in the U.S. Mail) to the
16 Subrecipient such violation or delay shall cease or arrangements for correction satisfactory to the
17 County be made, the Agreement shall, upon expiration of said ten (10) calendar days, be terminated
18 without further notice. Upon such termination, the Subrecipient will be compensated by the County for
19 expenses deemed by the County to be due and reasonable.
20

21
22 The Subrecipient shall be liable for any damage to the County resulting from the Subrecipient's refusal
23 or failure to complete the work within the specified time period, and said damages shall include, but not
24 be limited to, any additional costs associated with the County obtaining the services of another
25 Subrecipient to complete the project.
26

27 **2. Termination for Convenience of the County**

28 In the event the County determines that it is no longer feasible or in its best interest to continue
29 assisting the service covered by this Agreement, or should the U.S. Department of Housing and Urban
30 Development institute corrective and/or remedial actions against the County in accordance with
31 regulations under the CDBG program where such actions impede or halt the disbursement of the
32 County CDBG funds for this project, the County may terminate this Agreement by giving at least fifteen
33 (15) calendar days prior notice in writing (by hand delivery or posting in the U.S. mail) to the
34 Subrecipient.
35

36 In addition, in the event this agreement has been terminated due to the default of the Subrecipient, and
37 if it is later determined that the Subrecipient was not in default pursuant to the provisions of this
38 Agreement at the time of termination, then such termination shall be considered a termination for
39 convenience pursuant to this paragraph.
40

41 **SECTION 8.0 – INDEPENDENT SUBRECIPIENT STATUS**
42

43 Nothing herein contained shall be deemed to create a relationship other than that of independent
44 Subrecipient between the County and the Subrecipient. Under no circumstances shall the
45 Subrecipient, its principals, employees, subcontractors, associates, or agents be deemed employees,
46 agents, partners, successors, assigns, or legal representatives of the County except as specifically
47 required herein.
48

49 **SECTION 9.0 – ASSIGNMENT OF AGREEMENT**
50

51 The Subrecipient shall not make any purported assignment of this Agreement or any part thereof, or
52 delegate the duties herewith without prior written consent of the County. Any attempted assignment or
53 delegation of duties by the Subrecipient without prior expressed written consent of the County shall at
54 the County's sole option terminate this Agreement without any notice to the Subrecipient of such
55 termination. The Subrecipient binds itself, its successors, assigns, and legal representatives of such
56 other party in respect to all covenants, agreements and obligations contained herein.
57
58
59

1 **SECTION 10.0 – PROGRAM INCOME**

- 2
- 3 1. Program income, as defined in 24 CFR 570.500 (a), means any gross income received by the recipient
- 4 (County) or a Subrecipient (the Subrecipient) directly generated from the use of CDBG funds, except
- 5 as provided in paragraph (a)(4) of 570.500. When program income is generated by an activity that is
- 6 only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of
- 7 CDBG funds used. The Subrecipient shall provide information regarding program income, with a
- 8 breakdown of the CDBG allocation, to the County concurrently with the quarterly reports described and
- 9 required by Section 13.0 of this Agreement.
- 10
- 11 2. Any program income received or generated by the Subrecipient as a result of the CDBG assistance
- 12 provided under this Agreement is to be retained by the Subrecipient during the duration of this
- 13 Agreement. The activities undertaken with any program income generated shall conform to
- 14 Attachment A of this Agreement ("Statement of Work") and shall comply with all other provisions of this
- 15 Agreement.
- 16
- 17 3. If at any time during the duration of this Agreement the Subrecipient retains program income, transfers
- 18 of grant funds by the County to the Subrecipient shall be adjusted according to the principles described
- 19 in paragraphs (b) (2) (i) and (ii) of §570.504, which state that all program income must be disbursed for
- 20 eligible activities before additional cash withdrawals are made by the recipient from the U.S. Treasury.
- 21

22 **SECTION 11.0 – REVERSION OF ASSETS**

- 23
- 24 1. Upon expiration or termination of this Agreement, any remaining program income that is either on hand
- 25 or to be received after the Agreement's expiration, shall be transferred by the Subrecipient to the
- 26 County as required by 24 CFR 570.503(b)(7) "Agreements with Subrecipients".
- 27
- 28 2. Further, in the event that the Subrecipient should sell or otherwise dispose of any property acquired
- 29 with the County CDBG funds, the manner of said disposition shall result in the County being
- 30 reimbursed in the amount of the current fair market value of the property at that time less any portion
- 31 of the value attributable to expenditures of non-County CDBG funds. In the event that such a sale or
- 32 disposition occurs more than ten (10) years after expiration or termination of this Agreement, such
- 33 reimbursement shall not be required.
- 34

35 **SECTION 12.0 – COPYRIGHT AND PUBLICITY**

- 36
- 37 1. No report, map, or other document produced in whole or in part under this Agreement shall be the
- 38 subject of an application for copyright by or on behalf of the Subrecipient without the prior written
- 39 consent of the County. All such reports, maps, or other documents shall become and be deemed the
- 40 property of the County and title therein shall automatically vest in the County.
- 41
- 42 2. Further, any publicity given to this project must identify the County prominently as a sponsoring
- 43 agency. Specifically, at all places of, and in all publications concerning, this project, the Subrecipient
- 44 agrees to display and make known that the project was assisted under the auspices of the Fulton
- 45 County Community Development Block Grant program. In the event of new construction or substantial
- 46 rehabilitation, and at the County's discretion, the Subrecipient shall acknowledge the use of CDBG
- 47 funds for the project by installation of a permanent plaque at the project site. The County in
- 48 collaboration with the Subrecipient shall determine design and replica for the plaque.
- 49

50 **SECTION 13.0 – RECORDS AND REPORTS**

- 51
- 52 1. **Records**
- 53 The Subrecipient shall maintain accounts and records, (including an annual Audit) personal property
- 54 and financial records, adequate to identify and account for all costs pertaining to this Agreement and
- 55 such other records as may be requested by the County including financial data pertaining to the
- 56 preparation of the U.S. Department of Housing and Urban Development (HUD) Consolidated Annual
- 57 Performance and Evaluation Report (CAPER) to assure proper accounting for all funds, both public
- 58 and private. Said records shall be made available for audit purposes to the County, HUD, or any
- 59 authorized representative thereof, upon reasonable request and within three (3) days of said request.

1
2 **Retention**

3 Pursuant to 24 CFR 570.502(a) (7) (ii), the retention period of individual CDBG activities shall be the
4 longer of 3 years after the expiration or termination of the subrecipient agreement under 24 CFR
5 507.503, or 3 years after the submission of the annual performance and evaluation report, as
6 prescribed in 24 CFR 91.520 of this title, in which the specific activity is reported on for the final time.
7 In addition, records for individual activities subject to the reversion of assets provisions at §570.503(b)
8 (7) or change of use provisions at §570.505 must be maintained for as long as those provisions
9 continue to apply to the activity. Moreover, records for individual activities for which there are
10 outstanding loan balances, other receivables, or contingent liabilities must be retained until such
11 receivables or liabilities have been satisfied.

12 The Subrecipient's records and accounts shall at all times meet or exceed the applicable requirements
13 of federal, state, and local laws, rules, and regulations. The Subrecipient's duty to retain records and
14 permit inspections and copying shall remain in force and effect even after the expiration or termination
15 of this Agreement.

16
17 **2. Reports**

18 The Subrecipient shall provide the County with a written plan that outlines the activities and processes
19 of the program that will be funded by CDBG. Further, the Subrecipient shall submit detailed reports on
20 the progress made and services of their programs based on the objectives they establish in response
21 to local needs and goals. Objectives reflect the common ways that Subrecipients work to achieve their
22 goals. The Objectives incorporated into the proposed Outcome Measurement System are: Suitable
23 Living Environment, Decent Housing, and Economic Opportunity. Outcome measurements will be
24 based on (a) Availability /Accessibility (b) Affordability (c) Sustainability. Outcomes show how
25 programs benefit a community or people served. Indicators tell whether an outcome is occurring.

26
27 At a minimum, these reports shall be submitted on a monthly basis. The monthly reports are due the
28 fifth (5th) of the following month for activities which occurred in the previous month, and shall be
29 submitted on the "Public Facility Monthly Performance Report" attached hereto and made a part hereof
30 as *Attachment D*. The year-end reports are due no later than thirty (30) days after the contract expires
31 for activities which occurred during the funding year in the "Year End Performance Report" attached
32 hereto and made a part hereof as *Attachment D-2*.

33
34 Said reports shall be submitted to the County, to the attention of the assigned Community
35 Development Specialist at the Fulton County Department of Housing and Community Development,
36 137 Peachtree Street, SW, Suite 300, Atlanta, GA., 30303. Two (2) copies of the report shall be
37 included in each submission, one (1) copy for the Community Development Specialist and the other
38 one (1) copy addressed to the CDBG Community Development Grant Manager.

39
40 **SECTION 14.0 – INSPECTION OF FILES AND RECORDS**

41
42 The County shall at all reasonable times have access to the pertinent offices and books and records
43 (including an annual Balance Sheet or Independent Audit) of the Subrecipient for inspection of the
44 activities performed and expenses incurred under this Agreement. The County will perform and the
45 Subrecipient shall be prepared to meet the requirements of, at least, one (1) audit per year.

46
47 **SECTION 15.0 – CITIZEN PARTICIPATION MEETINGS AND TECHNICAL ASSISTANCE MEETINGS**

48
49 Subrecipient representative must attend at least one (1) CDBG related Citizen Participation meeting,
50 participate in every Technical Assistance (TA)/Needs Assessment session and the annual Monitoring
51 session during each contract year. The County shall provide meeting dates and locations timely, and
52 shall provide comprehensive information to assist the Subrecipient to perform efficiently and
53 effectively.

1 **SECTION 16.0 -- MONITORING**

2
3 Through on-site and remote monitoring, the County determines whether the Subrecipient's
4 performance meets CDBG program requirements and assists to improve the Subrecipient's
5 performance by providing guidance and making recommendations. Monitoring visits are conducted no
6 less than once per contract term with a specific purpose to validate the accuracy of information
7 presented in the program participant's performance reports. On-site and remote monitoring is also
8 conducted to follow-up on problems identified during the Consolidated Annual Performance and
9 Evaluation Report (CAPER) assessment that are not resolved as of the date of the monitoring, to
10 determine compliance for those activities where there is sufficient information, to make eligibility and/or
11 national objective determinations, and to ascertain the Subrecipient's ability to ensure that activities
12 meet compliance requirements.
13

14 **SECTION 17.0 - FINDINGS / NON-COMPLIANCE**

15
16 1. The Subrecipient shall be notified in writing by the County of any Findings or Concerns identified
17 during each monitoring visit. The Subrecipient shall be given thirty (30) calendar days from the time of
18 written notification by the County for corrective actions to take place. The County will not
19 unreasonably withhold acceptance of corrective actions taken in good faith by the Subrecipient. Upon
20 the Subrecipient proving satisfactory corrective action, a letter shall be sent to the Subrecipient stating
21 that such findings or concerns have been addressed. Pursuant to 24 CFR 570.501, in the event the
22 Subrecipient fails to correct the findings or fails to comply with terms and provisions of this Agreement,
23 the County may take corrective and remedial actions such as those described in 24 CFR 570.910.
24 Such remedial actions may include, but are not limited to, the following:

- 25
26 a. Temporarily withhold cash payments pending correction of the deficiency;
27
28 b. Disallow all or part of the cost of the activity or action not in compliance;
29
30 c. Wholly or partly suspend or terminate the current award;
31
32 d. Withhold further award; or
33
34 e. Take other remedies that may be legally available.
35

36 **SECTION 18.0 – UNIFORM ADMINISTRATIVE REQUIREMENTS**

37 During its performance under this Agreement, the Subrecipient shall comply with the requirements and
38 standards of the Office of Management and Budget (OMB) codified at 2 CFR part 200 and guidance at
39 a new part, 2 CFR part 2400 which streamlines the Federal government's guidance on administrative
40 requirements, cost principles, and audit requirements to more effectively focus Federal resources on
41 improving performance and outcomes, while ensuring the financial integrity of taxpayer dollars in
42 partnership with non-Federal stakeholders. <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-andbudgets-uniform>)
44

45
46 The uniform guidance supersedes, consolidates, and streamlines requirements from eight OMB
47 Circulars:

- 48 • A-21, Cost Principles for Educational Institutions,
49 • A-87, Cost Principles for State, Local and Indian Tribal Governments,
50 • A-89, Catalog of Federal Domestic Assistance,
51 • A-102, Grants and Cooperative Agreements With State and Local Governments,
52 • A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions
53 of Higher Education, Hospitals and Other Non-Profit Organizations,
54 • A-122, Cost Principles for Non-Profit Organizations,
55 • A-133, Audits of States, Local Governments, and Non-Profit Organizations, and
56 • The guidance in OMB Circular A-50, Audit Follow-up, on Single Audit Act follow-up.
57
58
59

1 **SECTION 19.0 – EQUAL OPPORTUNITY AND NON-DISCRIMINATION**

2
3 **1. Civil Rights Act of 1964 (As amended)**

4
5 The Subrecipient shall comply with all Federal requirements imposed by or pursuant to Title VI and
6 Title VII of the Civil Rights Acts, as Amended; Age Discrimination In Employment Act; Rehabilitation
7 Act of 1973, as Amended, Section 504; Equal Pay Act; The American with Disabilities Act of 1990, as
8 Amended; Fair Housing Act, as Amended; and other applicable Acts which prohibits discrimination on
9 the ground of race, color, religion, sex, age, national origin, handicap, disability, or familial status. No
10 person in the United States shall be excluded from participation in, be denied the benefit of, or be
11 subjected to discrimination under this Agreement.

12
13 **2. Section 109 of the Housing and Community Development Act of 1974 (As amended)**

14 The Subrecipient shall also comply with Section 109 of the Housing and Community Development Act
15 of 1974, as amended, which requires that no person in the United States shall on the ground of race,
16 color, national origin, sex, age, disability, or familial status, be excluded from participation in, be denied
17 the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part
18 with community development funds made available pursuant to said Act.

19
20 **3. Further, during the performance of this Agreement, the Subrecipient agrees as follows**

- 21
22 (A) The Subrecipient shall not discriminate against any employee, or applicant for employment,
23 because of race, religion, color, sex, national origin, age, disability, or familial status. As used
24 herein, the word "employment" means and includes without limitation the following:
- 25
26 • Recruiting, whether by advertising or other means; compensation or wages,
27 whether in the form of rates of pay, or other forms of compensation; selection for
28 training including apprenticeship; promotions; upgrades; demotions; downgrades;
29 transfers; layoffs; and terminations.
 - 30
31 • The Subrecipient shall post in a conspicuous place, available to employees and
32 applicants for employment, notices setting forth the provisions of the
33 non-discrimination clause.
- 34
35 (B) The Subrecipient shall in all solicitations or advertisements for employees, placed by or on
36 behalf of itself, state that all qualified applicants will receive consideration for employment
37 without regard to race, religion, color, sex, national origin, age, disability or familial status.
- 38
39 (C) The Subrecipient shall, when applicable, send to each labor union or representative of workers
40 with which the Subrecipient has a collective bargaining agreement or other Agreement or
41 understanding, a notice representative of the Subrecipient's commitment under the Equal
42 Opportunity Program of the County and under this Article and shall post copies of the notice in
43 conspicuous places available to employees and applicants for employment.
- 44
45 (D) The Subrecipient shall file compliance reports at reasonable times and intervals with the
46 County in the form and to the extent prescribed by the County. Compliance reports filed when
47 directed shall contain information as to the employment practices, policies, programs, and
48 statistics of the Subrecipient and his Subrecipients.
- 49
50 (E) The Subrecipient shall include the provisions of paragraph (A) through (F) of this Equal
51 Employment Opportunity Clause in every subcontract or purchase order so that such
52 provisions will be binding upon each subcontractor or vendor.
- 53
54 (F) The Subrecipient shall comply with the provisions of Section 109 of the Act which provides, in
55 part, that any prohibition against discrimination on the basis of age under the Age
56 Discrimination Act of 1975, or as provided in Section 504 of the Rehabilitation Act of 1973,
57 shall also apply to any program or activity funded in whole or in part with funds made available
58 pursuant to the Act and provided hereunder. These provisions shall also be binding upon
59 each subcontractor or vendor.

