

# City of Norcross

65 Lawrenceville Street  
Norcross, GA 30071



## Meeting Agenda

Monday, August 15, 2016

6:30 PM

2nd Floor Conference Room

### **Policy Work Session**

*Mayor Bucky Johnson*

*Mayor Pro Tem Craig Newton*

*Council Member David McLeroy*

*Council Member Andrew Hixson*

*Council Member Josh Bare*

*Council Member Pierre Levy*

**A. Roll Call (recorded)****B. Citizen Input****C. Board Updates**

\*DDA Update

**D. General Updates**

\*Parks Master Plan Revision Update - M. Bender

**E. Council- General Discussion****F. Board Appointments**

There are no appointments/reappointments to be considered at this time.

**G. Items for Discussion****PH. 16-4440 2015 Property Tax Millage Rate**

The City has received its preliminary Tax Digest. Mayor and Council is asked to deliberate and adopt the millage rate for FY2016.

[FY 2016 Tax Millage Recommendation](#)  
[Copy of Rudolph millage rate 2016](#)  
[2016 Five Year History .5 mill](#)  
[Rollback Calculation 2016](#)

**1. 16-4453 Sustainability Consultant Proposal**

Proposal to hire a Sustainability Consultant to perform initiatives listed in the attached Scope of Work.

[Memo - Sustainable Consultant Proposal](#)  
[Job Description for Sustainability Consultant](#)  
[Scope of Work](#)

**2. 16-4441 16-4441 : Xerox Lease Agreement**

Our large Xerox copier contract is up for renewal. This contract will allow for us to replace the 2nd Floor and GGA Xerox copy machines with new and more capable machines at a fraction of the cost. The new copiers are much more energy efficient and will utilize less toner per copy than the current copiers.

[CON Amended Contract](#)  
[NORCROSS Non Appropriations](#)

3. **16-4442**      **Transportation Enhancement Agreement - Norcross Pedestrian Connectivity**

Norcross was awarded a TE Grant for Pedestrian Connectivity sidewalks at various locations around Norcross. The project is now ready to go to bid for construction and receive federal matching funds. The city, as local sponsor, must enter in to an agreement with the Georgia Department of Transportation. This resolution is a requirement of the agreement and authorizes the Mayor to enter into the agreement on behalf of the city.

[TE Activities Agreement Resolution](#)  
[Gwinnett 2016.07.29 GDOT TE Agreement Transmittal](#)  
[Gwinnett 2016.07.29 TE Agreement \(003\)](#)

4. **16-4439**      **Revisions to Erosion and Sedimentation Control Ordinance**

These modifications are necessary under our continuing certification obligation under O.C.G.A. 12-7-8(a)(2), the Georgia Erosion and Sedimentation Control Act of 1975, as amended. This amended state act requires all Local Issuing Authorities of land disturbing permits to keep their local ordinances in accord with amendments to the state act.

[davis - memo - 16-08-02](#)  
[Ordinance - 08-2016 sec 109 mayor sig](#)

5. **16-4443**      **Request for a New Job Description Entitled "Crime Scene Investigator / Property & Evidence Custodian"**

The Police Department requests a new job description be approved to cover the numerous additional certifications, job requirements, and responsibilities for what previously was only a Property & Evidence Custodian. Current staff employee Jeramy Anderson was asked to work toward becoming a Crime Scene Investigator. Having successfully done that, this job description will better cover the vast requirements of the position he now does.

[Crime Scene Investigator Job Description Request Memo](#)  
[Crime Scene Invest Property Evidence Cust](#)

6. **16-4447**      **Budget Process**

A discussion to streamline the budget process and to form a citizen budget committee.

[Memo - budget process](#)

7. **16-4431**      **2017 SPLOST Projects Wish List**

[FY2017 - splost projects funding](#)

**H. Adjourn to Executive Session for Personnel, Real Estate or Legal**

Signed by \_\_\_\_\_ **Mayor Bucky Johnson**

Signed by \_\_\_\_\_ **Monique Lang, City Clerk**



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

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**File #:** 16-4440                      **Version:**  
**Type:** Agenda Item                      **Status:** Agenda Ready  
**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session  
**Title:** 2016 Property Tax Millage Rate  
**Sponsors:**

**Code Sections:**

**Attachments:**

1. [Memo -FY 2016 Tax Millage Recommendation](#)
2. [2016 Five Year History Remain 5.749](#)
3. [Rollback Calculation 2016](#)

**Title**  
**2016 Property Tax Millage Rate**

**Drafter**  
**Karen Slaton-Dixon**



**Rudolph Smith**  
*City Manager*  
65 Lawrenceville Street  
Norcross, Georgia 30071  
678-421-2027  
[rsmith@norcrossga.net](mailto:rsmith@norcrossga.net)

# Memo

To: Mayor & Council  
From: Rudolph Smith  
Date: August 9, 2016  
Re: FY 2016 Tax Millage Rate Recommendation

The City of Norcross has received its 2016 Preliminary Tax Digest. Attached is the five-year tax digest with supporting documentation of Real, Personal, Mobile Homes, Motor Vehicle and Public Utilities assessments within the City of Norcross. The attachments reflect the amount of net funds that will be collected based on the present millage rate of **5.749**.

The City of Norcross needs to adopt the millage rate for FY 2016 taxes. The millage rate must be voted on and adopted at the September 6<sup>th</sup> Council meeting, in order for the tax bills to be printed and mailed out to the citizens by September 15th.

As you are aware, state law requires that the city advertise a “tax increase” if the City chooses not to roll back the millage from an increase in reassessments. For FY 2016, the current rate is 5.749, this will result in a tax revenue increase of approximately \$445,146.

If you elect to adopt the present millage rate **5.749** the tax revenue will be **\$4.0 million**. If the Council chooses to roll back the millage rate to **5.243** the tax revenue will be **\$ 3.6 million** which will be a **(.506)** decrease in the millage rate.

Last year, Council adopted the rollback of **5.749**, a **(2.54)** millage rate decrease from 2014. Staff has carefully examined all revenue sources and has subsequently developed the following recommendation for the FY 2016 millage rate.

Since the City has adopted the FY2016 budget and the capital items are funded from prior year funds, I recommend keeping the millage rate at **5.749**. Since this is an increase in revenue over 2015, state law requires that the city hold three public meet in to identify how the funds will be allocated.

## NOTICE

The City of Norcross does hereby announce that the millage rate will be set at a meeting to be held at the 65 Lawrenceville Street Norcross, GA on August 15, 2016 at 6:30pm and pursuant to the requirements of O.C.G.A. Section 48-5-32 does hereby publish the following presentation of the current year's tax digest and levy, along with the history of the tax digest and levy for the past five years.

### CURRENT 2015 TAX DIGEST AND 5 YEAR HISTORY OF LEVY

INCORPORATED	2012	2013	2014	2015	2016 Recommended
Real & Personal	574,619,764	569,619,720	630,821,440	648,430,110	732,829,840
Motor Vehicles	23,427,980	26,749,880	28,068,530	19,420,740	13,918,390
Mobile Homes	8,280	8,280	8,280	8,280	3,240
Utility	38,698,720	27,092,760	44,372,280	44,246,800	43,822,920
Timber - 100%					
Heavy Duty Equipment	4,880	6,200	29,050	52,330	56,000
Gross Digest	636,759,624	623,476,840	690,329,500	712,158,260	790,630,390
Less M & O Exemptions	81,336,160	86,249,720	86,513,280	86,513,280	87,555,080
Net M & O Digest	555,423,464	537,227,120	603,816,220	625,644,980	703,075,310
State Forest Land Assistance Grant Value					
Adjusted Net M&O Digest	<b>555,423,464</b>	<b>537,227,120</b>	<b>603,816,220</b>	<b>625,644,980</b>	<b>703,075,310</b>
Gross M&O Millage	6.424	6.424	6.003	5.749	5.749
Less Rollbacks					
Net M&O Millage	6.424	6.424	6.003	5.749	5.749
Net Taxes Levied	\$3,568,040.33	\$3,451,147.02	\$3,624,708.77	\$3,596,832.99	\$4,041,979.96
\$ Increase (Decrease)	389,799.94	(116,893.31)	173,561.75	(27,875.78)	445,146.97
% Increase/Decrease	12.26%	-3.28%	5.03%	-0.77%	12.38%

**COMPUTATION OF MILLAGE RATE ROLLBACK AND PERCENTAGE INCREASE IN PROPERTY TAXES FOR YEAR 2016**

COUNTY **GWINNETT** TAXING JURISDICTION **CITY OF NORCROSS**

**INFORMATION FOR THE SHADED PORTIONS OF THIS SECTION MUST BE ENTERED**

This information will be the actual values and millage rates certified to the Department of Revenue for the applicable tax years.

DESCRIPTION	2015 DIGEST	REASSESSMENT OF EXISTING REAL PROP	OTHER CHANGES TO TAXABLE DIGEST	2016 DIGEST
REAL	506,467,280	59,898,280	-59,898,280	506,467,280
PERSONAL	154,052,750		0	154,052,750
MOTOR VEHICLES	19,420,740		0	19,420,740
MOBILE HOMES	8,280		0	8,280
TIMBER -100%	0		0	0
HEAVY DUTY EQUIP	52,330		0	52,330
GROSS DIGEST	680,001,380	59,898,280	-59,898,280	680,001,380
EXEMPTIONS		0	0	
FLPA Reimbursement Value			0	0
NET DIGEST	680,001,380	59,898,280	-59,898,280	680,001,380
	<b>(PYD)</b>	<b>(RVA)</b>	<b>(NAG)</b>	<b>(CYD)</b>
<b>2015 MILLAGE RATE &gt;&gt;&gt;</b>	5.749	<b>2016 PROPOSED MILLAGE RATE &gt;&gt;&gt;</b>		5.749

**THIS SECTION WILL CALCULATE AUTOMATICALLY UPON ENTRY OF INFORMATION ABOVE**

DESCRIPTION	ABBREVIATION	AMOUNT	FORMULA
2015 Net Digest	PYD	680,001,380	
Net Value Added-Reassessment of Existing Real Property	RVA	59,898,280	
Other Net Changes to Taxable Digest	NAG	-59,898,280	
2016 Net Digest	CYD	680,001,380	<b>(PYD+RVA+NAG)</b>
2015 Millage Rate	PYM	5.749	
Millage Equivalent of Reassessed Value Added	ME	0.506	<b>(RVA/CYD) * PYM</b>
Rollback Millage Rate for 2016	RR	5.243	<b>PYM - ME</b>

**COMPUTATION OF PERCENTAGE INCREASE IN PROPERTY TAXES**

If the 2015 Proposed Millage Rate for this Taxing Jurisdiction exceeds the Rollback Millage Rate computed above, this section will automatically calculate the amount of increase in property taxes that is part of the notice required in O.C.G.A. Section 48-5-32.1(c) (2)	<b>Rollback Millage Rate</b>	5.243
	<b>2015 Millage Rate</b>	5.749
	<b>Percentage Increase</b>	9.65%

**CERTIFICATIONS**

I hereby certify that the amount indicated above is an accurate accounting of the total net assessed value added by the reassessment of existing real property for the tax year for which this rollback millage rate is being computed.

\_\_\_\_\_  
Chairman, Board of Tax Assessors

\_\_\_\_\_  
Date

I hereby certify that the values shown above are an accurate representation of the digest values and exemption amounts for the applicable tax years.

\_\_\_\_\_  
Tax Collector or Tax Commissioner

\_\_\_\_\_  
Date

I hereby certify that the above is a true and correct computation of the rollback millage rate in accordance with O.C.G.A. Section 48-5-32.1 for the taxing jurisdiction for tax year 2016 and that the final millage rate set by the authority of this taxing jurisdiction for tax year 2016 is \_\_\_\_\_

**CHECK THE APPROPRIATE PARAGRAPH BELOW THAT APPLIES TO THIS TAXING JURISDICTION**

\_\_\_\_ If the final millage rate set by the authority of the taxing jurisdiction for tax year 2016 exceeds the rollback rate, I further certify that the required advertisements, notices, and public hearings have been conducted in accordance with O.C.G.A. Sections 48-5-32 and 48-5-32.1 as evidenced by the attached copies of the published five year history and current digest advertisement, the "Notice of Intent to Increase Taxes" showing the times and places when and where the required public hearings were held, and a copy of the press release provided to the local media.

\_\_\_\_ If the final millage rate set by the authority of the taxing jurisdiction for tax year 2016 does not exceed the rollback rate, I further certify that the required five year history and current digest advertisement have been published in accordance with O.C.G.A. Section 48-5-32 as evidenced by the attached copy of such advertised report.

\_\_\_\_\_  
Signature of Responsible Party

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4453                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Sustainability Consultant Proposal

**Sponsors:**

**Code Sections:**

**Attachments:**

1. [Memo - Sustainability Consultant Proposal](#)
2. [Job Description for Sustainability Consultant](#)
3. [Scope of Work](#)

**Title**  
**Sustainability Consultant Proposal**

**Drafter**  
**Rudolph Smith**



Rudolph Smith  
City Manager  
65 Lawrenceville Street  
Norcross, Georgia 30071  
678-421-2027  
[rsmith@norcrossga.net](mailto:rsmith@norcrossga.net)

## Proposal for Consideration By City Manager

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The Norcross Sustainable Commission has requested a need for a full-time Chief Sustainability Officer for the *City of Norcross*. Through further consideration, I would like to recommend another option that will meet the needs of the Sustainable Committee's request and provide a faster implementation process with the initiatives provided in the Scope of Work. I would like for a Sustainability Consultant to be considered as an option to implement the Scope of Work in an efficient and cost effective manner. In addition, as I reviewed the budget for the Chief Sustainability Officer, I believe I have the ability to use those resources in multiple ways.

1. Find a consultant to assist us with the project
2. Have the consultant conduct training with internal resources
3. Increase the salaries of internal resources, if needed and
4. Restructure staff.

A Sustainability Consultant will be able to provide the following to the organization immediately:

1. Assess the current projects and identify potential opportunities not yet discovered.
2. Outline the scope of the project based on the City's needs.
3. Provide best practices used in various other counties.
4. Share funding/grant opportunities unknown.
5. Identify resource gaps (employees) needed to sustain the City's efforts and initiatives.
6. Facilitate training for internal resources for future projects.

Currently I have identified two Sustainability Consultants that may have further interest in our future initiatives. I would propose a panel meeting to be scheduled with these consultants to further investigate how they may be able to assist the *City of Norcross*. Please take this option into consideration as we explore how to increase our sustainability efforts in Norcross.

## Job Description for Chief Sustainability Officer (CSO)

Act as the City's leading environmental sustainability resource for the community and its citizens. Creates and implements educational campaigns and activities which promote environmental stewardship among members of the City of Norcross.

Oversee continuing maintenance and implementation of ARC Green Communities certification.

Identify, review and assess the city departments' current sustainability services and programs within city departments.

Develop a comprehensive sustainability plan for the city that encompasses current goals, best practices, and moves the city towards the next step of a more environmentally sustainable future.