1
2 **4. Section 3 of the Housing and Urban Development Act of 1968**

- 3
4 (A) The work to be performed under this Agreement is subject to the requirements of Section 3 of
5 the Housing and Urban Development Act of 1968, as amended. Section 3 requires that, to the
6 greatest extent feasible, opportunities for training and employment be given to low income
7 persons residing within the unit of local government in which the project is located, and that
8 Agreements for work in connection with the project be awarded to businesses which are
9 located in, or owned in substantial part, by persons residing in the area of the project.
10
11 (B) Accordingly, the Subrecipient shall, when applicable, send to each labor organization or
12 representative of workers with which it has a collective bargaining agreement or other
13 Agreement or understanding, a notice of its commitment under this Section 3 clause and shall
14 post copies of the notice in conspicuous places available to employees and applicants for
15 employment or training.
16
17 (C) The Subrecipient shall include this Section 3 clause in every subcontract for work in
18 connection with the project and will take appropriate action pursuant to the subcontract upon a
19 finding that the subcontractor is in violation of regulations issued by the Secretary of Housing
20 and Urban Development, 24 CFR Part 135. The Subrecipient shall not subcontract with any
21 subcontractor where it has notice or knowledge that the latter has been found in violation of
22 regulations under 24 CFR Part 135, unless the subcontractor has first provided it with a
23 preliminary statement of ability to comply with the requirements of those regulations. The
24 Federal Section 3 Provisions are attached hereto and made a part hereof as *Attachment G*.

25
26 **5. Equal Access to Housing in HUD Programs**

- 27
28 (A) Through final rule effective March 5, 2012 (Equal Access to Housing in HUD Programs
29 Regardless of Sexual Orientation or Gender Identity) 24 CFR Parts 5, 200,203, 236, 400, 570,
30 574, 882, 891, and 982, HUD implements a policy to ensure that its core programs are open to
31 all eligible individuals and families regardless of sexual orientation, gender identity, or marital
32 status.
33
34 (B) It is important that HUD and Fulton County ensure that their programs do not involve
35 discrimination against any individual or family otherwise eligible for HUD-assisted or -insured
36 housing, but that its policies and programs serve as models for equal housing opportunity.
37 Failure to comply with the requirements of this Rule will be considered a violation of the
38 program requirements and will subject the non-compliant grantee to all sanctions and
39 penalties available for program requirement violations.
40
41 (C) Under 24 CFR 5.100 "sexual orientation" is defined -as "homosexuality, heterosexuality, or
42 bisexuality," a definition that the Office of Personnel Management (OPM) uses in the context of
43 the federal workforce in its publication "Addressing Sexual Orientation in Federal Civilian
44 Employment: A Guide to Employee Rights."
45
46 (D) To promote equal access to HUD's housing programs without regard to sexual orientation or
47 gender identity, HUD prohibits unlawful inquiries regarding sexual orientation or gender
48 identity. The prohibition precludes owners and operators of HUD-assisted housing or housing
49 whose financing is insured by HUD from inquiring about sexual orientation or gender identity of
50 an applicant for, or occupant of, the dwelling, whether renter- or owner-occupied.
51

52 **SECTION 20.0 – MINORITY BUSINESS ENTERPRISE (MBE/FBE) PARTICIPATION**

53
54 **Federal MBE/FBE Policy**

55
56 It is national policy to award a fair share of contracts to small and minority business firms. All HUD
57 grantees and subrecipients must take appropriate affirmative action to support minority and women's
58 enterprises, and are encouraged to procure goods and services from labor surplus areas. Therefore,
59 the Subrecipient shall take affirmative steps to ensure that minority (MBE) and female (FBE) business

enterprises are utilized during the course of this Agreement, and that a fair share of any contracts generated during such course are awarded to such firms.

SECTION 21.0 – LABOR STANDARDS

The Subrecipient shall comply with all Federal Labor Standards Requirements imposed by the Davis-Bacon Act; the Contract Work Hours and Safety Standards Act; the Copeland Act; and the Fair Labor Standards Act. As a requirement of the Fair Labor Standards Act, the Subrecipient must ensure that a copy of the applicable wage rate decision is included in each contract and subcontract and the Notice to Employees poster that pertains to all federally-funded projects is to be posted, along with a copy of the wage decision, on all construction sites. This information must be posted in a conspicuous location accessible to those employed under any contract funded with CDBG funds. The Federal Labor Standards Provisions are attached hereto and made a part hereof as *Attachment E*.

SECTION 22.0 - HB 87 ILLEGAL IMMIGRATION REFORM

Among other measures, the Illegal Immigration and Reform Enforcement Act of 2011 requires subcontractor and sub-subcontractors to submit their E-Verify affidavits to the Subrecipients working on public projects. The Subrecipient then must forward affidavits to the local government within five (5) days of receipt. The Department of Audits will create a form affidavit.

Attached hereto and made a part hereof as *Attachment F* is The Georgia Security and Immigration Compliance Act Applicant for Public Benefits Affidavit, the Subrecipient, Subcontractor and Sub-subcontractor Affidavits.

SECTION 23.0 – ENVIRONMENTAL REQUIREMENTS

The County, Sub-Recipients, Contractors, Owners, and Developers shall not undertake any activities that would adversely impact or limit the choice of reasonable alternatives for a project until an Environmental Review has been completed and approved by the County. To this end, the County, Sub-Recipients, Subcontractors, Owners, and Developers must not expend public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. Using any portion of federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before, completing the Environmental Review process requires the denial of any federal funds for that project. The Environmental Review Assurances are attached hereto and made a part hereof as *Attachment H*.

Conditional Commitment of Funds

Further, notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of Environmental Review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development (HUD), under 24 CFR Part §58. Additionally, the Sub-Recipient or Subcontractor are prohibited from undertaking or committing any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the Agreement. The parties further agree that the provision of any funds to the project is conditioned on the County's determination to proceed with, modify or cancel the project based on the results of a subsequent Environmental Review.

Environmental Conditional Clause

Responsible entities may enter into an Agreement for the conditional commitment of CDBG funds for a specific project prior to the completion of the Environmental Review process. The responsible entity must ensure that any such agreement does not provide the County Recipient, Sub-Recipient, or Subcontractor any legal claim to any amount of CDBG fund to be used for the specific project or site unless and until the site has received environmental clearance.

1 **SECTION 24.0 – LEAD BASED PAINT**

2
3 On September 15, 2000, HUD published the final rule concerning the control of lead-based paint
4 hazards in housing receiving federal assistance and federally owned housing being sold. These
5 regulations published at 24 CFR Part 35 specify the requirements for treating lead hazards to protect
6 those who occupy housing constructed before 1978. This regulation also implements the new
7 requirements, concepts, and terminology established by the Residential Lead-Based Paint Hazard
8 Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992.
9 Should the Subrecipient propose to use CDBG funds for the rehabilitation or conversion of residential
10 units, the Subrecipient must meet the requirements of 24 CFR Part 35. The County shall provide
11 ongoing technical assistance to the Subrecipient to assist in meeting these requirements.
12

13 **SECTION 25.0 – CONFLICT OF INTEREST**

14
15 No member, officer, or employee of the County or its designee or agents, no member of the governing
16 body of the County, and no other official of the County who exercises or has exercised any functions or
17 responsibilities with respect to the CDBG-assigned activities or who is in a position to participate in a
18 decision making process or gain inside information with regard to such activities, may obtain a
19 personal or financial interest or benefit in any Agreement, subcontract or agreement with respect
20 thereto, or the proceeds there under, either for themselves or for those with whom they have family or
21 business ties, during their tenure or for one (1) year thereafter, unless an exemption in writing from this
22 provision is specifically granted by the U. S. Department of Housing and Urban Development.
23

24 **SECTION 26.0 – PROHIBITION OF USE OF FEDERAL FUNDS FOR LOBBYING**

- 25
26 1. By signing this Agreement, the undersigned Subrecipient certifies that all activities under this
27 Agreement will adhere to 24 CFR Part 87 (New Restrictions on Lobbying) and, to the best of his/her
28 knowledge and belief, that:
29
30 (A) No Federal appropriated funds have been paid or will be paid, by or on behalf of the
31 Subrecipient or the undersigned, to any person for influencing or attempting to influence an
32 officer or employee of any agency, a Member of Congress, an officer or employee of
33 Congress, or an employee of a Member of Congress in connection with the awarding of any
34 federal Agreement, the making of any federal grant, the making of any federal loan, the
35 entering into of any cooperative agreement, or the extension, continuation, renewal,
36 amendment, or modification of any federal Agreement, grant, loan or cooperative agreement.
37
38 (B) If any funds other than federal appropriated funds have been paid or will be paid to any person
39 for influencing or attempting to influence an officer or employee of any agency, a Member of
40 Congress, an officer or employee of Congress, or an employee of a Member of Congress in
41 connection with this federal Agreement, grant, loan, or cooperative agreement, the
42 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report
43 Lobbying," in accordance with its instructions.
44
45 (C) The undersigned shall require that the language of this certification be included in the award
46 documents for all sub-awards at all tiers (including subcontracts, subgrants, and Agreements
47 under grants, loans, and cooperative agreements) and that all subrecipients shall certify and
48 disclose accordingly.
49
50 (D) This certification is a material representation of fact upon which reliance was placed when this
51 transaction was made or entered into. Submission of this certification is a prerequisite for
52 making or entering into this transaction imposed by Title 31, U. S. Code, Section 1352. Any
53 person who fails to file the required certification shall be subject to a civil penalty of not less
54 than \$10,000 and not more than \$100,000 for each such failure.
55
56
57
58
59

1 **SECTION 27.0 – INDEMNIFICATION AND HOLD HARMLESS**

2
3 The Subrecipient hereby warrants, represents, covenants and agrees to release, indemnify, defend
4 and hold harmless the County, its commissioners, officers, and employees, from any and all claims,
5 losses, liabilities, damages, deficiencies or costs (including without limitation, reasonable attorney's
6 fees and legal expenses) suffered or incurred by such parties, whether arising in tort, contract, strict
7 liability or otherwise, and including without limitation, personal injury, wrongful death or property
8 damage, arising in any way from the actions or omissions of the Subrecipient, its agents, employees,
9 Subrecipients, officers, or directors. The Subrecipient does further hereby agree to release, indemnify,
10 defend and hold harmless the County, its commissioners, officers, and employees, from any injury
11 (including death resulting there from), loss, claim or damage sustained by the Subrecipient's agents
12 and employees, without regard to negligence. The language of this indemnification clause shall survive
13 termination of this Agreement, even if the County terminates the Agreement for its convenience.
14

15
16 **SECTION 28.0 – GOVERNING LAW**

- 17
18 1. This Agreement shall be governed in all respects, as to validity, construction, capacity, and
19 performance or otherwise, by the laws of the State of Georgia.
20
21 2. A waiver by either party of any breach or any provision, term, covenant or condition of this Agreement
22 shall not be deemed a waiver of any subsequent breach of the same or any other provision, term,
23 covenant or condition.
24
25 3. The parties agree that each of the provisions included in this Agreement is separate, distinct and
26 severable from the other remaining provisions of this Agreement, and that the invalidity of any
27 agreement provision shall not affect the validity of any other provision of this agreement.
28
29 4. The parties agree that the terms of this Agreement include the entire Agreement between the parties
30 and as such, shall exclusively bind the parties. No other representations, either oral or written, may be
31 used to contradict the terms of this Agreement.
32
33 5. Any notices or communications required or permitted herein shall be sufficiently given if sent by
34 Registered or certified mail, return receipt request, postage prepaid, addressed as follows:

35
36 As to the County:

37 Kim Benjamin, Community Development Manager
38 Fulton County Community Development Department
39 137 Peachtree Street, SW, Suite 300
40 Atlanta, GA 30303
41

42 As to the Subrecipient:

43
44 Elizabeth Carr-Hurst, Mayor
45 City of Fairburn
46 56 Malone Street
47 Fairburn, Georgia 30213
48
49
50

51 Alternatively, such other address as shall be furnished by such notice of the other party.
52

53 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

IN WITNESS HEREOF, the parties hereunto have set their hands and seal.

CITY OF FAIRBURN

FULTON COUNTY

Elizabeth Carr-Hurst, Mayor
City of Fairburn

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

ATTEST

ATTEST

Arika Birdsong-Miller, City Clerk
City of Fairburn

Tonya A. Grier, Interim Clerk to the Commission
Fulton County Board of Commissioners

DATE:

DATE:

SEAL:

SEAL:
APPROVED AS TO CONTENT:

Dr. Pamela Roshell, Interim Director
Department of Community Development

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Office of the County Attorney

DATE:

DATE:

Fulton County Community Development Block Grant Program
Attachment A: Statement of Work
City of Fairburn – Dodd Street Utility Relocation Project

PROJECT NAME/DESCRIPTION:

This project consists of the infrastructure/utility relocation required for the City of Fairburn to install sidewalks on the north side of Dodd Street (from W. Campbellton St. to Orchard St.) on a future project. In order to do so it is required to relocate the existing utilities to provide the necessary clear space for the proposed sidewalk.

Dodd Street is a major thoroughfare within the Lightning Community and it is used by the residents in the area to access the goods, services and various amenities located in the downtown area. It is important to note that the City of Fairburn's Livable Centers Initiative (LCI) study calls for the installation of sidewalk on both sides of Dodd Street. This completion of this proposed project will aid in satisfying some of the recommendations contained within the aforementioned study.

The service area of the Fairburn program is approximately 500 homes within the quarter-mile radius of the project limits. Based on our occupancy records, we anticipate this project will positively impact over 1,000 residents in the area. Job creation is most likely negligible; however, the project will create work for approximately 20 employees, contractors, and suppliers. Because the intent of the project is to complete a construction project and create a fixed asset, no continuing employment will be affected by it.

The City of Fairburn completed a planning initiative in 2009, with significant public involvement, which identified projects such as these as being priorities for the Lightning neighborhood. This program is the result of the 2009 Livable Centers Initiative (LCI) study and aligns with the recommendations identified in the short-term strategies for the City as we forward to improve the Lightning District.

The total cost of work proposed as stated above is \$290,000.00.