In collaboration with departments, evaluate, enhance, and develop metric systems that monitor and assess progress towards achieving performance goals at all appropriate organizational levels.

Develop and implement marketing and educational programs that inspire the community to embrace environmental sustainability practices and sustainable development.

Coordinate activities with departments that accomplish all levels of conservation and sustainable development within the city to include green purchasing, energy conservation, solid waste recycling, green building, resource and water conservation, green house gas reduction, renewable resources, government funding, and environmental reporting metrics.

Perform forecasting and cost/benefit analysis to enable executive city leadership to make informed decisions that focus on optimizing social and environmental impacts of sustainability program initiatives.

Serve as a skilled facilitator who works collaboratively with boards and commissions, committees, or other governing boards to develop strategic direction and integrate the city's sustainability policy and practice. Develop partnerships and work with community members, organizations and other government agencies to establish a citywide sustainability program and to integrate sustainable practices.

## Scope of Work for Norcross Chief Sustainability Officer

The purpose of the Chief Sustainability Officer (CSO) is to lead the efforts of the City of Norcross to become an environmentally sustainable community through compliance, efficiency, and innovation.

This includes incorporating policies, programs, and practices that balance the needs of the people, planet, and profit while meeting the needs of today without sacrificing the ability to meet the needs of the future. Responsibilities include coordination of City staff, City elected, appointed, and community leaders, volunteers, residents, business owners, vendors, and others to achieve and maintain the city's status as a leader in sustainability in the metro Atlanta area.

### Deliverables

Deliverables include but may not be limited to:

Maintaining the City's certification by the Atlanta Regional Commission as a Green Community at the current level.

Submitting required documentation and achieving subsequent and more advanced level(s) when available.

Devise and implement tracking, documentation and compliance for all 72 Green Communities measures.

- To insure that City makes continuous progress
- Implements timely course corrections
- Evenly distributes workload

Preparing documentation/presentations for Mayor's State of the City address, Green Communities applications, annual budget and other as required.

Assisting in regularly and widely publicizing these achievements in order to support economic development, improve quality of life, lead by example, and foster civic pride and meet the education requirement of green communities.

Ensuring employees, contractors, vendors, and the public know about the City's sustainability efforts, requirements, and achievements as required in the two "Education" measures of Green Communities program.

Incorporating City's sustainability goals into the City's 5 Year Short Term Work Plan, annual budgets, surveys, public input meetings, updates and creation of master plans and studies such as the LCI Study, Comprehensive Plan, and other routine and special plans and documents.

Developing, adopting, and implementing a customized Sustainability Plan for City of Norcross within twelve months of becoming CSO.

Continuing and improving the city sponsored farmers market and at least one city sponsored community garden.

Acting as a liaison to all citizen advisory boards and committees regarding sustainability.

### **Compliance, Efficiency and Innovation**

The CSO will guide the City through the following stages towards achieving sustainability:

#### **Compliance**

Ensure all City departments are achieving and maintaining compliance with applicable authorities in the following areas of the Green Communities program and future areas as listed in the ARC Green Communities manual:

- Green Building
- Energy Efficiency
- Green Power
- Water Use Reduction and Efficiency
- Trees and Green Space
- Transportation and Air Quality
- Recycling and Waste Reduction
- Land Use, Education
- Innovation

Compliance is the most basic step towards achievement of sustainability and is often centralized as the concepts are introduced and embraced by the entire organization. Up to now, the Sustainable Norcross Commission has served in this

role. It is neither sustainable nor desirable to continue to have volunteers requesting or directing activities of staff, even with the blessing of management. City staff should coordinate the compliance efforts.

### **Efficiency**

Encourage the City to become more strategic about sustainability by finding ways to achieve efficiencies that will save money, such as cutting energy and water use or reducing waste generation and carbon emissions.

Build a business case through tracking, monitoring, monetizing and other tools for making changes that improve the bottom line while protecting and enhancing the City's reputation. This involves much coaching, mentoring, educating, and reinforcing ideas, concepts and new ways of thinking and working. The CSO must walk the talk and know the topics, trends, best practices, facts, benefits, and pitfalls.

### **Innovation**

Integrate sustainability into the core of the organization in ways that transform. In other words, incorporate sustainability into the DNA of the City.

This requires the CSO to help develop a sustainability strategy, map how changes will be made, and unify various departments within the organization.

Through delegation, assist in transitioning more of the responsibilities to the various departments while holding them accountable. This can be accomplished through such tools as including sustainability objectives and tasks in individual and departmental goals of all City staff with results evaluated in periodic performance reviews.

The CSO remains the linchpin, coordinating efforts, ensuring quality control and meeting timelines by working with and through the management team and the Sustainable Norcross Commission with the full backing of the City Manager and Assistant City Manager to whom the position reports.

### **Candidate and Position**

The ideal candidate is a college graduate with advanced degree and/or comparable experience and a passion for sustainability. LEED or other industry certifications preferred. A full time city employee at a managerial or department head level is preferred. This would give the City the best accountability and most coordinated approach and continuity. It would also garner the instant respect of the other department heads and employees due to the position of authority and responsibility inherent in this level of position.

### **Position Work Arrangements**

This is an ideal position to telecommute much of the workweek. The CSO could conduct much of their work in the field. The CSO should be present for sufficient amounts of time to develop and maintain a rapport with other employees and at appropriate times and functions to be “in the know” about all departments, plans, projects, and aspects of the City.

### **Position Alternative**

If the recommended scenario is not possible, alternatives should be considered to begin immediately. The transition should be from volunteer led to City directed implementation, tracking, and reporting of initiatives. This could consist of dividing the key roles between two existing City employees supplemented by additional staff, independent contractors, and consultants. Off-loading of some existing routine or less challenging tasks may be necessary to free up sufficient time for staff to assume the new and additional responsibilities.

For example, the areas of the ARC Green Communities programs have many measures that are of a technical nature and others that are more administrative.

An initial division of the areas might include:

### **Technical Areas**

- Green Building
- Energy Efficiency
- Green Power
- Water Use Reduction and Efficiency

Transportation and Air Quality (various measures)  
Land Use

### **Administrative Areas**

Trees and Greenspace  
Transportation and Air Quality (various measures not included under Technical)  
Recycling and Waste Reduction  
Education  
Innovation  
Tracking, documentation and reporting of all initiatives  
Volunteerism

The coordination of the existing and future citizen advisory groups can impact the Green Communities program and sustainability. These include but may not be limited to

- Sustainable Norcross Commission
- Tree Board
- Bike/Ped Committee
- Discovery Garden Park
- Parks and Greenspace Commission
- Friends of Johnson-Dean Park and Forest
- Norcross Community Market
- Life Long Communities Committee

In addition, and perhaps to a lesser extent, but still important for continuity, consistency, avoiding duplication of effort, and maximizing impact for the City are:

- Norcross Public Arts Commission
- Planning and Zoning Board
- Architectural Review Board
- Norcross Downtown Development Authority

All should be aware of the City's sustainability goals and adopted measures in order to support and further them.

### **Supplemental Assistance**

There will be the implementation of some measures that require short term outside assistance due to the skill sets needed, time constraints of City staff, duration or timing of the needs, or specialized knowledge. Examples include but may not be limited to managing the community market, creating the Urban Forest Master Plan and City Sustainability Plan, developing an Energy Strategy for the Future, and pursuing adoption of a local Historic Preservation Ordinance. Paid training on Green Communities may be needed. Budget should be allocated to cover these supplemental assistance needs.

### **Role of Sustainable Norcross Commission**

The role of Sustainable Norcross Commission would shift from doing a significant part of the work, to becoming more advisory in nature. The members of the Commission would assist in the training and transition to CSO, help set priorities and timelines, review and research topics as needed, provide historical perspective, share networks and resources, etc. Different members of the Commission may take the lead in mentoring the CSO on the various areas and aspects of the position.

### **Implementation Date**

The position should run in accordance with the fiscal year to correlate with budget beginning September 1, 2016.

### **Evaluation**

Sustainable Norcross Commission will assist in the review and evaluation of the position structure and performance to be done after 3 months, 6 months and in time to inform the budget process for fiscal year beginning September 1, 2017.



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4441                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Xerox Lease Contract

**Sponsors:**

**Code Sections:**

**Attachments:**

1. [CON Amended Contract](#)
2. [NORCROSS Non Appropriations](#)

**Title**  
**Xerox Lease Contract**

**Drafter**  
**Rudolph Smith**

**Cost Per Copy Agreement**

Lease Agreement # <b>020-0057583</b>	Dealer Name:
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LESSEE INFORMATION			
Full Legal Name <b>NORCROSS, CITY OF</b>		DBA	
Billing Address		City	State      ZIP Code
Phone	Contact Name	Contact Email	Lessee PO# (Optional)

EQUIPMENT			
Quantity	Model and Description	Quantity	Model and Description
1	<b>Xerox WorkCentre 5335/PT2</b>		
1	<b>Xerox WorkCentre 7845/PT2</b>		

Equipment Location (if different from Billing Address)

TERM AND PAYMENT	IMAGE TYPE	IMAGES INCLUDED	EXCESS CHARGE	PRINTS INCLUDED	EXCESS CHARGE
Initial Lease Term (in months): <b>60</b>	B&W				
	Color				
Monthly Lease Payment: \$ <b>469.81</b> plus applicable charges & taxes	Everyday Color			N/A	N/A
	Color Level 2			N/A	N/A
	Color Level 3			N/A	N/A

**LESSEE ACCEPTANCE**

**BY YOUR SIGNATURE BELOW, YOU ACKNOWLEDGE THAT YOU ARE ENTERING INTO A NON-CANCELLABLE LEASE AND THAT YOU HAVE READ AND AGREED TO ALL APPLICABLE TERMS AND CONDITIONS SET FORTH ON PAGES 1 AND 2 OF THIS LEASE.**

Authorized Signer <b>X</b>	Date	Federal Tax ID # (Required)
Print Name	Title (indicate President, Partner, Proprietor, etc.)	

**LESSOR ACCEPTANCE**

Accepted By: Xerox Financial Services LLC	Name and Title	Date
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**TERMS & CONDITIONS**

**1. Definitions.** The words "you" and "your" mean the legal entity identified in "Lessee Information" above, and "XFS," "we," "us," "Lessor" and "Party" means Xerox Financial Services LLC. "Party" means you or XFS, and "Parties" means both you and XFS. "Dealer" means the entity identified in "Dealer Name" above. "Discount Rate" means a rate equal to the 1-year Treasury Constant Maturity rate as published in the Selected Interest Rates table of the Federal Reserve statistical release H.15(519) or successor publication for the week ending immediately prior to the Inception Date. "Equipment" means the items identified in "Equipment" above and in any attached Equipment schedule, plus any Software (as defined in Section 3 hereof), attachments, accessories, replacements, replacement parts, substitutions, additions and repairs thereto. "Excess Charge" means the applicable excess copies and/or prints charges. "Inception Date" means (a) the date Dealer determines Equipment installed by Dealer is operating satisfactorily and is available for your use, or (b) the date Equipment identified by Dealer as being installable by you is delivered to your premises. "Lease" means this Cost Per Copy Agreement, including any attached Equipment schedule. "Lease Payment" means the Monthly Lease Payment specified above, which includes the fixed component of maintenance charges payable to Dealer under the Maintenance Agreement, the Excess Charges (unless otherwise agreed by you, Dealer and XFS), and other charges you, Dealer and XFS agree will be invoiced by XFS on a monthly basis, plus Taxes. "Maintenance Agreement" means a separate agreement between you and Dealer for maintenance and support purposes. "Origination Fee" means a one-time fee of \$125 billed on your first invoice which you agree to pay, covering the original documentation, processing and certain other initial costs for the Lease. "Term" means the Initial Lease Term plus any subsequent renewal or extension terms. "UCC" means the Uniform Commercial Code of the State of Connecticut (C.G.S.A. §§42a-1-101 et seq.).

**2. Lease, Payments and Late Payments.** You agree and represent all Equipment was selected, configured and negotiated by you based upon your own judgment and has been, or is being, supplied by Dealer. At your request, XFS has acquired, or will acquire, the same to lease to you under this Lease and you agree to lease the same from XFS. The Initial Lease Term, which is indicated above, commences on the Inception Date. You agree to pay XFS the first Lease Payment 30 days after the Inception Date; each subsequent Lease Payment, which may include charge for maintenance, shall be invoiced by us, shall be payable on the same date of each month thereafter, whether or not XFS invoices you. **If any payment is not paid in full within 5 days after its due date, you will pay a late charge of the greater of 10% of the amount due or \$25, not to exceed the maximum amount permitted by law.** For each dishonored or returned payment, you will be assessed the applicable returned item fee, which shall not exceed \$35. Restrictive covenants on any method of payment will be ineffective.

**3. Equipment and Software.** To the extent that the Equipment includes intangible property or associated services such as software licenses, such intangible property shall be referred to as "Software." You acknowledge and agree that that XFS has no right, title or interest in the Software and you will comply throughout the Lease Term with any license and/or other agreement ("Software License") with the supplier of the Software ("Software Supplier"). You are responsible for entering into any required Software License with the Software Supplier no later than the Inception Date. You agree the Equipment is for your lawful business use in the United States (including its possessions and territories), will not be used for personal, household or family purposes, and is not being acquired for resale. You will not attach the Equipment as a fixture to real estate or make any permanent alterations to it.

**4. Non-Cancellable Lease. EXCEPT AS SET FORTH IN THIS SECTION, THIS LEASE CANNOT BE CANCELLED OR TERMINATED BY YOU PRIOR TO THE END OF THE INITIAL LEASE TERM. YOUR OBLIGATION TO MAKE ALL LEASE PAYMENTS, AND TO PAY ALL OTHER AMOUNTS DUE OR TO BECOME DUE, IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF,**

**Attachment: CON Amended Contract (16-4441 : Xerox Contract)**

**DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF THE PERFORMANCE OF THE EQUIPMENT, DEALER, ANY THIRD PARTY OR XFS.** Any pursued claim by you against XFS for alleged breach of our obligations hereunder shall be asserted solely in a separate action; **provided, however, that your obligations under this Lease shall continue unabated.** Notwithstanding the foregoing, however, you may terminate this Lease (i) at your discretion pursuant to Georgia OCGA 36-60-13 as of midnight on the last day of each calendar year of the Initial Lease Term by giving XFS no less than 30 days' notice thereof, and (ii) as a result of an appropriation event, as more fully set forth in the Non-Appropriation Addendum between the Parties attached hereto and incorporated herein by reference. In the event no termination notice is received by XFS pursuant to clause (i) in the preceding sentence, the Lease shall be deemed renewed one additional calendar year at a time, not to exceed the Initial Lease Term, without any further action by XFS.