Target Population: The target population for the pedestrian improvement project (public infrastructure improvements) as described above are the residents of Fairburn. The City currently has 1,038 residents residing in census tract 105.14, of which all are categorized as low/moderate income levels. The stated census tract is within the project activity area.

National Objective: The CDBG national objective being addressed is to provide to low/moderate income persons under area benefit qualified by median income of the target population census tracts. City of Fairburn which has a median income of \$43,886.



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF THE 2019 CDBG CONTRACT WITH FULTON COUNTY

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The 2019 CDBG Contract award is \$162,487. These funds are received through reimbursement request(s).

PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve (ratify) the 2019 CDBG Contract with Fulton County for the Dodd Street Pedestrian Improvements Project.

HISTORY: Fulton County has allocated \$162,487 in 2019 CDBG funding that can be used for Pedestrian Improvements on Dodd Street.

FACTS AND ISSUES: It is our goal to use the funds derived from the 2019 Fulton County CDBG Program to continue an infrastructure project initiated with the additional 2017 grant funding. This project consists of the installation of sidewalk and header curb on the north side of Dodd Street (from W. Campbellton St. to Mullis St.). Due to the existing topography of Dodd Street, the installation of a retaining wall will also be required (from Orchard Street to W. Campbellton) to accommodate the installation of the proposed sidewalk. Pedestrian lighting is also being considered and will be included in the project scope as the budget allows.

- Please note, only the first 14 pages of the Contract have been included in your packages. The complete document is available for review at City Hall.

RECOMMENDED ACTION: Staff recommends that Mayor and City Council to approve the 2019 CDBG Contract with Fulton County for \$162,487.


Elizabeth Carr-Hurst, Mayor



FULTON COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
Community Development Block Grant Program
137 Peachtree Street, Suite 300
Atlanta GA, 30303



**AN AGREEMENT BETWEEN FULTON COUNTY
and
City of Fairburn
STATE OF GEORGIA, COUNTY OF FULTON**

**COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
2020 PUBLIC INFRASTRUCTURE IMPROVEMENTS CONTRACT AGREEMENT
CFDA Number 14.218 – Community Development Block Grants**

Federal Award Identification Number: B-19-UC-13-0003
City of Fairburn DUNS Number: 099631004
Federal Award Date: 01/01/2019
Fulton County 2019 CDBG Funds Award Amount: \$162,487.00

THIS AGREEMENT, between Fulton County, Georgia, the Department of Community Development (hereinafter referred to as "the County"), a political subdivision of the State of Georgia, acting by and through its duly elected Board of Commissioners, and the **City of Fairburn** (hereinafter referred to as "the Subrecipient"), a municipality organized and existing in Fulton County under the laws of the State of Georgia.

WITNESSETH THAT:

WHEREAS, on June 20, 2018, the Fulton County Board of Commissioners approved the 2019 Annual Action Plan and substantial amendments as part of the overall Fulton County 2015 – 2019 Consolidated Planning document which includes Community Development objectives and the projected uses of funds for the Community Development Block Grant (CDBG) program activities, as prescribed under the Housing and Community Development Act of 1974, as amended; and

WHEREAS, the City of Fairburn has been provided CDBG funds by Fulton County **for Public Infrastructure Improvements** services as set forth in 24 CFR §570.201(c) and to meet a national objective benefiting low/moderate income persons; as set forth in 24 CFR §570.208(a)(1)(i); and

WHEREAS, the Twenty Percent (20%) cap on Administrative Cost expenditures pursuant to CFR §570.200(g) has been reached; and,

WHEREAS, the year 2019 CDBG allocation awarded to the City of Fairburn in the amount of **\$162,487.00**, shall be specifically used for Dodd Street Pedestrian Sidewalk Improvements for citizens of Fulton County and shall not be used towards any Program Administrative Costs. The activities are designed to benefit low-/moderate income persons as required to meet the CDBG national objective; and

WHEREAS, these activities are designed to benefit low and moderate income persons as required to meet the CDBG national objective; and

WHEREAS, this Agreement constitutes the contractual arrangement for said improvements and/or services that have been prepared for execution between the County and the City as consistent with the Fulton County's Consolidated Plan Annual Action Plan for fiscal year 2019 to support the 2015-2019 Consolidated Plan goals.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree as follows:

1 **SECTION 1.0 – STATEMENT OF WORK**

- 2
- 3 1. Under this Agreement, the Subrecipient shall provide the services under this Agreement in accordance
- 4 with the "Statement of Work" attached hereto and made a part hereof as *Attachment A*, consistent with
- 5 applicable federal rules and regulations governing the use of CDBG funds. Additionally, the
- 6 Subrecipient shall perform the work according to the "Implementation Schedule" attached hereto and
- 7 made a part hereof as *Attachment A*.
- 8
- 9 2. Under this Agreement, the Subrecipient shall perform the public facility or improvements work
- 10 according to the "Implementation Schedule," which shall be executed in accordance with the
- 11 Agreement. The "Implementation Schedule" was submitted in the Subrecipient's year 2019 CDBG
- 12 application and is attached hereto and made a part hereof as *Attachment B*.
- 13
- 14 3. Under this Agreement, the Subrecipient shall also provide a CDBG "Cost Reimbursement Budget" for
- 15 the project that is being executed with CDBG funds, as submitted in the Subrecipient's 2019 CDBG
- 16 application. The "Cost Reimbursement Budget" is attached hereto and made a part hereof as
- 17 *Attachment C*.
- 18
- 19 4. Under this Agreement, the Subrecipient shall submit, on not less than a monthly basis, a "Monthly
- 20 Performance Report" detailing project progress as attached hereto and made a part hereof as
- 21 *Attachment D and Attachment D-2*.
- 22
- 23 5. All work described in *Attachments A, B, and C* must be consistent with applicable federal rules and
- 24 regulations governing the use of CDBG funds, and the Subrecipient shall ensure that none of the work
- 25 described constitutes a Program Administrative Cost.
- 26

27 **SECTION 2.0 – COMPENSATION FOR SERVICES AND WORK**

- 28
- 29 1. The County shall make reimbursement compensation for the services described in Section 1.0
- 30 (*Statement of Work*) herein, during the performance of this contract, in accordance with the "Cost
- 31 Reimbursement Budget" attached hereto and made a part hereof as *Attachment C*.
- 32
- 33 2. The County shall make payment to the Subrecipient upon conditional commitment of funds as the
- 34 project is subject to Environmental Review. Payment shall then be made through reimbursement of
- 35 costs incurred by the Subrecipient in the performance and execution of the services under this
- 36 contract. Payments shall be made timely upon the County's receipt of proper and sufficient
- 37 documentation of such costs and as satisfactory to the County. The County shall have the right not to
- 38 pay any request for reimbursement or part thereof if not properly supported, or if the costs requested
- 39 or a part thereof, as determined by the County, are reasonably in excess of the actual stage of
- 40 completion.
- 41
- 42 3. Such documentation shall include, but not be limited to time sheets, vendors' and suppliers' invoices or
- 43 vouchers, mileage logs, etc.
- 44
- 45 4. This documentation, along with a written request for reimbursement and a statement of costs incurred
- 46 shall be submitted to the attention of the assigned Community Development Specialist at the Fulton
- 47 County Department of Housing and Community Development, 137 Peachtree Street, SW, Suite 300,
- 48 Atlanta, GA, 30303. A minimum of one copy of the request and the statement shall be included with
- 49 the submission. One copy must be accompanied by documentation supporting the eligible costs.
- 50

51 **SECTION 3.0 – TERM OF AGREEMENT**

- 52
- 53 1. The completion date of this Agreement shall be on or before December 31, 2021, unless otherwise
- 54 extended in writing, terminated by mutual agreement, or by the County, or in accordance with other
- 55 terms and provisions contained herein. Any modifications to the term of the Agreement shall be
- 56 documented through an amendment process as outlined in the County's Citizen Participation Plan as
- 57 executed by the County. The term of this Agreement shall be in compliance with the Fiscal Year 2018-
- 58 2020 Cooperative Agreement between Fulton County and the City.
- 59

2. The completion date of this Agreement is computed on the basis that the Subrecipient is eligible to receive retroactive costs incurred on or after January 1, 2019. The United States Department of Housing and Urban Development (HUD) with the County will make funds available for eligible incurred costs upon execution of the year 2018 grant agreement.
3. Although the completion date shall be (24) months, on or before December 31, 2021, the County periodically reports CDBG accomplishments and expenditures to HUD. By November 1, 2020, HUD traditionally reviews the County's collective accomplishments and expenditures, thus the County strongly encourages all Subrecipient services and work to be near completion by September 15, 2020 with no less than seventy percent (70%) of its eligible reimbursement costs submitted appropriately for review.

SECTION 4.0 - MODIFICATIONS TO AGREEMENT

1. In the event the Subrecipient chooses to modify its pre-approved "Statement of Work" by adding or deleting a project, the Subrecipient shall submit to the County a written request for the approval of such changes 30 days after execution of the contract. No such modification shall become effective unless and until approved by the County in the form of a formal amendment to the Subrecipient's "Statement of Work".
2. Additions or deletions to the "Statement of Work", which have been approved as a part of the County's Consolidated Plan may be allowed one time per Fiscal Year, subject to County approval. The Subrecipient must submit its request within the time frame referenced above.
3. The County must adhere to 24 CFR 91.505 "Amendments to the Consolidated Plan". The Subrecipient's failure to request modifications 30 days after execution of the contract shall result in the County's automatic denial of any such modifications to said Agreement and shall be construed as the Subrecipient's failure to properly and timely fulfill its obligations under this Agreement and will result in the County's right to exercise its options under Section 6.0 (*Termination of Agreement for Cause*) of this Agreement.
4. This Agreement constitutes the entire contractual arrangement between the County and the Subrecipient, and there are no further written or oral agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by the County's and the Subrecipients' duly authorized representatives.
5. Further, in the event of any material change or modification in the Subrecipient's Agreement or agreement with any other funding source during the course of this Agreement, the Subrecipient shall immediately notify the County of such change. In such event, the County shall have the right to terminate its obligations under this Agreement, discontinue future funding hereunder, and demand the refund or return of funds previously advanced.

SECTION 5.0 – EXTENSIONS

In the event the Subrecipient determines that it cannot begin projects as scheduled or complete projects within the time frame indicated by the Subrecipient in Attachment B, no extension will be granted.

SECTION 6.0 – SUSPENSION OF WORK

1. The County may by written notice to the Subrecipient suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Subrecipient must unless the notices requires otherwise: (i) immediately discontinue suspended services; (ii) place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and (iii) take any other reasonable steps to minimize costs associated with the suspension.

- 1
2 2. The County may elect to resume suspended service upon written notice to the Subrecipient. Upon
3 receipt of notice to resume suspended services, the Subrecipient will immediately resume performance
4 under this Agreement as required in the notice.
5
6

7 **SECTION 7.0 – TERMINATION OF AGREEMENT**
8

9 **1. Termination for Cause**

10 Time is of the essence and if, through any cause, the Subrecipient shall fail to fulfill in a timely and
11 proper manner its obligations under this Agreement, or in the event that any of the provisions or
12 stipulations of this Agreement are violated by the Subrecipient, the County shall thereupon have the
13 right to terminate this Agreement by providing written notice to the Subrecipient of the County's intent
14 to terminate the Agreement, specifying the reasons for such intention for termination. Unless within
15 ten (10) calendar days after serving of such notice (by hand delivery or posting in the U.S. Mail) to the
16 Subrecipient such violation or delay shall cease or arrangements for correction satisfactory to the
17 County be made, the Agreement shall, upon expiration of said ten (10) calendar days, be terminated
18 without further notice. Upon such termination, the Subrecipient will be compensated by the County for
19 expenses deemed by the County to be due and reasonable.
20

21 The Subrecipient shall be liable for any damage to the County resulting from the Subrecipient's refusal
22 or failure to complete the work within the specified time period, and said damages shall include, but not
23 be limited to, any additional costs associated with the County obtaining the services of another
24 Subrecipient to complete the project.
25

26
27 **2. Termination for Convenience of the County**

28 In the event the County determines that it is no longer feasible or in its best interest to continue
29 assisting the service covered by this Agreement, or should the U.S. Department of Housing and Urban
30 Development institute corrective and/or remedial actions against the County in accordance with
31 regulations under the CDBG program where such actions impede or halt the disbursement of the
32 County CDBG funds for this project, the County may terminate this Agreement by giving at least fifteen
33 (15) calendar days prior notice in writing (by hand delivery or posting in the U.S. mail) to the
34 Subrecipient.
35

36 In addition, in the event this agreement has been terminated due to the default of the Subrecipient, and
37 if it is later determined that the Subrecipient was not in default pursuant to the provisions of this
38 Agreement at the time of termination, then such termination shall be considered a termination for
39 convenience pursuant to this paragraph.
40

41 **SECTION 8.0 – INDEPENDENT SUBRECIPIENT STATUS**
42

43 Nothing herein contained shall be deemed to create a relationship other than that of independent
44 Subrecipient between the County and the Subrecipient. Under no circumstances shall the
45 Subrecipient, its principals, employees, subcontractors, associates, or agents be deemed employees,
46 agents, partners, successors, assigns, or legal representatives of the County except as specifically
47 required herein.
48

49 **SECTION 9.0 – ASSIGNMENT OF AGREEMENT**
50

51 The Subrecipient shall not make any purported assignment of this Agreement or any part thereof, or
52 delegate the duties herewith without prior written consent of the County. Any attempted assignment or
53 delegation of duties by the Subrecipient without prior expressed written consent of the County shall at
54 the County's sole option terminate this Agreement without any notice to the Subrecipient of such
55 termination. The Subrecipient binds itself, its successors, assigns, and legal representatives of such
56 other party in respect to all covenants, agreements and obligations contained herein.
57
58
59

1 **SECTION 10.0 – PROGRAM INCOME**

- 2
- 3 1. Program income, as defined in 24 CFR 570.500 (a), means any gross income received by the recipient
- 4 (County) or a Subrecipient (the Subrecipient) directly generated from the use of CDBG funds, except
- 5 as provided in paragraph (a)(4) of 570.500. When program income is generated by an activity that is
- 6 only partially assisted with CDBG funds, the income shall be prorated to reflect the percentage of
- 7 CDBG funds used. The Subrecipient shall provide information regarding program income, with a
- 8 breakdown of the CDBG allocation, to the County concurrently with the quarterly reports described and
- 9 required by Section 13.0 of this Agreement.
- 10
- 11 2. Any program income received or generated by the Subrecipient as a result of the CDBG assistance
- 12 provided under this Agreement is to be retained by the Subrecipient during the duration of this
- 13 Agreement. The activities undertaken with any program income generated shall conform to
- 14 *Attachment A* of this Agreement ("Statement of Work") and shall comply with all other provisions of this
- 15 Agreement.
- 16
- 17 3. If at any time during the duration of this Agreement the Subrecipient retains program income, transfers
- 18 of grant funds by the County to the Subrecipient shall be adjusted according to the principles described
- 19 in paragraphs (b) (2) (i) and (ii) of §570.504, which state that all program income must be disbursed for
- 20 eligible activities before additional cash withdrawals are made by the recipient from the U.S. Treasury.
- 21

22 **SECTION 11.0 – REVERSION OF ASSETS**

- 23
- 24 1. Upon expiration or termination of this Agreement, any remaining program income that is either on hand
- 25 or to be received after the Agreement's expiration, shall be transferred by the Subrecipient to the
- 26 County as required by 24 CFR 570.503(b)(7) "Agreements with Subrecipients".
- 27
- 28 2. Further, in the event that the Subrecipient should sell or otherwise dispose of any property acquired
- 29 with the County CDBG funds, the manner of said disposition shall result in the County being
- 30 reimbursed in the amount of the current fair market value of the property at that time less any portion
- 31 of the value attributable to expenditures of non-County CDBG funds. In the event that such a sale or
- 32 disposition occurs more than ten (10) years after expiration or termination of this Agreement, such
- 33 reimbursement shall not be required.
- 34

35 **SECTION 12.0 – COPYRIGHT AND PUBLICITY**

- 36
- 37 1. No report, map, or other document produced in whole or in part under this Agreement shall be the
- 38 subject of an application for copyright by or on behalf of the Subrecipient without the prior written
- 39 consent of the County. All such reports, maps, or other documents shall become and be deemed the
- 40 property of the County and title therein shall automatically vest in the County.
- 41
- 42 2. Further, any publicity given to this project must identify the County prominently as a sponsoring
- 43 agency. Specifically, at all places of, and in all publications concerning, this project, the Subrecipient
- 44 agrees to display and make known that the project was assisted under the auspices of the Fulton
- 45 County Community Development Block Grant program. In the event of new construction or substantial
- 46 rehabilitation, and at the County's discretion, the Subrecipient shall acknowledge the use of CDBG
- 47 funds for the project by installation of a permanent plaque at the project site. The County in
- 48 collaboration with the Subrecipient shall determine design and replica for the plaque.
- 49

50 **SECTION 13.0 – RECORDS AND REPORTS**

51 **1. Records**

52 The Subrecipient shall maintain accounts and records, (including an annual Audit) personal property

53 and financial records, adequate to identify and account for all costs pertaining to this Agreement and

54 such other records as may be requested by the County including financial data pertaining to the

55 preparation of the U.S. Department of Housing and Urban Development (HUD) Consolidated Annual

56 Performance and Evaluation Report (CAPER) to assure proper accounting for all funds, both public

57 and private. Said records shall be made available for audit purposes to the County, HUD, or any

58 authorized representative thereof, upon reasonable request and within three (3) days of said request.