**5. End of Lease Options.** If you are not in default and if you provide no greater than 150 days and no less than 60 days' prior written notice to XFS, you may, at the end of the Initial Lease Term, either (a) purchase all, but not less than all, of the Equipment "AS IS, WHERE IS" WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE at the time of purchase by paying its fair market value, as determined by XFS in its sole but reasonable discretion, plus Taxes, (b) enter into a new lease on mutually agreeable terms, or (c) de-install and return the Equipment at your expense, fully insured, to a continental US location XFS specifies. If you have not elected one of the above options, you shall be deemed to have entered into a new lease with a 3 month term on terms and conditions identical to this Lease, except that either party may terminate the new lease at the end of its 3 month term on 30 days' prior written notice and, when this new lease terminates, shall take one of the actions identified in (a) (b) or (c) in the preceding sentence or be deemed to have entered into another new lease with a 3 month term as provided herein. Any purchase option shall be exercised with respect to each item of Equipment on the day immediately following the date of expiration of the Lease Term of such item, and by the delivery at such time by you to XFS of payment, in cash or by certified check, of the amount of the applicable purchase price for the Equipment. Upon payment of the applicable amount, XFS shall, upon your request, execute and deliver to you a bill of sale for the Equipment on an "AS IS," "WHERE IS," "WITH ALL FAULTS" basis, without representation or warranty of any kind or nature whatsoever. After such payment you may trade-in the Equipment as part of another transaction with XFS and, if you do, you must pass unencumbered title of the Equipment be traded-in to XFS.

**6. Equipment Return.** If the Equipment is returned to XFS, it shall be in the same condition as when delivered to you, normal wear and tear excepted and, if not in such condition, you will be liable for all expenses XFS incurs to return the Equipment to such "normal wear and tear" condition. **IT IS SOLELY YOUR RESPONSIBILITY TO SECURE ANY SENSITIVE DATA AND PERMANENTLY DELETE SUCH DATA FROM THE INTERNAL MEDIA STORAGE PRIOR TO RETURNING THE EQUIPMENT TO XFS. YOU SHALL HOLD XFS HARMLESS FROM YOUR FAILURE TO SECURE AND PERMANENTLY DELETE ALL SUCH LESSEE DATA AS OUTLINED IN THIS SECTION.**

**7. Meter Readings and Annual Adjustments.** Unless otherwise agreed by you and XFS, you will provide meter readings on all Equipment subject to this Lease at the end of each month during the Initial Lease Term and any additional Term. If you do not provide a timely meter reading, XFS may estimate such reading and invoice you accordingly. If XFS does estimate any meter readings, XFS will make appropriate adjustments to subsequent invoices to you after receiving the actual meter readings from you for the Equipment. At any time after 12 months from the Inception Date and for each successive 12 month period thereafter during the Initial Lease Term and any 3 month extended Term, XFS may increase your Monthly Lease Payment and the Excess Charges by a maximum of fifteen percent (15%) of the then-current Monthly Lease Payment therefore; you agree to pay such increased amounts.

**8. Equipment Delivery and Maintenance.** Equipment will be delivered to you by Dealer at the location specified on the first page hereof or in the Equipment schedule, and you agree to execute a Delivery & Acceptance Certificate at XFS's request (and confirm same via telephone and electronically) confirming that you have received, inspected and accepted the Equipment, and that XFS is authorized to fund the Dealer for the Equipment. If you reject the Equipment, you assume all responsibility for any purchase order or other contract issued on your behalf directly to the Dealer. Equipment may not be moved to another location without first obtaining XFS's written consent, which shall not be unreasonably withheld. You shall permit XFS to inspect Equipment and any maintenance records relating thereto during your normal business hours upon reasonable notice. You represent you have entered into a Maintenance Agreement with Dealer to maintain the Equipment in good working order in accordance with the manufacturer's maintenance guidelines, and to provide you with supplies for use with the Equipment. You understand and acknowledge that XFS is acting solely as an administrator for Dealer with respect to the billing and collecting of the charges under the Maintenance Agreement and Excess Charges included in the Lease Payments. **IN NO EVENT WILL XFS BE LIABLE TO YOU FOR ANY BREACH BY THE DEALER OF ANY OF ITS OBLIGATIONS TO YOU, NOR WILL ANY OF YOUR OBLIGATIONS UNDER THIS LEASE BE AFFECTED, MODIFIED, RELEASED OR EXCUSED BY ANY ALLEGED BREACH BY DEALER.**

**9. Equipment Ownership, Labeling and UCC Filing.** If and to the extent a court deems this Lease to be a security agreement under the UCC and otherwise for precautionary purposes only, you grant XFS a first priority security interest in your interest in the Equipment and all proceeds thereof in order to secure your performance under this Lease. XFS is and shall remain the sole owner of the Equipment, except the Software. XFS may label the Equipment to identify our ownership interest in it. You authorize XFS to file by any permissible means a UCC financing statement to show, and to do all other acts to protect, our interest in the Equipment. You agree to pay any filing fees and administrative costs for the filing of such financing statements. You agree to keep the Equipment free from any liens or encumbrances and to promptly notify XFS if there is any change in your organization such that a refiling or amendment to XFS's UCC financing statement against you becomes necessary.

**10. Assignment.** YOU MAY NOT ASSIGN, SELL, PLEDGE, TRANSFER, SUBLEASE OR PART WITH POSSESSION OF THE EQUIPMENT UNDER THIS LEASE OR ANY OF YOUR RIGHTS OR OBLIGATIONS UNDER THIS LEASE (COLLECTIVELY "ASSIGNMENT") WITHOUT XFS'S PRIOR WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD, BUT SUBJECT TO THE SOLE EXERCISE OF XFS'S REASONABLE CREDIT DISCRETION AND EXECUTION OF ANY NECESSARY ASSIGNMENT DOCUMENTATION. If XFS agrees to Assignment, you agree to pay the applicable assignment fee and reimburse XFS for any costs we incur in connection with that Assignment. XFS may sell, assign or transfer all or any part of the Equipment, this Lease and/or any of our rights (but none of our obligations) under this Lease. XFS's assignee will have the same rights that we have to the extent assigned (but none of our obligations) and YOU AGREE NOT TO ASSERT AGAINST SUCH ASSIGNEE ANY CLAIMS, DEFENSES, COUNTERCLAIMS, RECOUPMENTS, OR SET-OFFS THAT YOU MAY HAVE AGAINST XFS. XFS agrees and acknowledges that any Assignment by us will not materially change your obligations under this Lease.

**11. Taxes.** XFS acknowledges that you are a municipal corporation and, as such, are exempt from taxation. However, in the event that such exemption no longer applies, you will be responsible for, indemnify and hold XFS harmless from, all applicable taxes, fees or charges (including sales, use, personal property and transfer taxes, other than net income taxes), plus interest and penalties, assessed by any governmental entity on the Equipment, this Lease or the amounts payable under this Lease (collectively, "Taxes"), which will be included in XFS's invoice to you unless you timely provide continuing proof of your tax exempt status. If Equipment is delivered to a jurisdiction where certain taxes are calculated and

paid at the time of lease initiation, you authorize XFS to finance and adjust your Lease Payment to include such Taxes over the Initial Lease Term unless you require otherwise. Unless and until XFS notifies you in writing to the contrary, XFS will file all personal property tax returns covering the Equipment, pay the personal property taxes levied or assessed thereon, and collect from your account all personal property taxes on the Equipment. This is a true lease for all income tax purposes and you will not claim any credit or deduction for depreciation of the Equipment or take any other action inconsistent with your status as lessee of the Equipment.

**12. Equipment Warranty Information and Disclaimers. XFS IS MERELY A FINANCIAL INTERMEDIARY, AND HAS NO INVOLVEMENT IN THE SALE, DESIGN, MANUFACTURE, CONFIGURATION, DELIVERY, INSTALLATION, USE OR MAINTENANCE OF THE EQUIPMENT. THEREFORE, WITH RESPECT TO EQUIPMENT, XFS DISCLAIMS, AND YOU WAIVE SOLELY AGAINST XFS, ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NO INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE, AND XFS MAKES NO REPRESENTATIONS OF ANY KIND OR TYPE, INCLUDING, BUT NOT LIMITED TO, THE EQUIPMENT'S SUITABILITY, FUNCTIONALITY, DURABILITY, OR CONDITION.** Since you have selected the Equipment and the Dealer, you acknowledge that you are aware of the name of the manufacturer of each item of Equipment and agree that you will contact each manufacturer and/or Dealer for a description of any warranty rights you may have under the Equipment supply contract, sales order, or otherwise. Provided you are not in default hereunder, XFS hereby assigns to you any warranty rights we may have against a Dealer or manufacturer with respect to the Equipment. If the Equipment is returned to XFS, such rights are deemed reassigned by you to XFS. **THE EQUIPMENT IS NOT PROPERLY INSTALLED, DOES NOT OPERATE AS WARRANTED, BECOMES OBSOLETE, OR UNSATISFACTORY FOR ANY REASON WHATSOEVER, YOU SHALL MAKE ALL RELATED CLAIMS SOLELY AGAINST MANUFACTURER OR DEALER AND NOT AGAINST XFS, AND YOU SHALL NEVERTHELESS CONTINUE TO PAY ALL LEASE PAYMENTS AND OTHER SUMS PAYABLE UNDER THIS LEASE.**

**13. Liability and Indemnification. XFS IS NOT RESPONSIBLE FOR ANY LOSSES, DAMAGES, EXPENSES OR INJURIES OF ANY KIND OR TYPE, INCLUDING, BUT NOT LIMITED TO, ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (COLLECTIVELY, "CLAIMS"), TO YOU OR ANY THIRD PARTY CAUSED BY THE EQUIPMENT OR ITS USE, EXCEPT THOSE CLAIMS ARISING DIRECTLY AND PROXIMATELY FROM XFS'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.** In addition, except for Claims arising directly and proximately from XFS's gross negligence or willful misconduct, you agree to defend, indemnify and save XFS and its officers, directors, employees and agents or their successor or assignees from and against any and all liability, loss, damages, interest, judgments or liens growing out of any and all costs and expenses (excluding reasonable attorney's fees) arising out of or incurred in connection with any and all claims, demands, suits, actions, or proceedings which may be brought against each and every one of them by reason of or as a result of your negligent or willful acts or omissions, your elected officials, agents, officers, employees, and directors.

**14. Default and Remedies.** You will be in default under this Lease if (1) XFS does not receive any payment within 10 days after its due date or (2) you breach any other obligation under this Lease or any other agreement with XFS. If you default, and such default continues for 10 days after XFS provides notice to you, XFS may, in addition to other remedies (including requesting the Dealer to cease performing under the Maintenance Agreement), require you to promptly return the Equipment as provided in Sections 5 and 6 hereof, and require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of the sum of: (a) all amounts then due, plus interest from the due date until paid at the rate of 1.5% per month; (b) the Lease Payments remaining in the Initial Lease Term (including the fixed maintenance component thereof, if permitted under the Maintenance Agreement), discounted at the Discount Rate to the date of default, and (c) Taxes. In addition, if you do not return the Equipment as required above, you agree to pay XFS the fair market value thereof, as reasonably determined by XFS, as of the end of the Initial Lease Term, discounted at the Discount Rate to the date of default. You agree to pay all reasonable costs, including attorneys' fees and disbursements, incurred by XFS to enforce this Lease.

**15. Risk of Loss and Insurance.** You assume and agree to bear the entire risk of loss, theft, destruction or other impairment of the Equipment upon delivery. You, at your own expense, (i) shall keep Equipment insured against loss or damage at a minimum of full replacement value thereof and (ii) shall carry public liability insurance against bodily injury, including death, and against property damage in the amount of at least \$2 million (collectively, "Required Insurance"), *provided, however,* that we acknowledge and understand that (i) the foregoing coverage requirements shall be provided by you under your risk sharing arrangement among Georgia Municipal Governments through the GEORGIA INTERLOCAL RISK MANAGEMENT AGENCY (GIRMA) by authority of Official Code of Georgia Annotated 36-85-1 et seq., and (ii) your GIRMA coverage is NOT AN INSURANCE CONTRACT and, in accordance with the Constitution of the State of Georgia and the Official Code of Georgia Annotated 36-85-1, shall not waive the sovereign immunity of the Member, and (iii) we accept the GIRMA coverage as the sole insurance coverage hereunder. Your coverage pertaining to loss/damage of Equipment shall be with loss payable to "XFS, its successors and/or assigns, as their interests may appear." In addition, XFS shall be similarly named as an additional insured on the liability component of the coverage referred to above.

**YOU MUST PROVIDE XFS OR OUR DESIGNEES WITH SATISFACTORY WRITTEN EVIDENCE OF REQUIRED INSURANCE WITHIN 10 BUSINESS DAYS OF THE INCEPTION DATE AND ANY SUBSEQUENT WRITTEN REQUEST BY XFS OR OUR DESIGNEES.**

You must promptly notify XFS of any loss or damage to Equipment which makes any item of Equipment unfit for continued or repairable use. Proceeds from GIRMA coverage shall be applied, at XFS's option, to (x) restore the Equipment so that it is in the same condition as when delivered to you (normal wear and tear excepted), or (y) if the Equipment is not restorable, to replace it with like-kind condition Equipment from the same manufacturer, or (z) pay to XFS the greater of (i) the total unpaid Lease Payments for the entire term hereof (discounted to present value at the Discount Rate) plus XFS's residual interest in such Equipment (herein agreed to be 20% of the Equipment's original cost to XFS, discounted to present value at the Discount Rate) plus any other amounts due to us under this Lease, or (ii) the fair market value of the Equipment immediately prior to the loss or damage, as determined by XFS. **NO LOSS OR DAMAGE TO EQUIPMENT, OR XFS'S RECEIPT OF GIRMA PROCEEDS, SHALL RELIEVE YOU OF ANY OF YOUR REMAINING OBLIGATIONS UNDER THIS LEASE.** Notwithstanding procurement of Required Insurance, you remain primarily liable for performance under subclauses (x), (y) or (z) in the third sentence of this paragraph in the event GIRMA fails or refuses to pay any claim.

**16. Finance Lease and Lessee Waivers. The parties agree this Lease is a "finance lease" under UCC Article 2A. You waive, solely against XFS and its successors and assigns, (a) all rights and remedies conferred on a lessee under Article 2A (Sections 508-522) of the U.C.G.S.A. §§42a-2A-724-737), and (b) any rights you now or later may have which require XFS to sell, lease or otherwise use the Equipment.**

Attachment: CON Amended Contract (16-4441 : Xerox Contract)

**Equipment to reduce our damages including our realization of the remaining value of the Equipment, or which may otherwise modify any of our rights or remedies.**

**17. Authorization of Signer and Credit Review.** You represent that you may lawfully enter into, and perform, this Lease, that the individual signing this Lease on your behalf has all necessary authority to do so, and that all financial information you provide completely and accurately represents your financial condition. You agree to furnish financial information that XFS may request now, including your tax identification number and you authorize XFS to obtain credit reports on you in the future should you default or fail to make prompt payments under this Lease.