59

1
2 **Retention**

3 Pursuant to 24 CFR 570.502(a) (7) (ii), the retention period of individual CDBG activities shall be the
4 longer of 3 years after the expiration or termination of the subrecipient agreement under 24 CFR
5 507.503, or 3 years after the submission of the annual performance and evaluation report, as
6 prescribed in 24 CFR 91.520 of this title, in which the specific activity is reported on for the final time.
7 In addition, records for individual activities subject to the reversion of assets provisions at §570.503(b)
8 (7) or change of use provisions at §570.505 must be maintained for as long as those provisions
9 continue to apply to the activity. Moreover, records for individual activities for which there are
10 outstanding loan balances, other receivables, or contingent liabilities must be retained until such
11 receivables or liabilities have been satisfied.

12 The Subrecipient's records and accounts shall at all times meet or exceed the applicable requirements
13 of federal, state, and local laws, rules, and regulations. The Subrecipient's duty to retain records and
14 permit inspections and copying shall remain in force and effect even after the expiration or termination
15 of this Agreement.

16
17 **2. Reports**

18 The Subrecipient shall provide the County with a written plan that outlines the activities and processes
19 of the program that will be funded by CDBG. Further, the Subrecipient shall submit detailed reports on
20 the progress made and services of their programs based on the objectives they establish in response
21 to local needs and goals. Objectives reflect the common ways that Subrecipients work to achieve their
22 goals. The Objectives incorporated into the proposed Outcome Measurement System are: Suitable
23 Living Environment, Decent Housing, and Economic Opportunity. Outcome measurements will be
24 based on (a) Availability /Accessibility (b) Affordability (c) Sustainability. Outcomes show how
25 programs benefit a community or people served. Indicators tell whether an outcome is occurring.

26
27 At a minimum, these reports shall be submitted on a monthly basis. The monthly reports are due the
28 fifth (5th) of the following month for activities which occurred in the previous month, and shall be
29 submitted on the "Public Facility Monthly Performance Report" attached hereto and made a part hereof
30 as *Attachment D*. The year-end reports are due no later than thirty (30) days after the contract expires
31 for activities which occurred during the funding year in the "Year End Performance Report" attached
32 hereto and made a part hereof as *Attachment D-2*.

33
34 Said reports shall be submitted to the County, to the attention of the assigned Community
35 Development Specialist at the Fulton County Department of Housing and Community Development,
36 137 Peachtree Street, SW, Suite 300, Atlanta, GA., 30303. Two (2) copies of the report shall be
37 included in each submission, one (1) copy for the Community Development Specialist and the other
38 one (1) copy addressed to the CDBG Community Development Grant Manager.

39
40 **SECTION 14.0 – INSPECTION OF FILES AND RECORDS**

41
42 The County shall at all reasonable times have access to the pertinent offices and books and records
43 (including an annual Balance Sheet or Independent Audit) of the Subrecipient for inspection of the
44 activities performed and expenses incurred under this Agreement. The County will perform and the
45 Subrecipient shall be prepared to meet the requirements of, at least, one (1) audit per year.

46
47 **SECTION 15.0 – CITIZEN PARTICIPATION MEETINGS AND TECHNICAL ASSISTANCE MEETINGS**

48
49 Subrecipient representative must attend at least one (1) CDBG related Citizen Participation meeting,
50 participate in every Technical Assistance (TA)/Needs Assessment session and the annual Monitoring
51 session during each contract year. The County shall provide meeting dates and locations timely, and
52 shall provide comprehensive information to assist the Subrecipient to perform efficiently and
53 effectively.
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1 **SECTION 16.0 -- MONITORING**

2
3 Through on-site and remote monitoring, the County determines whether the Subrecipient's
4 performance meets CDBG program requirements and assists to improve the Subrecipient's
5 performance by providing guidance and making recommendations. Monitoring visits are conducted no
6 less than once per contract term with a specific purpose to validate the accuracy of information
7 presented in the program participant's performance reports. On-site and remote monitoring is also
8 conducted to follow-up on problems identified during the Consolidated Annual Performance and
9 Evaluation Report (CAPER) assessment that are not resolved as of the date of the monitoring, to
10 determine compliance for those activities where there is sufficient information, to make eligibility and/or
11 national objective determinations, and to ascertain the Subrecipient's ability to ensure that activities
12 meet compliance requirements.

13
14 **SECTION 17.0 - FINDINGS / NON-COMPLIANCE**

- 15
16 1. The Subrecipient shall be notified in writing by the County of any Findings or Concerns identified
17 during each monitoring visit. The Subrecipient shall be given thirty (30) calendar days from the time of
18 written notification by the County for corrective actions to take place. The County will not
19 unreasonably withhold acceptance of corrective actions taken in good faith by the Subrecipient. Upon
20 the Subrecipient proving satisfactory corrective action, a letter shall be sent to the Subrecipient stating
21 that such findings or concerns have been addressed. Pursuant to 24 CFR 570.501, in the event the
22 Subrecipient fails to correct the findings or fails to comply with terms and provisions of this Agreement,
23 the County may take corrective and remedial actions such as those described in 24 CFR 570.910.
24 Such remedial actions may include, but are not limited to, the following:

- 25
26 a. Temporarily withhold cash payments pending correction of the deficiency;
27
28 b. Disallow all or part of the cost of the activity or action not in compliance;
29
30 c. Wholly or partly suspend or terminate the current award;
31
32 d. Withhold further award; or
33
34 e. Take other remedies that may be legally available.

35
36 **SECTION 18.0 – UNIFORM ADMINISTRATIVE REQUIREMENTS**

37 During its performance under this Agreement, the Subrecipient shall comply with the requirements and
38 standards of the Office of Management and Budget (OMB) codified at 2 CFR part 200 and guidance at
39 a new part, 2 CFR part 2400 which streamlines the Federal government's guidance on administrative
40 requirements, cost principles, and audit requirements to more effectively focus Federal resources on
41 improving performance and outcomes, while ensuring the financial integrity of taxpayer dollars in
42 partnership with non-Federal stakeholders. [https://www.federalregister.gov/articles/2014/12/19/2014-
43 28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-andbudgets-
44 uniform\)](https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-andbudgets-uniform)

45
46 The uniform guidance supersedes, consolidates, and streamlines requirements from eight OMB
47 Circulars:

- 48 • A-21, Cost Principles for Educational Institutions,
49 • A-87, Cost Principles for State, Local and Indian Tribal Governments,
50 • A-89, Catalog of Federal Domestic Assistance,
51 • A-102, Grants and Cooperative Agreements With State and Local Governments,
52 • A-110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions
53 of Higher Education, Hospitals and Other Non-Profit Organizations,
54 • A-122, Cost Principles for Non-Profit Organizations,
55 • A-133, Audits of States, Local Governments, and Non-Profit Organizations, and
56 • The guidance in OMB Circular A-50, Audit Follow-up, on Single Audit Act follow-up.
57
58
59

1 **SECTION 19.0 – EQUAL OPPORTUNITY AND NON-DISCRIMINATION**

2
3 **1. Civil Rights Act of 1964 (As amended)**

4
5 The Subrecipient shall comply with all Federal requirements imposed by or pursuant to Title VI and
6 Title VII of the Civil Rights Acts, as Amended; Age Discrimination In Employment Act; Rehabilitation
7 Act of 1973, as Amended, Section 504; Equal Pay Act; The American with Disabilities Act of 1990, as
8 Amended; Fair Housing Act, as Amended; and other applicable Acts which prohibits discrimination on
9 the ground of race, color, religion, sex, age, national origin, handicap, disability, or familial status. No
10 person in the United States shall be excluded from participation in, be denied the benefit of, or be
11 subjected to discrimination under this Agreement.
12

13 **2. Section 109 of the Housing and Community Development Act of 1974 (As amended)**

14 The Subrecipient shall also comply with Section 109 of the Housing and Community Development Act
15 of 1974, as amended, which requires that no person in the United States shall on the ground of race,
16 color, national origin, sex, age, disability, or familial status, be excluded from participation in, be denied
17 the benefit of, or be subjected to discrimination under any program or activity funded in whole or in part
18 with community development funds made available pursuant to said Act.
19

20 **3. Further, during the performance of this Agreement, the Subrecipient agrees as follows**

- 21
22 (A) The Subrecipient shall not discriminate against any employee, or applicant for employment,
23 because of race, religion, color, sex, national origin, age, disability, or familial status. As used
24 herein, the word "employment" means and includes without limitation the following:
25
26 • Recruiting, whether by advertising or other means; compensation or wages,
27 whether in the form of rates of pay, or other forms of compensation; selection for
28 training including apprenticeship; promotions; upgrades; demotions; downgrades;
29 transfers; layoffs; and terminations.
30
31 • The Subrecipient shall post in a conspicuous place, available to employees and
32 applicants for employment, notices setting forth the provisions of the
33 non-discrimination clause.
34
35 (B) The Subrecipient shall in all solicitations or advertisements for employees, placed by or on
36 behalf of itself, state that all qualified applicants will receive consideration for employment
37 without regard to race, religion, color, sex, national origin, age, disability or familial status.
38
39 (C) The Subrecipient shall, when applicable, send to each labor union or representative of workers
40 with which the Subrecipient has a collective bargaining agreement or other Agreement or
41 understanding, a notice representative of the Subrecipient's commitment under the Equal
42 Opportunity Program of the County and under this Article and shall post copies of the notice in
43 conspicuous places available to employees and applicants for employment.
44
45 (D) The Subrecipient shall file compliance reports at reasonable times and intervals with the
46 County in the form and to the extent prescribed by the County. Compliance reports filed when
47 directed shall contain information as to the employment practices, policies, programs, and
48 statistics of the Subrecipient and his Subrecipients.
49
50 (E) The Subrecipient shall include the provisions of paragraph (A) through (F) of this Equal
51 Employment Opportunity Clause in every subcontract or purchase order so that such
52 provisions will be binding upon each subcontractor or vendor.
53
54 (F) The Subrecipient shall comply with the provisions of Section 109 of the Act which provides, in
55 part, that any prohibition against discrimination on the basis of age under the Age
56 Discrimination Act of 1975, or as provided in Section 504 of the Rehabilitation Act of 1973,
57 shall also apply to any program or activity funded in whole or in part with funds made available
58 pursuant to the Act and provided hereunder. These provisions shall also be binding upon
59 each subcontractor or vendor.

1
2 **4. Section 3 of the Housing and Urban Development Act of 1968**
3

- 4 (A) The work to be performed under this Agreement is subject to the requirements of Section 3 of
5 the Housing and Urban Development Act of 1968, as amended. Section 3 requires that, to the
6 greatest extent feasible, opportunities for training and employment be given to low income
7 persons residing within the unit of local government in which the project is located, and that
8 Agreements for work in connection with the project be awarded to businesses which are
9 located in, or owned in substantial part, by persons residing in the area of the project.
10
11 (B) Accordingly, the Subrecipient shall, when applicable, send to each labor organization or
12 representative of workers with which it has a collective bargaining agreement or other
13 Agreement or understanding, a notice of its commitment under this Section 3 clause and shall
14 post copies of the notice in conspicuous places available to employees and applicants for
15 employment or training.
16
17 (C) The Subrecipient shall include this Section 3 clause in every subcontract for work in
18 connection with the project and will take appropriate action pursuant to the subcontract upon a
19 finding that the subcontractor is in violation of regulations issued by the Secretary of Housing
20 and Urban Development, 24 CFR Part 135. The Subrecipient shall not subcontract with any
21 subcontractor where it has notice or knowledge that the latter has been found in violation of
22 regulations under 24 CFR Part 135, unless the subcontractor has first provided it with a
23 preliminary statement of ability to comply with the requirements of those regulations. The
24 Federal Section 3 Provisions are attached hereto and made a part hereof as *Attachment G*.
25

26 **5. Equal Access to Housing in HUD Programs**
27

- 28 (A) Through final rule effective March 5, 2012 (Equal Access to Housing in HUD Programs
29 Regardless of Sexual Orientation or Gender Identity) 24 CFR Parts 5, 200, 203, 236, 400, 570,
30 574, 882, 891, and 982, HUD implements a policy to ensure that its core programs are open to
31 all eligible individuals and families regardless of sexual orientation, gender identity, or marital
32 status.
33
34 (B) It is important that HUD and Fulton County ensure that their programs do not involve
35 discrimination against any individual or family otherwise eligible for HUD-assisted or -insured
36 housing, but that its policies and programs serve as models for equal housing opportunity.
37 Failure to comply with the requirements of this Rule will be considered a violation of the
38 program requirements and will subject the non-compliant grantee to all sanctions and
39 penalties available for program requirement violations.
40
41 (C) Under 24 CFR 5.100 "sexual orientation" is defined -as "homosexuality, heterosexuality, or
42 bisexuality," a definition that the Office of Personnel Management (OPM) uses in the context of
43 the federal workforce in its publication "Addressing Sexual Orientation in Federal Civilian
44 Employment: A Guide to Employee Rights."
45
46 (D) To promote equal access to HUD's housing programs without regard to sexual orientation or
47 gender identity, HUD prohibits unlawful inquiries regarding sexual orientation or gender
48 identity. The prohibition precludes owners and operators of HUD-assisted housing or housing
49 whose financing is insured by HUD from inquiring about sexual orientation or gender identity of
50 an applicant for, or occupant of, the dwelling, whether renter- or owner-occupied.
51

52 **SECTION 20.0 – MINORITY BUSINESS ENTERPRISE (MBE/FBE) PARTICIPATION**
53

54 **Federal MBE/FBE Policy**
55

56 It is national policy to award a fair share of contracts to small and minority business firms. All HUD
57 grantees and subrecipients must take appropriate affirmative action to support minority and women's
58 enterprises, and are encouraged to procure goods and services from labor surplus areas. Therefore,
59 the Subrecipient shall take affirmative steps to ensure that minority (MBE) and female (FBE) business

enterprises are utilized during the course of this Agreement, and that a fair share of any contracts generated during such course are awarded to such firms.