**18. Original and Sole Controlling Document; No Modifications Unless in Writing.** This Lease constitutes the entire agreement between Parties as to the subjects addressed herein, and representations or statements not included herein are not part of this Lease and are not binding on the Parties. You agree that an executed copy of this Lease that is signed by your authorized representative and by XFS's authorized representative (an original manual signature or such signature reproduced by means of a reliable electronic form, such as electronic transmission of a facsimile or electronic signature) shall be marked "original" by XFS and shall constitute the only original document for all purposes. All other copies shall be duplicates. To the extent this Lease constitutes chattel paper (as defined in the UCC), no security interest in this Lease may be created except by the possession or transfer of the copy marked "original" by XFS. IF A PURCHASE ORDER OR OTHER DOCUMENT IS ISSUED BY YOU, NONE OF ITS TERMS AND CONDITIONS SHALL HAVE ANY FORCE OR EFFECT, AS THE TERMS AND CONDITIONS OF THIS LEASE EXCLUSIVELY GOVERN THE TRANSACTION DOCUMENTED HEREIN. THE DEALER AND ITS REPRESENTATIVES ARE NOT CREDIT AGENTS AND ARE NOT AUTHORIZED TO MODIFY OR NEGOTIATE THE TERMS OF THIS LEASE. **THIS LEASE MAY NOT BE AMENDED OR SUPPLEMENTED EXCEPT IN A WRITTEN AGREEMENT SIGNED BY AUTHORIZED REPRESENTATIVES OF THE PARTIES AND SUCH PROVISIONS CAN BE WAIVED EXCEPT IN A WRITING SIGNED BY XFS.** XFS's failure to object to terms contained in any communication from you will not be a waiver or modification of the terms of this Lease. You authorize XFS to insert or correct missing information on this Lease including but not limited to your proper legal name, lease numbers, serial numbers and other information describing the Equipment, so long as there is no material impact to your financial obligations.

**19. Governing Law, Jurisdiction, Venue and JURY TRIAL WAIVER.** THIS LEASE IS GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF GEORGIA (WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD OTHERWISE REQUIRE APPLICATION OF LAWS OF ANOTHER JURISDICTION). THE JURISDICTION AND VENUE OF ANY ACTION TO ENFORCE THIS LEASE, OR OTHERWISE RELATING TO THIS LEASE, SHALL BE IN STATE OR SUPERIOR COURT OF GWINNETT COUNTY, GEORGIA. **THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION RELATED TO OR ARISING OUT OF THIS LEASE.** Notwithstanding the foregoing, however, prior to initiating litigation, the Parties will use the following procedure to address any dispute arising under this Lease (a "Dispute"): Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within 30 days from the Notice of Dispute, either Party may then submit the Dispute to the State or Superior Court of Gwinnett County, Georgia as set forth above.

**20. Miscellaneous.** XFS agrees and acknowledges that all any and all documents in your possession, custody or control may be subject to production to any 3<sup>rd</sup> party making a request pursuant to the Georgia Open Records Act, O.C.G.A. §50-18-70 *et seq.*, and that you cannot avoid disclosure of any such documents by virtue of any confidentiality clause contained in this Lease. You agree that you will endeavor to give notice within 24 hours of your receipt of any open records request requesting any information that has been produced to you by XFS, but the Parties acknowledge and agree that you shall timely produce any such documents in your possession to the extent required by Georgia Law. Your obligations under the "Taxes" and "Liability" Sections commence upon execution, and survive the expiration or earlier termination, of this Lease. Notices under this Lease must be in writing. Notices to you will be sent to the "Billing Address" provided on the first page hereof, and notices to XFS shall be sent to our address provided on the first page hereof. Notices will be deemed given 5 days after mailing by first class mail or 2 days after sending by nationally recognized overnight courier. Invoices are not considered notices and are not governed by the notice terms hereof. You authorize XFS to communicate with you by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address you provide to us. If a court finds any term of this Lease unenforceable, the remaining terms will remain in effect. The failure by either Party to exercise any right or remedy will not constitute a waiver of such right or remedy. If more than one party has signed this Lease as lessee, each such party agrees that its liability is joint and several. The following four sentences control over every other part of this Lease. Both Parties will comply with applicable laws. XFS will not charge or collect any amounts in excess of that allowed by applicable law. Any part of this Lease that would, but for the last four sentences of this Section, be read under any circumstance to allow for a charge higher than that allowed under any applicable legal limit, is modified by this Section to limit the amounts chargeable under this Lease to the maximum amount allowed under the legal limit. If, in any circumstances, any amount in excess of that allowed by law is charged or received, any such charge will be deemed limited by the amount legally allowed and any amount received by XFS in excess of that legally allowed will be applied by us to the payment of amounts legally owed under this Lease or refunded to you.

Attachment: CON Amended Contract (16-4441 : Xerox Contract)

Xerox Financial Services LLC  
45 Glover Avenue  
Norwalk, CT 06856



**AMENDMENT TO COST PER COPY AGREEMENT # 020-0057583**

This is an amendment, dated and effective as of \_\_\_\_\_, to that certain Cost Per Copy Agreement # 020-0057583 ("Lease") between NORCROSS, CITY OF and **Xerox Financial Services LLC**. All capitalized but undefined terms used in this Amendment shall have the meanings set forth in the Lease.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree to amend the Lease as follows:

**Non-Appropriation.** Your obligation to pay the Lease Payments and any other amounts due is contingent upon approval of the appropriation of funds by your governing body. In the event funds are not appropriated for any fiscal period equal to amounts due under the Lease, and you have no other funds legally available to be allocated to the payment of your obligations under this Lease, you may terminate the Lease effective on the first day of such fiscal period ("Termination Date") if: (a) you have used due diligence to exhaust all funds legally available; and (b) XFS has received written notice from you at least 30 days before the Termination Date. At XFS's request, you shall promptly provide supplemental documentation as to such non-appropriation. Upon the occurrence of such non-appropriation, you shall not be obligated for payment of any Lease Payment for any fiscal period for which funds have not been so appropriated, and you shall promptly deliver the Equipment to the Dealer (or such other party as we may designate) as set forth in the return provisions of the Lease.

**ACCEPTED AND ACKNOWLEDGED:**

**Lessee Name:** NORCROSS, CITY OF  
**Authorized Signor:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

**Xerox Financial Services**  
**Accepted by:** \_\_\_\_\_  
**Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

\* Signor for the Lease Agreement and this Amendment must be the same.

Attachment: NORCROSS Non Appropriations (16-4441 : Xerox Contract)



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4442                      **Version:**

**Type:** Agenda Item                      **Status:**

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Transportation Enhancement Agreement -Norcross Pedestrian  
Connectivity

**Sponsors:**

**Code Sections:**

**Attachments:**

1. [0010629 TE Activities Agreement Resolution](#)
2. [0010629 Gwinnett 2016.07.29 GDOT TE Agreement Transmittal Letter](#)
3. [0010629 Gwinnett 2016.07.29 TE Agreement \(003\)](#)

**Title**

**Transportation Enhancement Agreement -Norcross Pedestrian Connectivity**

**Drafter**

**Jon Davis**

### AUTHORIZING RESOLUTION

Resolution authorizing the City of Norcross (hereinafter referred to as "SPONSOR") and the Georgia Department of Transportation (hereinafter referred to as "DEPARTMENT") to contract for funding under the Transportation Equity Act for the 21<sup>st</sup> Century (hereinafter referred to as "TEA-21"),

WHEREAS, the secretary of the United States Department of Transportation (hereinafter referred to as "US DOT") and the Commissioner of the DEPARTMENT are authorized to contract for Transportation Enhancement Projects; and

WHEREAS, the contract for financial assistance imposes certain duties upon SPONSOR including but not limited to the provision of its local share of the project costs; and

WHEREAS, SPONSOR guarantees that it will comply with Title VI of the Civil Rights Act of 1964, all other pertinent directives and US DOT requirements; and

WHEREAS, to complete the project, SPONSOR will use Disadvantaged Business Enterprises to the fullest extent possible and will implement and administer procedures to ensure that minority businesses are competitive for contracts and purchase orders when procuring services including but not limited to construction contracts, supplies, equipment contracts or consultant contracts.