SECTION 21.0 – LABOR STANDARDS

The Subrecipient shall comply with all Federal Labor Standards Requirements imposed by the Davis-Bacon Act; the Contract Work Hours and Safety Standards Act; the Copeland Act; and the Fair Labor Standards Act. As a requirement of the Fair Labor Standards Act, the Subrecipient must ensure that a copy of the applicable wage rate decision is included in each contract and subcontract and the Notice to Employees poster that pertains to all federally-funded projects is to be posted, along with a copy of the wage decision, on all construction sites. This information must be posted in a conspicuous location accessible to those employed under any contract funded with CDBG funds. The Federal Labor Standards Provisions are attached hereto and made a part hereof as *Attachment E*.

SECTION 22.0 - HB 87 ILLEGAL IMMIGRATION REFORM

Among other measures, the Illegal Immigration and Reform Enforcement Act of 2011 requires subcontractor and sub-subcontractors to submit their E-Verify affidavits to the Subrecipients working on public projects. The Subrecipient then must forward affidavits to the local government within five (5) days of receipt. The Department of Audits will create a form affidavit.

Attached hereto and made a part hereof as *Attachment F* is The Georgia Security and Immigration Compliance Act Applicant for Public Benefits Affidavit, the Subrecipient, Subcontractor and Sub-subcontractor Affidavits.

SECTION 23.0 – ENVIRONMENTAL REQUIREMENTS

The County, Sub-Recipients, Contractors, Owners, and Developers shall not undertake any activities that would adversely impact or limit the choice of reasonable alternatives for a project until an Environmental Review has been completed and approved by the County. To this end, the County, Sub-Recipients, Subcontractors, Owners, and Developers must not expend public or private funds (HUD, other Federal, or non-Federal funds) or execute a legally binding agreement for property acquisition, rehabilitation, conversion, repair or construction pertaining to a specific site until environmental clearance has been achieved. Using any portion of federal funds for acquisition, rehabilitation, conversion, leasing, repair or construction before, completing the Environmental Review process requires the denial of any federal funds for that project. The Environmental Review Assurances are attached hereto and made a part hereof as *Attachment H*.

Conditional Commitment of Funds

Further, notwithstanding any provision of this Agreement, the parties hereto agree and acknowledge that this Agreement does not constitute a commitment of funds or site approval, and that such commitment of funds or approval may occur only upon satisfactory completion of Environmental Review and receipt by the County of a release of funds from the U.S. Department of Housing and Urban Development (HUD), under 24 CFR Part §58. Additionally, the Sub-Recipient or Subcontractor are prohibited from undertaking or committing any funds to physical or choice-limiting actions, including property acquisition, demolition, movement, rehabilitation, conversion, repair or construction prior to the environmental clearance, and must indicate that the violation of this provision may result in the denial of any funds under the Agreement. The parties further agree that the provision of any funds to the project is conditioned on the County's determination to proceed with, modify or cancel the project based on the results of a subsequent Environmental Review.

Environmental Conditional Clause

Responsible entities may enter into an Agreement for the conditional commitment of CDBG funds for a specific project prior to the completion of the Environmental Review process. The responsible entity must ensure that any such agreement does not provide the County Recipient, Sub-Recipient, or Subcontractor any legal claim to any amount of CDBG fund to be used for the specific project or site unless and until the site has received environmental clearance.

1 **SECTION 24.0 – LEAD BASED PAINT**

2
3 On September 15, 2000, HUD published the final rule concerning the control of lead-based paint
4 hazards in housing receiving federal assistance and federally owned housing being sold. These
5 regulations published at 24 CFR Part 35 specify the requirements for treating lead hazards to protect
6 those who occupy housing constructed before 1978. This regulation also implements the new
7 requirements, concepts, and terminology established by the Residential Lead-Based Paint Hazard
8 Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992.
9 Should the Subrecipient propose to use CDBG funds for the rehabilitation or conversion of residential
10 units, the Subrecipient must meet the requirements of 24 CFR Part 35. The County shall provide
11 ongoing technical assistance to the Subrecipient to assist in meeting these requirements.
12

13 **SECTION 25.0 – CONFLICT OF INTEREST**

14
15 No member, officer, or employee of the County or its designee or agents, no member of the governing
16 body of the County, and no other official of the County who exercises or has exercised any functions or
17 responsibilities with respect to the CDBG-assigned activities or who is in a position to participate in a
18 decision making process or gain inside information with regard to such activities, may obtain a
19 personal or financial interest or benefit in any Agreement, subcontract or agreement with respect
20 thereto, or the proceeds there under, either for themselves or for those with whom they have family or
21 business ties, during their tenure or for one (1) year thereafter, unless an exemption in writing from this
22 provision is specifically granted by the U. S. Department of Housing and Urban Development.
23

24 **SECTION 26.0 – PROHIBITION OF USE OF FEDERAL FUNDS FOR LOBBYING**

- 25
26 1. By signing this Agreement, the undersigned Subrecipient certifies that all activities under this
27 Agreement will adhere to 24 CFR Part 87 (New Restrictions on Lobbying) and, to the best of his/her
28 knowledge and belief, that:
29
30 (A) No Federal appropriated funds have been paid or will be paid, by or on behalf of the
31 Subrecipient or the undersigned, to any person for influencing or attempting to influence an
32 officer or employee of any agency, a Member of Congress, an officer or employee of
33 Congress, or an employee of a Member of Congress in connection with the awarding of any
34 federal Agreement, the making of any federal grant, the making of any federal loan, the
35 entering into of any cooperative agreement, or the extension, continuation, renewal,
36 amendment, or modification of any federal Agreement, grant, loan or cooperative agreement.
37
38 (B) If any funds other than federal appropriated funds have been paid or will be paid to any person
39 for influencing or attempting to influence an officer or employee of any agency, a Member of
40 Congress, an officer or employee of Congress, or an employee of a Member of Congress in
41 connection with this federal Agreement, grant, loan, or cooperative agreement, the
42 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report
43 Lobbying," in accordance with its instructions.
44
45 (C) The undersigned shall require that the language of this certification be included in the award
46 documents for all sub-awards at all tiers (including subcontracts, subgrants, and Agreements
47 under grants, loans, and cooperative agreements) and that all subrecipients shall certify and
48 disclose accordingly.
49
50 (D) This certification is a material representation of fact upon which reliance was placed when this
51 transaction was made or entered into. Submission of this certification is a prerequisite for
52 making or entering into this transaction imposed by Title 31, U. S. Code, Section 1352. Any
53 person who fails to file the required certification shall be subject to a civil penalty of not less
54 than \$10,000 and not more than \$100,000 for each such failure.
55
56
57
58
59

1 **SECTION 27.0 – INDEMNIFICATION AND HOLD HARMLESS**

2
3 The Subrecipient hereby warrants, represents, covenants and agrees to release, indemnify, defend
4 and hold harmless the County, its commissioners, officers, and employees, from any and all claims,
5 losses, liabilities, damages, deficiencies or costs (including without limitation, reasonable attorney's
6 fees and legal expenses) suffered or incurred by such parties, whether arising in tort, contract, strict
7 liability or otherwise, and including without limitation, personal injury, wrongful death or property
8 damage, arising in any way from the actions or omissions of the Subrecipient, its agents, employees,
9 Subrecipients, officers, or directors. The Subrecipient does further hereby agree to release, indemnify,
10 defend and hold harmless the County, its commissioners, officers, and employees, from any injury
11 (including death resulting there from), loss, claim or damage sustained by the Subrecipient's agents
12 and employees, without regard to negligence. The language of this indemnification clause shall survive
13 termination of this Agreement, even if the County terminates the Agreement for its convenience.
14

15
16 **SECTION 28.0 – GOVERNING LAW**

- 17
18 1. This Agreement shall be governed in all respects, as to validity, construction, capacity, and
19 performance or otherwise, by the laws of the State of Georgia.
20
21 2. A waiver by either party of any breach or any provision, term, covenant or condition of this Agreement
22 shall not be deemed a waiver of any subsequent breach of the same or any other provision, term,
23 covenant or condition.
24
25 3. The parties agree that each of the provisions included in this Agreement is separate, distinct and
26 severable from the other remaining provisions of this Agreement, and that the invalidity of any
27 agreement provision shall not affect the validity of any other provision of this agreement.
28
29 4. The parties agree that the terms of this Agreement include the entire Agreement between the parties
30 and as such, shall exclusively bind the parties. No other representations, either oral or written, may be
31 used to contradict the terms of this Agreement.
32
33 5. Any notices or communications required or permitted herein shall be sufficiently given if sent by
34 Registered or certified mail, return receipt request, postage prepaid, addressed as follows:
35

36 As to the County:

37 Kim Benjamin, Community Development Manager
38 Fulton County Community Development Department
39 137 Peachtree Street, SW, Suite 300
40 Atlanta, GA 30303
41

42 As to the Subrecipient:

43
44 Elizabeth Carr-Hurst, Mayor
45 City of Fairburn
46 56 Malone Street
47 Fairburn, Georgia 30213
48
49
50

51 Alternatively, such other addressed as shall be furnished by such notice of the other party.
52

53 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

IN WITNESS HEREOF, the parties hereunto have set their hands and seal.

CITY OF FAIRBURN

FULTON COUNTY

Elizabeth Carr-Hurst, Mayor
City of Fairburn

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

ATTEST

ATTEST

Arika Birdsong-Miller, City Clerk
City of Fairburn

Tonya A. Grier, Interim Clerk to the Commission
Fulton County Board of Commissioners

DATE:

DATE:

SEAL:

SEAL:
APPROVED AS TO CONTENT:

Dr. Pamela Roshell, Interim Director
Department of Community Development

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Office of the County Attorney

DATE:

DATE:

Fulton County Community Development Block Grant Program
Attachment A: Statement of Work
City of Fairburn – Dodd Street Pedestrian Improvements Project

PROJECT NAME/DESCRIPTION:

The proposed project consists of the installation of sidewalk and header curb (as required) on the north side of Dodd Street (from W. Campbellton St. to Mullis St.) in the City Fairburn. Dodd Street is a major thoroughfare within the Lightning Community and it is used by the residents in the area to access the goods, services and various amenities located in the downtown area. Due to the existing topography of Dodd Street, the installation of a gravity wall or some form of retaining wall will also be required to accommodate the installation of the proposed sidewalk. Pedestrian lighting is also being considered and will be included in the project scope as the budget allows. It is important to note that the City of Fairburn's Livable Centers Initiative (LCI) study calls for the installation of sidewalk on both sides of Dodd Street. This completion of this proposed project will aid in satisfying some of the recommendations contained within the aforementioned study.

The service area of the Fairburn program is approximately 500 homes within the quarter-mile radius of the project limits. Based on our occupancy records, we anticipate this project will positively impact over 1,000 residents in the area. Job creation is most likely negligible; however, the project will create work for approximately 20 employees, contractors, and suppliers. Because the intent of the project is to complete a construction project and create a fixed asset, no continuing employment will be affected by it. Measurement of project objectives will be completed through the completion of sidewalk sections and their connection with existing pedestrian facilities in the area.

The program also accomplishes another goal of encouraging the use of alternative forms of transportation, namely walking as well as providing a safe means of access to the business district for handicapped residents, who may be wheelchair-bound. As a consequence, the program will have the effect of encouraging healthy behaviors among the project beneficiaries. Mass transit bus service is available along Roosevelt Highway and would be more accessible with the implementation of this program.

The project will also have the added benefit of reducing the dependence on the automobile for transportation and thereby reducing the impacts that the price of fuel is having on the low/mod populations. Short trips in stop and go traffic are the most inefficient use of fuel and yet represent most of the trips our culture engages in. The sidewalks will provide easy, safe, and relatively direct access to goods and services the populations in the service area will need.

The City of Fairburn completed a planning initiative in 2009, with significant public involvement, which identified projects such as these as being priorities for the Lightning neighborhood. This program is the result of the 2009 livable centers project as well as a continuation of the last four years of streetscaping projects in the area.

The total cost of work proposed as stated above is \$290,000.00.

Target Population: The target population for the pedestrian improvement project (public infrastructure improvements) as described above are the residents of Fairburn. The City currently has 1,038 residents residing in census tract 105.14, of which all are categorized as low/moderate income levels. The stated census tract is within the project activity area.

National Objective: The CDBG national objective being addressed is to provide to low/moderate income persons under area benefit qualified by median income of the target population census tracts. City of Fairburn which has a median income of \$43,886.



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF 2020 T-SPLOST PEDESTRIAN IMPROVEMENTS PROJECT CONTRACT AWARD

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The proposed budget impact will be approximately \$182,250. The project expenditures will come out of account number (360-000-54-1400) T-SPLOST Infrastructure Ped & Str.

PUBLIC HEARING? () Yes (X) No

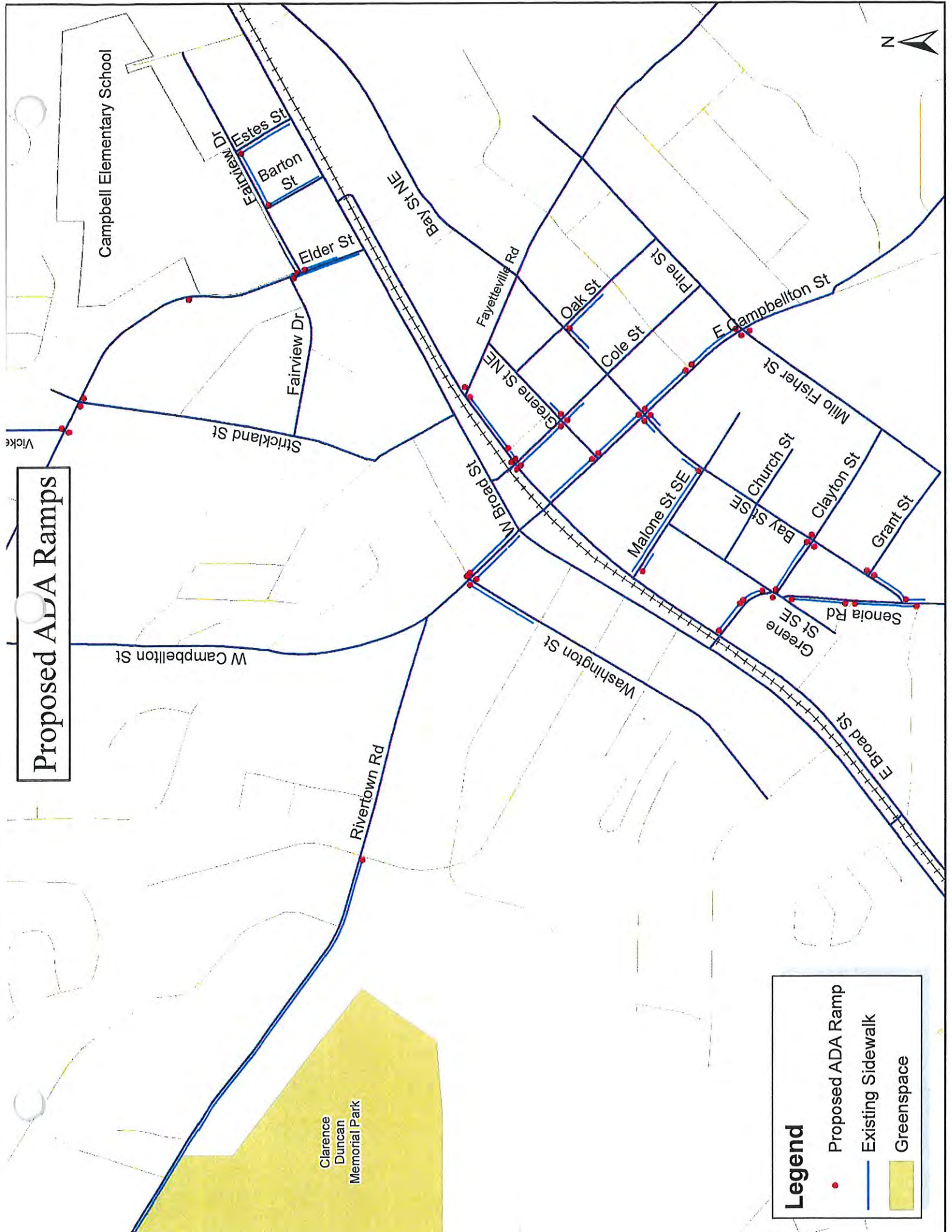
PURPOSE: For Mayor and Council to approve the 2020 T-SPLOST Pedestrian Improvements Project Contract Award with Construction 57 Incorporated for an amount of \$182,250.

HISTORY: The Invitation for Bid for IFB#20-001, Pedestrian Improvements on Various City Roads was advertised on February 5th, 2020. The bid opening date was February 28th, 2020 at 3:00pm at which time the seven (7) bids received were opened and read aloud.

FACTS AND ISSUES: After completion of the bid evaluation, it was determined that Construction 57 Incorporated was the lowest responsive and responsible bidder with a bid price of \$182,250.

RECOMMENDED ACTION: Staff recommends that Mayor and Council approve the 2020 TSPLOST Pedestrian Improvements Project Contract Award to Construction 57 Incorporated at a bid price of \$182,250.


Elizabeth Carr-Hurst, Mayor



I. SPECIAL NOTICES:

- A. Reasonable Ingress and Egress must be maintained to all side streets, subdivisions and driveways during any work done in the contract.
- B. The demolition of the existing ADA ramps, sidewalk, curb & gutter, drives and their associated gutter/curb & gutter should be captured in the Grading Complete line item.
- C. Add Alternates have been included in the project scope to provide flexibility to City Fairburn. The Alternates will be awarded as the budget allows. The scope for each Add Alternate has been provided below reference:
 - 1. Add Alternate 1 – Duncan Park Bridge – Install approximately 60 linear feet of 5' wide sidewalk along the frontage of Duncan Park from where it terminates west to the bridge deck. The width of the sidewalk may be reduced to 3-4 ft. as required. The scope also includes the backfill of said sidewalk to achieve a shoulder, a maximum 2:1 slope and the installation of pipe handrail for fall protection.
 - 2. Add Alternate 2 – Harvest Rain Church – Install approximately 200 linear feet of sidewalk 5 ft. in width, approximately 260 linear feet of curb & gutter, and five (5) ADA ramps along the frontage of the Harvest Rain Early Learning Academy on Senoia Road. The scope also includes the installation of approximately 160 linear feet of sidewalk and two (2) ADA ramps on along SE Broad Street near the intersection of Senoia Road.
 - 3. Add Alternative 3 – Landmark Christian School – Install approximately 600 linear feet of sidewalk 5 ft. in width on the south side of Milo Fisher Street, from Clayton Street to Grant Street. The scope also includes the installation of a concrete driveway, approximately 100 linear feet of curb & gutter, and seven (7) ADA ramps.

Bid Opening Results IFB# 20-001 Pedestrian Improvements on Various City Roads, City of Fairburn, Georgia

BID OPENING: FEBRUARY 28, 2020 - 3:00 P.M.

	PLAN HOLDERS	Bid Bond	ADDEND. #1	BID AMOUNT	Add Alt. 1	Add Alt. 2	Add Alt. 3	Total
1	Helix Group							
2	Piedmont Paving							
3	Tople Construction & Engineering, Inc.							
4	Atlanta Paving & Concrete Construction							
5	A+ Demolition							
6	BRTU Construction, Inc.							
7	SD & C, Inc.	✓	✓	\$126,500.00	\$8,100.00	\$38,400.00	\$48,314.00	\$221,314.00
8	The Corbett Group, LLC.	✓	✓	\$123,800.00	\$14,150.00	\$31,160.00	\$34,784.00	\$203,894.00
9	Construction Engineering and Management Co.	✓	✓	\$128,550.00	\$14,400.00	\$46,110.00	\$58,950.00	\$248,016.00
10	RM Concrete Specialist, LLC							
11	Excellere Construction, Inc.	✓	✓	\$97,800.00	\$9,600.00	\$36,300.00	\$41,300.00	\$185,000.00
12	Construction 57, Inc.	✓	✓	\$108,550.00	\$11,280.00	\$28,450.00	\$33,970.00	\$182,250.00
13	AM Construction, LLC	✓	✓	\$138,282.43	\$22,929.98	\$47,702.86	\$67,436.80	\$276,352.07
14	Baldwin Paving							
15	Sol Construction, LLC	✓	✓	\$195,191.00	\$23,184.00	\$50,322.00	\$65,680.00	\$334,377.00
16	Fairburn Ready Mix							

Notes: 1. Acknowledged Addendum #1

Bids were opened and read aloud in accordance with the project advertisement and invitation for bid. Unit price calculations and certifications will be verified and a certified tabulation release at a later date.

LESTER THOMPSON

MARCELA LINDLEY

**SERVICE PROVIDER CONTRACT
PEDESTRIAN IMPROVEMENTS ON VARIOUS CITY ROADS**

This **AGREEMENT** made and entered into this day of , April 13th 2020 by and between City of Fairburn, Georgia (Party of the First Part, hereinafter called the "Owner"), and, (Party of the Second Part, hereinafter called the "Service Provider").

NOW THEREFORE, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

1. TERM:

This contract shall commence upon Notice to Proceed. All work must be completed within sixty (60) calendar days of the Notice to Proceed with Construction (NTP).

2. ATTACHMENTS:

Copies of the Service Provider's proposal, including all drawings, specifications, price lists, Instructions to Bidders, General Conditions, Special Provisions, and Detailed Specifications submitted to the Owner during the Bid process (hereinafter collectively referred to as the "Bid ") are attached hereto and are specifically incorporated herein by reference. In the event of a conflict between the Owner's contract documents and the Bid, the Owner's contract documents shall control.

3. PERFORMANCE:

Service Provider agrees to furnish all skill and labor of every description necessary to carry out and complete in good, firm and substantial, workmanlike manner, the work specified, in strict conformity with the Bid.

4. PRICE:

As full compensation for the performance of this Contract, the Owner shall pay the Service Provider for the actual quantity of work performed. Bid amount shown on Exhibit A is the total obligation of the City pursuant to OCGA section 36-60-13 (a) (3). The fees for the work to be performed under this agreement shall be charged to the Owner in accordance with the rate schedule referenced in the Bid. The Owner agrees to pay the Service Provider following receipt by the Owner of a detailed invoice, reflecting the actual work performed by the Service Provider.

5. INDEMNIFICATION AND HOLD HARMLESS:

Service Provider agrees to protect, defend, indemnify, and hold harmless the City, its commissioners, officers, agents and employees from and against any and all liability, damages, claims, suits, liens, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligent errors, acts, or omissions of the Service Provider. Service Provider's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove shall include any matter arising out of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations.

Service Provider further agrees to protect, defend, indemnify, and hold harmless the City, its commissioners, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the Service Provider.

6. TERMINATION FOR CAUSE: The City may terminate this agreement for cause upon ten (10) days prior written notice to the Service Provider of the Service Provider's default in the performance of any term of this Agreement. Such termination shall be without prejudice to any of the City's rights or remedies provided by law.

7. TERMINATION FOR CONVENIENCE:

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

8. AGREEMENT NOT TO DISCRIMINATE:

During the performance of this Contract, the Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability which does not preclude the applicant or employee from performing the essential functions of the position. The Service Provider will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subservice provider, providing that the foregoing provisions shall not apply to contracts or subservice providers for standard commercial supplies of raw materials.

9. ASSIGNMENT:

The Service Provider shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or their right, title, or interest therein to any person, firm, or corporation without the previous consent of the Owner in writing.

10. WAIVER:

A waiver by either party of any breach of any provision, term, covenant, or condition of this agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

11. SEVERABILITY:

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

12. GOVERNING LAW:

The parties agree that this agreement shall be governed and construed in accordance with the laws of the State of Georgia. This agreement has been signed in City of Fairburn, Georgia.

13. MERGER CLAUSE:

The parties agree that the terms of this agreement include the entire agreement between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this agreement.

(Signatures Next Page)

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

CITY OF FAIRBURN, GEORGIA

By: _____
Elizabeth Carr-Hurst, Mayor
City of Fairburn

ATTEST:

Signature

Print Name
Arika Birdsong-Miller, City Clerk
City of Fairburn

APPROVED AS TO FORM:

Signature
William R. (Randy) Turner
City of Fairburn Attorney

SERVICE PROVIDER: Construction 57 Incorporated

BY: _____
Signature

Print Name

Title

ATTEST:

Signature

Print Name
Corporate Secretary
(Seal)



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF 2020 LMIG/TSPLOST ROADWAY IMPROVEMENTS PROJECT CONTRACT AWARD

() AGREEMENT () POLICY / DISCUSSION (X) CONTRACT
() ORDINANCE () RESOLUTION () OTHER

Submitted: 04/07/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Engineering

BUDGET IMPACT: The 2020 Local Maintenance & Improvement Grant (LMIG) award of \$202,561.60 from the Georgia Department of Transportation (GDOT) has already been received. Approximately \$955,108.30 in proposed TSPLOST City-Wide Road Resurfacing funds will also be required, for a total budget impact of approximately \$1,157,669.90. The project expenditures will come out of account numbers (250-4201-54-1404) LMIG-Road Resurfacing and (360-000-54-1410) T-SPLOST Infrastructure-Roadway.

PUBLIC HEARING? () Yes (X) No


PURPOSE: For Mayor and Council to approve the 2020 LMIG/TSPLOST Roadway Improvement Project Contract Award with C.W. Matthews Contracting Company, Inc. for an amount of \$1,157,669.90.

HISTORY: The City of Fairburn receives an annual grant from the Georgia Department of Transportation (GDOT), Local Maintenance Improvement Grant (LMIG), to conduct various road improvements and repairs within the City. This year's LMIG check in the amount of \$202,561.60 was received on January 21st, 2020. These funds will again be combined with Transportation Special Local Option Sales Tax (T-SPLOST) funds in order to take advantage of the economies of scale and to satisfy the LMIG match requirements with T-SPLOST funds instead of General Funds. The approved T-SPLOST Project List allocates \$8,290,154.00 to City-Wide Road Resurfacing.

FACTS AND ISSUES: The Invitation for Bid (IFB#20-002, Roadway Improvements on Various City Roads) was advertised on March 4th, 2020. The bid opening was bid opening date was April 3rd, 2020 at 3:00pm at which time the seven (7) bids received were opened and read aloud. After completion of the bid evaluation, it was determined that C.W. Matthews Contracting

Company, Inc. was the lowest responsive and responsible bidder with a bid price of \$1,157,669.90.

RECOMMENDED ACTION: Staff recommends that Mayor and Council approve the 2020 LMIG/TSPLOST Roadway Improvements Project Contract Award to C.W. Matthews Contracting Company, Inc. at a bid price of \$1,157,669.90.


Elizabeth Carr-Hurst, Mayor

**CITY OF FAIRBURN
INVITATION FOR BID**

IFB # 20-002 – ROADWAY IMPROVEMENTS ON VARIOUS CITY ROADS

March 4, 2020

The City of Fairburn will accept sealed bids from qualified Contractors for furnishing all labor, equipment, and materials necessary to complete the **ROADWAY IMPROVEMENTS ON VARIOUS CITY ROADS CONTRACT # 20-002**. The work includes milling, temporary traffic control, asphalt paving, manhole adjustments and associated tasks. All work must be completed within one hundred and twenty (120) calendar days of the Notice to Proceed with Construction (NTP).

Bids will be received at the City of Fairburn at City Hall, 56 Malone Street, Fairburn, Georgia 30213 (phone: 770-964-2244) **until 3:00 PM, Friday, April 3, 2020**, at which time the bids will be opened and read aloud. No bid may be modified, withdrawn, or canceled for a period of 60 days after time designated for receipt of Bids or until notified by Owner, whichever is sooner. The City reserves the right to reject any and all bids and to waive irregularities, technicalities, and informalities.

Bidding documents may be viewed or purchased at the office of the City Engineer, 26 West Campbellton Street, Suite 110, Fairburn, Georgia 30213. Contact Ms. Marceia Lindley at 770-964-2244 (ext. 305) to order bid packages. Bid packages are \$10 per CD or \$20 per hardcopy. Payment must be received prior to delivery. Questions of a technical nature should be submitted in writing to the City of Fairburn via electronic mail, attention Lester Thompson: lthompson@fairburn.com.



**2020 ROADWAY LIST
ROADWAY IMPROVEMENTS ON VARIOUS CITY ROADS**

BASE BID ITEMS

STREET	LENGTH (MI)	SCOPE
Johnson Road [Creekwood Road to City Limits (bridge)]	1.3	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Bohannon Road (Creekwood Road to Line Creek Bridge)	0.4735	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Bohannon Road [Oakley Industrial Boulevard to City Limits (Kirkley)]	1.4	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Creekwood Road (Bridge to Bohannon/Johnson)	0.5966	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Landrum Road (Bohannon Road to SR74)	0.714	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Gullatt Road (Mann Road to Coweta County line)	0.8373	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Gullatt Road (Mann Road to Johnson Road)	0.5403	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED
Gullatt Road (Johnson Road to Bridge)	0.4892	MILLING, POTENTIAL PATCHING, TOPPING, STRIPING & MANHOLE ADJUSTMENTS AS REQUIRED

M E M O R A N D U M
ADDENDUM #1

No. 20-002
City of Fairburn

Roadway Improvements on Various City Roads

Questions & Responses:

1. What is the estimated construction budget?
The City of Fairburn does not provide this information on projects that are competitively bid.
2. What are the allowable lane closure hours?
The work hours are 7am – 6pm. Lanes closures are allowed from 9am – 4pm.
3. Will an MTV or Shuttle Buggy be required for paving?
No
4. There are rumble strips present on Gullatt Road near the intersection of Johnson Road, will these need to be replaced after milling and paving?
No
5. There are two small concrete caps on a small bridge on Johnson Road, will the contractor be required to mill/remove this concrete or just tie into the concrete?
Mill & overlay as required.
6. Will there be a minimum patching width (6-7 feet) for this project?
Yes
7. With the current situation of the nation and Covid-19 will this bid be pushed back to a later date due to the uncertainty of the situation?
No. however the bid opening will not be done in person. It will be done via teleconference. The call-in number is: +1 (408) 650-3123. The Access Code is: 684-924-173. Bids are still required to be submitted at the City of Fairburn at City Hall, 56 Malone Street, Fairburn, Georgia 30213 (phone: 770-964-2244) by 3:00 PM, Friday, April 3, 2020.
8. In the Supplementary Conditions, Part 3, it is indicated that “All work shall be performed during working hours specified in City of Fairburn, GA Code of Ordinances.” What are the hours that you will allow us to have lane closures in order to perform the work?
The work hours are 7am – 6pm. Lanes closures are allowed from 9am – 4pm.
9. In the General Conditions, Part F, Paragraph 6, the proposal calls for all driveways and intersections to be “tied-in with surface mix at the time of paving for a sufficient distance to provide a smooth transition”. Since the scope of this project is 1.5” Mill with 1.5” Inlay, the vertical elevation change should be minimal. Is running the gate out at driveways to provide the smooth transition okay with the City? Does the City intend to mill the intersecting side roads to help achieve the smooth transition?
Yes, running the gate out at driveways to provide a smooth transition as required is acceptable. Yes, side streets will be milled as required.
10. On the section of Bohannon Road that begins at Creekwood Road and extends to Line Creek Bridge, there is a pavement joint approximately 380’ West of the newly constructed bridge. Does the City intend to terminate milling and paving for this project at the pavement joint or the bridge abutment?
The mill & inlay should terminate at the pavement joint.
11. Regarding the Joint Venture clause, according to GDOT section 108.01, it states that consent HAS to be given by the engineer.
We are asking if we can sublet the milling and striping since that is a specialty contractor item?
Yes

12. Can we have signs on tripods or are you requiring permanent signs for the duration of the project?
Yes
13. What are the hours of work? Any weekend or night work allowed?
The work hours are 7am – 6pm. Lanes closures are allowed from 9am – 4pm. Weekend and night work is allowed upon request with advance notification.
14. Can we use industry standard manhole riser for manholes and water valves if needed?
Yes
15. How many days are given for completion of contract?
All work must be completed within one hundred and twenty (120) calendar days of the Notice to Proceed with Construction (NTP).
16. What are the liquidated damages per day?
One percent (1 %) per day.
17. Are MTVs or transfer vehicles required for this project?
No
18. In light of Covid-19 virus pandemic, will the city push this bid to a later date?
No
19. If the opening remains on 4/3, where will be the location of the bid opening?
The bid opening will not be done in person. It will be done via teleconference. The call-in number is: +1 (408) 650-3123. The Access Code is: 684-924-173. Bids are still required to be submitted at the City of Fairburn at City Hall, 56 Malone Street, Fairburn, Georgia 30213 (phone: 770-964-2244) by 3:00 PM, Friday, April 3, 2020.
20. On page 43 of bid package, on the Non-Collusion item, it states that each bidder is required to sign an affidavit, but the affidavit is not included in the bid package. Can you please provide the form?
See page 34 on the bid document.
21. Does the City of Fairburn require OCP and Builders Risk Insurance for resurfacing only projects?
The insurance requirements can be found on pages 12-14 of the bid document.

End of Addendum

Bid Opening Results IFB# 20-002 Roadway Improvements on Various City Roads, City of Fairburn, Georgia

BID OPENING: April 3, 2020 - 3:00 P.M.

	PLAN HOLDERS	Bid Bond	ADDEND. #1	BASE BID AMOUNT
1	Piedmont Paving, Inc.	✓	✓	\$1,294,427.10
2	Atlanta Paving and Concrete			
3	C.W. Matthews Contracting Company, Inc.	✓	✓	\$1,157,669.90
4	Baldwin Paving, Inc.			
5	The Corbett Group, LLC	✓	✓	\$1,638,596.00
6	Stewart Bros., Inc.	✓	✓	\$1,370,553.10
7	HEH Paving, Inc.	✓	✓	\$1,457,577.76
8	DAF Concrete, Inc.			
9	ShepCo Paving, Inc.	✓	✓	\$1,240,624.85
10	ER Snell Contractor, Inc.	✓	✓	\$1,298,688.90

Notes: 1. Acknowledged Addendum #1

Bids were opened and read aloud in accordance with the project advertisement and invitation for bid. Unit price calculations and certifications will be verified and a certified tabulation release at a later date.

LESTER THOMPSON

MARCEIA LINDLEY

**SERVICE PROVIDER CONTRACT
ROADWAY IMPROVEMENTS ON VARIOUS CITY ROADS**

This **AGREEMENT** made and entered into this day of _____ by and between City of Fairburn, Georgia (Party of the First Part, hereinafter called the "Owner"), and, (Party of the Second Part, hereinafter called the "Service Provider").

NOW THEREFORE, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

1. TERM:

This contract shall commence upon Notice to Proceed. All work must be completed within one hundred and twenty (120) calendar days of the Notice to Proceed with Construction (NTP).

2. ATTACHMENTS:

Copies of the Service Provider's proposal, including all drawings, specifications, price lists, Instructions to Bidders, General Conditions, Special Provisions, and Detailed Specifications submitted to the Owner during the Bid process (hereinafter collectively referred to as the "Bid ") are attached hereto and are specifically incorporated herein by reference. In the event of a conflict between the Owner's contract documents and the Bid, the Owner's contract documents shall control.

3. PERFORMANCE:

Service Provider agrees to furnish all skill and labor of every description necessary to carry out and complete in good, firm and substantial, workmanlike manner, the work specified, in strict conformity with the Bid.

4. PRICE:

As full compensation for the performance of this Contract, the Owner shall pay the Service Provider for the actual quantity of work performed. Bid amount shown on Exhibit A is the total obligation of the City pursuant to OCGA section 36-60-13 (a) (3). The fees for the work to be performed under this agreement shall be charged to the Owner in accordance with the rate schedule referenced in the Bid. The Owner agrees to pay the Service Provider following receipt by the Owner of a detailed invoice, reflecting the actual work performed by the Service Provider.

5. INDEMNIFICATION AND HOLD HARMLESS:

Service Provider agrees to protect, defend, indemnify, and hold harmless the City, its commissioners, officers, agents and employees from and against any and all liability, damages, claims, suits, liens, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligent errors, acts, or omissions of the Service Provider. Service Provider's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove shall include any matter arising out of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations.

Service Provider further agrees to protect, defend, indemnify, and hold harmless the City, its commissioners, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the Service Provider.

6. TERMINATION FOR CAUSE: The City may terminate this agreement for cause upon ten (10) days prior written notice to the Service Provider of the Service Provider's default in the performance of

any term of this Agreement. Such termination shall be without prejudice to any of the City's rights or remedies provided by law.

7. TERMINATION FOR CONVENIENCE:

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

8. AGREEMENT NOT TO DISCRIMINATE:

During the performance of this Contract, the Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability which does not preclude the applicant or employee from performing the essential functions of the position. The Service Provider will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subservice provider, providing that the foregoing provisions shall not apply to contracts or subservice providers for standard commercial supplies of raw materials.

9. ASSIGNMENT:

The Service Provider shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or their right, title, or interest therein to any person, firm, or corporation without the previous consent of the Owner in writing.

10. WAIVER:

A waiver by either party of any breach of any provision, term, covenant, or condition of this agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

11. SEVERABILITY:

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

12. GOVERNING LAW:

The parties agree that this agreement shall be governed and construed in accordance with the laws of the State of Georgia. This agreement has been signed in City of Fairburn, Georgia.

13. MERGER CLAUSE:

The parties agree that the terms of this agreement include the entire agreement between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this agreement.

(Signatures Next Page)

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

CITY OF FAIRBURN, GEORGIA

By: _____
Elizabeth Carr-Hurst, Mayor
City of Fairburn

ATTEST:

Signature

Print Name
Arika Birdsong-Miller, City Clerk
City of Fairburn

APPROVED AS TO FORM:

Signature
William R. (Randy) Turner
City of Fairburn Attorney

SERVICE PROVIDER: C.W. Matthews Contracting Company, Inc

BY: _____
Signature

Print Name

Title

ATTEST:

Signature

Print Name
Corporate Secretary
(Seal)



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: APPROVAL OF TASK ORDER #3 WITH ATLAS TECHNICAL CONSULTANTS FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Submitted: 04/07/2020 Work Session: N/A Council Meeting: 04/13/2020

DEPARTMENT: Community Development

BUDGET IMPACT: The budget impact of this task order will be \$55,500. The proposed expenditures will come out of the T-SPLOST Program Mgt Account (360-0000-52-1110).

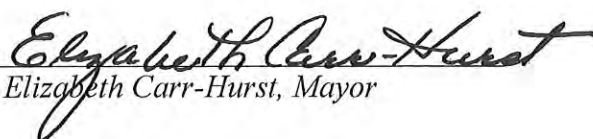
PUBLIC HEARING? () Yes (X) No

PURPOSE: For Mayor and Council to approve Task Order #3 with Atlas Technical Consultants (Moreland Altobelli) for Construction Engineering and Inspection (CEI) Services on the Roadway Improvements on Various City Roads Project (20-002).

HISTORY: The City of Fairburn entered into a Master Services Agreement with Moreland Altobelli Associates, LLC on July 22nd, 2019 for On-Call Construction Management Services. The firm subsequently changed its name to Atlas Technical Consultants, LLC on January 1, 2020.

FACTS AND ISSUES: The agreement with Moreland Altobelli (Atlas) was approved with the understanding that task orders associated with Construction Management Services would be issued on an as need basis. As such, Task Order #3 for said services has been submitted for review and approval.

RECOMMENDED ACTION: Staff recommends that the City Council approve Task Order #3 with Atlas Technical Consultants for Construction Engineering and Inspection Services on the Roadway Improvements on Various City Roads Project (20-002) and authorize the Mayor to sign the Task Order for an amount not to exceed \$55,500.


Elizabeth Carr-Hurst, Mayor



To: City of Fairburn
P.O. Box 145
Fairburn, Georgia 30213
Attn: Mr. Lester Thompson

Date: April 6, 2020
From: Chris Parypinski
Copy to: Buddy Gratton

Project: Roadway Improvements on Various City Roads,
Project Number 20-002
TO No.: 3

Scope of Work: Provide Construction Engineering and Inspections Services to monitor the resurfacing work on Project Number 20-002

BACKGROUND INFORMATION

Atlas Technical Consultants has prepared this Task Order (TO) in accordance with our Master Services Agreement dated July 22, 2019. This task order has been prepared to assist the City of Fairburn with Construction Management Services. The services proposed will better enable the City to complete the project on time, within budget, and meet the project-specific objectives outlined in the scope of services described below. Accordingly, the City will be able to focus its efforts on more strategic goals.

Task 1 – Construction, Engineering and Inspection Services

- Provide inspection services for the resurfacing, milling, patching, striping, and structure adjustments of the approved roads in the contract with C.W. Matthews Contracting Company Inc. for Project Number 20-002
- Provide engineering services to address contractor initiated RFI's.
- Provide engineering services to review contractor pay submittals.

The total not to exceed budget of \$55,500.00 as outlined in the attached fee proposal includes staff time and expenses necessary to perform the scope of work outlined above.

If the City requires additional services, Atlas Technical Consultants, will provide those services in accordance with the existing Unit Rates agreed to with the City. A scope and budget for additional services would be prepared for City approval prior to performing the work.

Authorization:

As our authorization to proceed with the scope of work, schedule and fee structure outlined herein, please sign in the space provided below and return one copy Atlas Technical Consultants for our records.

Authorized by: _____

Title: Mayor

Print Name: Elizabeth Carr-Hurst

Date: _____

April 6, 2020



20-002, Roadway Improvements on Various City Roads

CEI Services
City of Fairburn

PERSONNEL COSTS:		EST HRS	RATE/HR	COST(\$)
CONSTRUCTION ENGINEERING AND INSPECTION				
CONSTRUCTION SERVICES MGR	56	\$125.00	\$7,000	
SENIOR INSPECTOR	600	\$75.00	\$45,000	
		SUBTOTAL	\$52,000	
DIRECT COSTS				
		REPRODUCTION/PLOTTING	\$0	
		TRAVEL AND MISC. DIRECT COSTS	\$3,500	
		TOTAL DIRECT COSTS	\$3,500	
		TOTAL COST	\$55,500	

Assumptions:



**CITY OF FAIRBURN
CITY COUNCIL AGENDA ITEM**

SUBJECT: USAGE AGREEMENT- YOUTH CENTER PARKING LOT

(☒) AGREEMENT (☐) POLICY / DISCUSSION (☐) CONTRACT
(☐) ORDINANCE (☐) RESOLUTION (☐) OTHER

Submitted: 04/07/2020 Work Session: N/A Council Meeting: 04/13/2020

DEPARTMENT: Park and Recreations

BUDGET IMPACT: \$6,000

PUBLIC HEARING? (☐) Yes (☒) No

PURPOSE: For Mayor and Council to approve the rental agreement with G. Pat Green for use of 129 W. Broad Street for City of Fairburn's Youth Center daily and event parking.

HISTORY: 129 W. Broad Street is located adjacent to the Fairburn's Youth Center and provides approximately sixteen (16) additional parking spaces and additional grass parking.

FACTS AND ISSUES: G. Pat Green is the owner of 129 W. Broad Street.

RECOMMENDED ACTION: For Mayor and Council to approve the Rental Agreement between G. Pat Green and the City of Fairburn for use of the parking lot located at 129 W. Broad Street for the term of the lease.


Elizabeth Carr-Hurst, Mayor

RENTAL AGREEMENT

129 West Broad Street, Fairburn GA 30213

THIS AGREEMENT is made and entered into between G. Pat Green (hereinafter referred to as "Landlord") and the City of Fairburn, a municipal corporation of the State of Georgia (hereinafter referred to as the "Lessee") for rental of parking lot at 129 West Broad Street, Fairburn, Ga 30213 for parking.

WHEREAS, G. Pat Green is the owner of the parking lot located at 129 West Broad Street; and

WHEREAS, the undersigned Lessee desires to use the premises for parking of cars and light pickup trucks. No heavy trucks or equipment allowed and must comply with all state, county, and municipal laws ordinances.

TERM: This Agreement is to become effective on the April 1, 2020 and shall terminate on March 31, 2021.

FEES: Lessee agrees to pay G. Pat Green a rental fee during the Term in the amount of \$500.00 per month due at the first of each month.

For the use of the above parking lot, the Lessee agrees to the following conditions:

- I. The parking lot will be delivered from the Landlord in an as-is condition.
2. The Landlord shall be responsible for general maintenance support during the term of the Lease.
3. The Lessee agrees to solely use the premises for parking and shall apply with all state, county, and municipal laws and ordinances. Cars and light pick-up trucks only, no heavy trucks or equipment.
4. The Lessee will be responsible for keeping area clean and free from debris. No storage of goods or materials of any kind or description which are combustible or would increase fire risk.
5. Landlord shall not be liable for damage to vehicles while parked on the premises of any type for any reason or cause whatsoever, except where such is due to Landlord's gross negligence or intentional misconduct.
6. The Lessee shall provide liability insurance policy in the amount of \$500,000.00 per person/ \$1,000,000.00 per occurrence for bodily injury and property damage prior to the Lease becoming effective for the term of this Agreement.
7. Lessee further understands and agrees that no improvements either permanent or temporary will be made to these facilities unless prior written approval from the Landlord is obtained.

8. In the Landlords discretion, for failure of the Lessee to follow the policies and procedures for the use of the parking lot at 129 W. Broad Street, Lessee's use of the parking lot may be suspended, or this Lease may be immediately terminated. Thirty (30) day notice must be given for termination of agreement
9. Lessee shall deliver premises in good order and repair to Landlord upon termination or expiration of this Rental Agreement. Whenever Landlord is entitled to possession of the Premises under the terms of this Rental Agreement, Lessee shall at once surrender Premises to the Landlord and shall remove all the Lessee's property. Should the Lessee remain after termination or expiration of this Agreement.
10. If Lessee fails to pay rent or any other sum due, or otherwise fails to abide by and perform any of the obligations, term, conditions or provisions of this Rental Agreement, including, but not limited to, failure to reimburse Landlord for any damages, repairs or costs when due, abandonment of the Premise, or violate any of the rules and regulations set forth herein, each and any breach shall constitute a default under this Rental Agreement. If such default continues for three (3) business days written notice of default from Landlord may terminate the lease by written notice to the Lessee.
11. Any failure of Landlord to seek redress for the violation of, or to insist upon the strict and prompt performance of, any covenants or conditions of this Agreement shall not operate as a waiver of any such violation or of Landlord's right to insist on prompt compliance in the future with such covenant or condition, and shall not prevent a subsequent action by Landlord for any such violation. Acceptance by Landlord of any late payment of rent shall not constitute a waiver of any rights of Landlord, including without limitation, the right to terminate this Agreement as herein provided. The receipt of any rent or additional rent by Landlord with the knowledge of such breach shall not operate as a waiver by Landlord unless such waiver is in writing and signed by Landlord.
12. The parking lot included in this Lease shall not be sub-leased without the written approval of the Landlord.

This Rental Agreement and any attached addendums constitute the entire Rental Agreement between the parties and no oral statements shall be binding. The Lessee agrees that by signing this Agreement it will abide by these conditions and understands that failure to abide by them may result in the loss of the right to conduct their activities as provided herein.

This Agreement entered into this _____ day of _____, 2020.

Leasee, CITY OF FAIRBURN

Landlord, G. PAT GREEN

By: _____
Elizabeth Carr-Hurst, Mayor

By: _____
G. Patrick Green (Print Name)

Attest: _____
Arika Birdsong-Miller, City Clerk

G. Patrick Green Signature

Attest: _____
William R. (Randy) Turner

Mailing Address:



CITY OF FAIRBURN

CITY COUNCIL AGENDA ITEM

SUBJECT: FIRE DEPARTMENT TARGET SOLUTIONS SOFTWARE TRAINING PACKAGE

☐ AGREEMENT ☐ POLICY / DISCUSSION ☒ CONTRACT
☐ ORDINANCE ☐ RESOLUTION ☐ OTHER

Submitted: 04/09/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Fire

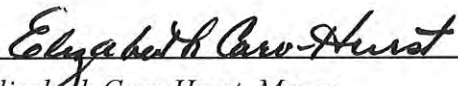
BUDGET IMPACT: \$5,070.44 from 100-3500-52-3700

PUBLIC HEARING? ☐ Yes ☒ No

PURPOSE: The Fire Department is requesting approval to use budgeted funds in the 19-20 FY Budget to continue the contract for Target Solutions, which is the training module for the Fire Department.

HISTORY: The Fire Department has had this program since April 2016 for the purposes of training for Fire Department personnel. The cost of the software from last year was \$4,956.48 and per the previous contract, the fees will increase by 2.5% for all renewal agreements. The training hours that fire personnel accrue in the system allows for the them to stay current on rules, regulations and best practices. Additionally, these training hours are reviewed by the ISO evaluator during the recertification visit.

RECOMMENDED ACTION: Approval to use budgeted funds for the purpose of retaining the training software and to renew the contract with Target Solutions Learning LLC.


Elizabeth Carr-Hurst, Mayor



Renewal Notice

Date 02-10-2020

Contract Name	Account Manager	Billing Frequency	Renewal Start Date
Fairburn Fire Department (GA)	Brittany Lowe	Annual	05-11-2020

Quantity	Product	Description	Unit Price	Total
44	TargetSolutions Premier Membership Platform		\$106.26	\$4,675.44
1	TargetSolutions Maintenance Fee		\$395.00	\$395.00

Grand Total: \$5,070.44

As a convenience to our customers, we are changing our billing policy effective December 1st, 2019 to send out bills 30 days in advance of your renewal.

This does not change the billing due date or the payment terms of your agreement.

Upon expiration of the Initial or any Renewal Term of your Client Agreement, access to the Services may remain active for thirty (30) days solely for purpose of Company's record keeping (the "Expiration Period"). Unless otherwise provided in your Client Agreement, any access to or usage of the Services following the Expiration Period shall be deemed Client's renewal of the Agreement under the same terms and conditions.



CITY OF FAIRBURN CITY COUNCIL AGENDA ITEM

SUBJECT: PURCHASE AND INSTALLATION OF AIR (CASCADE SYSTEM) AND LIGHT UNIT FOR AIR LIGHT 22

() AGREEMENT () POLICY / DISCUSSION () CONTRACT
() ORDINANCE () RESOLUTION (X) OTHER

Submitted: 04/09/2020

Work Session: N/A

Council Meeting: 04/13/2020

DEPARTMENT: Fire

BUDGET IMPACT: \$26,080 from budget line item 100-3500-54-2500 Other Equipment

PUBLIC HEARING? () Yes (X) No

PURPOSE: Approve the purchase and installation of the cascade system and light tower for Air Light 22 which is included in the Fire Department's FY 19-20 budget.

HISTORY: A 2008 GMC Top Kick was gifted to the Fire Department from the Electric Department for the purpose of creating a Mobile Air Unit.

FACTS AND ISSUES: This unit would serve the purpose of illuminating dark emergency scenes by use of a light tower, serve as an air refill for our self-contained breathing apparatus (SCBA) on major fires and serve as a rehab station for firefighters during severe hot and cold weather. This unit can also assist the police department with lighting up crime scenes and accident investigations on the interstate and roadways. This will save the City approximately \$200,000 by refurbishing an existing vehicle vs. purchasing a new unit. Quotes were obtained from Randall Brackett Fire Truck Repair and FireLine, Inc.; Municipal Emergency Services originally indicated they could perform the service but had to decline the bid due to the current global pandemic affecting their staffing. Randall Brackett has the lowest bid of \$26,080.

RECOMMENDED ACTION: It is recommended that Mayor and Council approve the purchase and installation of the air and light unit by Randall Brackett Fire Truck Company for Air Light 22 for the Fairburn Fire Department.


Elizabeth Carr-Hurst, Mayor

Randall Brackett Fire Truck Repair
 PO. BOX 36.
 DALLAS, GA 30132 US
 (770) 572-5300
 brackettsfiretruck@gmail.com

Estimate

ADDRESS

Cornelius D Robinson
 City of Fairburn Fire Department
 56 Malone Street
 Fairburn, GA 30213

ESTIMATE #	DATE
1265	02/14/2020

P.O. NUMBER

Air And Light Truck

SALES REP

Jared

ACTIVITY	QTY	RATE	AMOUNT
Eagle air mobile centurion fill station	1	13,700.00	13,700.00
Night scan chief 2.3 64,000 lumen light tower	1	10,000.00	10,000.00
Freight Freight. Final shipping charges will be added to invoice once products are shipped.	1	0.00	0.00

TOTAL

\$23,700.00

Accepted By

Accepted Date

Randall Brackett Fire Truck Repair
PO. BOX 36.
DALLAS, GA 30132 US
(770) 572-5300
brackettsfiretruck@gmail.com

Estimate

ADDRESS

Cornelius D Robinson
City of Fairburn Fire Department
56 Malone Street
Fairburn, GA 30213

ESTIMATE #	DATE
1306	04/08/2020

P.O. NUMBER

Refurb

SALES REP

Jared

ACTIVITY	QTY	RATE	AMOUNT
Labor Service Installing fill station with two bottles	11	105.00	1,155.00
Labor Service Installing light tower	10	105.00	1,050.00
Shop supplies. Shop supplies.	1	175.00	175.00

TOTAL

\$2,380.00

Accepted By

Accepted Date



FireLine INC.

725 Patrick Industrial Lane
Winder, GA. 30680
PH: (770) 868-4448
FAX: (770) 868-4455

CUSTOMER QUOTE

DATE	QUOTE #
4/6/2020	346294

BILLING ADDRESS
City of Fairburn Fire Dept. Attn: Accounts Payable P.O. Box 145 Fairburn, GA. 30213-0145 Chief Cornelius Robinson

SHIPPING ADDRESS
City of Fairburn Fire Dept. Attn: Chief Robinson 56 Malone St Fairburn, Ga. 30213

TERMS	REP	FOB
Net 30	RPM	FACTORY

ITEM	DESCRIPTION	QTY	UNIT PRICE	TOTAL
SL442D-CH	COMMAND LIGHT SHADOW SERIES 12V DC LIGHT TOWER W/ (4) HEAD FIRETECH HELIOS LED 60W / 56000 LUMENS LIGHT OUTPUT 4-20	1	10,368.00	10,368.00
MISC. PART	AC40060 - Cylinder,ISO,6000,510CF,w/702 Valve	2	1,017.00	2,034.00
MISC. PART	AC40066F - Collar,Crash,DOT/ISO Cyl Valve Protector,2400/4500/6000, Yellow	2	40.00	80.00
MISC. PART	AC10034 - Nut/Nipple,7500,CGA702,BR	2	12.00	24.00
MISC. PART	AC20016 - Elbow,6000,90,1/4 FNPTxJIC-M,ST	2	18.00	36.00
MISC. PART	AC70095-2VTG - Fill Station,Spacesaver, 2 Position,Vertical,Truck,Grey	1	7,883.00	7,883.00
MISC. PART	ACPANEL - Custom Air Control Panel,Units Cannot be Returned to Airworks for Refund, Includes: 2 Inlet gauges & valves, 1 NFPA supply gauge, 1 HP regulator, 1 Fill pressure gauge, 1 SCBA gauge & valve, 1 Refill port...	1	3,697.00	3,697.00
FRT. TBD	"ESTIMATED" FREIGHT (TBD) + S/H CHARGES TO BE ADDED AT FINAL INVOICE. IF QUOTE INCLUDES SHIPPING CHARGES ON THIS LINE, IT IS AN "ESTIMATED" SHIPPING CHARGE ONLY. *** ACTUAL FREIGHT / SHIPPING CHARGES WILL BE ADDED AT FINAL INVOICE. *** OPTIONAL PRICING *** **COMMAND LIGHT:KL415D-CH \$ 16,224.00 + Shipping	1	0.00	0.00

QUOTE VALID FOR 30 DAYS. MAY BE EXTENDED PER FIRELINE, INC. APPROVAL

SUBTOTAL

30 DAY RETURN CONDITIONS: FireLine, Inc. will make final determination on return authorization. Electrical, hydraulic, special order, and fabricated parts are nonreturnable. Any parts that are returned to FireLine, Inc. without prior authorization or does not meet stated return requirements will be scrapped without notification and credit denied.

SALES TAX (0.0%)

TOTAL



FireLine
INC.

725 Patrick Industrial Lane
Winder, GA. 30680
PH: (770) 868-4448
FAX: (770) 868-4455

CUSTOMER QUOTE

DATE	QUOTE #
4/6/2020	346294

BILLING ADDRESS
City of Fairburn Fire Dept. Attn: Accounts Payable P.O. Box 145 Fairburn, GA. 30213-0145 Chief Cornelius Robinson

SHIPPING ADDRESS
City of Fairburn Fire Dept. Attn: Chief Robinson 56 Malone St Fairburn, Ga. 30213

TERMS	REP	FOB
Net 30	RPM	FACTORY

ITEM	DESCRIPTION	QTY	UNIT PRICE	TOTAL
	COMMAND LIGHT KNIGHT SERIES 12V DC LIGHT TOWER W/ (6) HEAD FIRETECH HELIOS LED 60W / 84000 LUMENS LIGHT OUTPUT 4-20			

QUOTE VALID FOR 30 DAYS. MAY BE EXTENDED PER FIRELINE, INC.
APPROVAL

30 DAY RETURN CONDITIONS: FireLine, Inc. will make final determination on return
authorization. Electrical, hydraulic, special order, and fabricated parts are nonreturnable.
Any parts that are returned to FireLine, Inc. without prior authorization or does not meet
stated return requirements will be scrapped without notification and credit denied.

SUBTOTAL \$24,122.00

SALES TAX (0.0%) \$0.00

TOTAL \$24,122.00

Cornelius Robinson

From: Robert McDonel <rmcdonel@firelineinc.com>
Sent: Tuesday, April 07, 2020 8:44 AM
To: Cornelius Robinson
Cc: Robert McDonel
Subject: FAIRBURN -FireLine Quotation Light and Air Products 4-7-20
Attachments: Est_346294_from_FireLine_Inc._10484.pdf

Chief Robinson: Good morning and I hope you, your family and your department are doing well in these strange times. Attached is the quote on the light and air products we discussed. The Command Light quoted is a 4 light LED 12v product. Note the option to make it a 6 light. The 6000 psi two (2) bottle cascade system with a two (2) position fill station is quoted. Body modifications would be required on the truck you plan to use. This body mod and installation at FireLine would be \$ 2,400.00. This is based on the 12v system. Note below if AC is required, ADD \$ 500.00 to the light tower price. Fairburn would be responsible for painting the body, cab if desired and transportation to and from FireLine. Please let me know you received this information and also any questions. Thank you and I look forward to hearing from you very soon. Bob

From: Jim McDonel <JMcDonel@firelineinc.com>
Sent: Monday, April 6, 2020 5:18 PM
To: Robert McDonel <rmcdonel@firelineinc.com>
Subject: Estimate 346294 from FireLine, Inc.

Fairburn Cascade / Light Tower Quote.

Quoting 12V DC Light Towers. If AC is required, ADD \$ 500.00 to each light tower price

Cornelius Robinson

From: Adams, Jeremy <JAdams@mesfire.com>
Sent: Monday, April 06, 2020 9:39 AM
To: Cornelius Robinson
Subject: Fairburn Fire- Air Light Unit

Chief Robinson,

The project referenced as Air and Light Unit, after further review we'll not be able to submit a proposal for the project. We appreciate the opportunity.

Please contact if there are any questions.

Thank You

Jeremy Adams

Northwest GA Sales Representative

Municipal Emergency Services

Office: 800-868-8584

Mobile: 770-900-8996

jadams@mesfire.com

www.mesfire.com