NOW, THEREFORE, BE IT RESOLVED BY SPONSOR THAT:

1. Mayor Bucky Johnson is authorized to execute the contract on behalf of the City of Norcross with the DEPARTMENT for aid in financing construction, and all other activities incidental thereto, of Transportation Enhancement Activity pursuant to Public Law 105-178 (1998); and all other provisions as set for the in the contract with the DEPARTMENT.
2. Mayor Bucky Johnson is authorized to execute and file an assurance or any other document required by the US DOT and the DEPARTMENT certifying compliance with Title VI of the Civil Rights Act of 1964.
3. Mayor Bucky Johnson is authorized to furnish any and all additional information that may be required by US DOT or the DEPARTMENT in connection with the application for the Transportation Enhancement Activity project and budget.
4. That Mayor Bucky Johnson is authorized to set forth and execute affirmative disadvantaged business policies in connection with **participation goal established by the Georgia Department of Transportation.**

IN WITNESS WHEREOF, I have hereunto set my hand and caused this seal to be affixed. This \_\_\_\_\_, 2016.

\_\_\_\_\_  
Bucky Johnson, Mayor

\_\_\_\_\_  
Attest: Monique Lang, City Clerk

Attachment: 0010629 TE Activities Agreement Resolution (16-4442 : Transportation Enhancement Agreement -Norcross Pedestrian

Russell R. McMurry, P.E., Commissioner



GEORGIA DEPARTMENT OF TRANSPORTATION

One Georgia Center, 600 West Peachtree Street, NW  
Atlanta, Georgia 30308  
Telephone: (404) 631-1000

July 29, 2016  
PI 0010629, Gwinnett County  
Norcross Pedestrian Connectivity @ 7 LOCS

The Honorable Bucky Johnson  
Mayor, City of Norcross  
65 Lawrenceville St  
Norcross, GA 30071

Subject: Transportation Enhancement (TE) Agreement

Dear Mayor Johnson:

We are enclosing three (3) copies of the TE Agreement for the above-referenced TE project. Please have your legal counsel review these documents, and if satisfactory, have the appropriate individuals sign on the required pages of all three Agreements. We are enclosing a checklist of items needed to complete the TE Agreements. Please be sure that all signatures, seals, and notary stamps are original on all three TE Agreements.

The Georgia Public Work and Contractor Protection Act requires contractors working for public employers provide a signed, notarized affidavit attesting the affiant has registered with, is authorized to use, and uses the federal authorization program. The Georgia Department of Transportation has determined this requirement applies to non-procurement contracts. TE Agreements are non-procurement contracts where the sponsor is considered the contractor. Therefore, all sponsors must complete the E-Verify affidavit.

Please complete all items on the enclosed checklist before returning three (3) signed TE Agreements to Mr. Mark Lawing at Moreland Altobelli Associates, Inc., 2450 Commerce Avenue, Suite 100, Duluth, GA 30096. Upon receipt, they will review then forward these Agreements to GDOT for execution. After the bid results are evaluated, we will send you a copy of the executed Agreement and the Notice to Proceed with Construction.

We are looking forward to the successful completion of this TE project. If you have any questions, please contact Mr. Mark Lawing at (404) 631-1582 or [mlawing2@dot.ga.gov](mailto:mlawing2@dot.ga.gov).

Sincerely,

Albert V. Shelby, III  
State Program Delivery Engineer

AVS:ML

cc: Mr. Rudy Bowen, State Transportation Board Member  
Mr. Brent E. Cook, District Engineer  
Mr. Mark Lawing, GDOT Project Manager  
File

Enclosures

**AGREEMENT**  
**for**  
**TRANSPORTATION ENHANCEMENT ACTIVITIES**  
**between**  
**DEPARTMENT OF TRANSPORTATION**  
**STATE OF GEORGIA**  
**and the**  
**CITY OF NORCROSS**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter referred to as the "DEPARTMENT", and the City of Norcross, hereinafter referred to as the "SPONSOR".

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Transportation Enhancement Activity which consists of: **P.I. No. 0010629, Gwinnett County**, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Transportation Enhancement Activities for Georgia pursuant to provisions of Title 23, Chapter2, Subchapter 1, Section 133; and

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

WHEREAS, the DEPARTMENT desires to financially 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 O.C.G.A. Section 32-2-2(a)(7), the DEPARTMENT is authorized to participate in such an undertaking.

NOW, THEREFORE, the DEPARTMENT and the SPONSOR, both governmental entities of the State of Georgia, pursuant to Article IX, Section III, Paragraph I(a) of the Georgia Constitution of 1983, and in consideration of the mutual promises and covenant contained herein, do hereby agree as follows:

## ARTICLE I SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be: **Construction of Norcross Pedestrian Connectivity @ 7 LOCS**, as set forth in Exhibit A, WORK PLAN, which is attached hereto and incorporated as if fully set out herein. The scope of work is further defined by the PROJECT design and construction plans ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out 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 archeological issues.

The WORK PLAN, Exhibit A, 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.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT's "Standard Specifications", 2013 Edition; ***"Supplemental Specifications Book", current edition***; and any Supplemental Specifications and Special Provisions; AASHTO standards for bicycle facilities; FHWA guidelines for pedestrian facilities; compliance with the Americans with Disabilities Act of 1990; 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 O.C.G.A. Section 32-6-70 *et seq.* and other standards and guidelines as may be applicable to the PROJECT.

The SPONSOR hereby certifies that no right-of-way acquisition occurred prior to the DEPARTMENT issuing the SPONSOR the Notice to Proceed with right-of-way acquisition. Right-of-way acquisition was in accordance with Public Law 91-646, the Uniform Relocation Assistance and Real Properties Policies Act of 1970, as amended; the rules and regulations of the FHWA including, but not limited to, Title 23, United States Code, 23 CFR Part 710, and 49 CFR Part 24; and the rules and regulations of the DEPARTMENT. Failure of the SPONSOR to follow these requirements may result in the loss of Federal funding for the PROJECT and it will be the responsibility of the SPONSOR to make up the loss of that funding. All required right of way shall be cleared of obstructions, including underground storage tanks, prior to advertising the PROJECT for bids. The SPONSOR shall further be responsible for making all changes to the approved right-of-way plans, as deemed necessary by the DEPARTMENT, for whatever reason,

to match actual conditions encountered. The SPONSOR further acknowledges that no acquisition of rights of way occurred prior to all applicable archaeological, environmental, and historical preservation clearances approval, and receipt of the DEPARTMENT issued notice to proceed with acquisition.

The SPONSOR shall ensure that all contracts as well as any subcontracts for implementation 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 O.C.G.A. Sections 32-2-60 through 32-2-77; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's "Standard Specifications", 2013 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 well as any required attachments thereto.

## ARTICLE II TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, and shall complete the PROJECT no later than **December 31, 2017**. **No work on any phase shall begin without a written Notice to Proceed from the DEPARTMENT. The DEPARTMENT's Notice to Proceed with Construction must be issued within 210 days from the execution date of this contract and the SPONSOR must submit an invoice for reimbursement within 270 days of the execution date of this contract or the contract is terminated without further notice and the funds will be de-obligated.**

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 hereto.

## ARTICLE III 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. Should the work under the Agreement include Federal monies for purchase of real property, the Federal interest, and therefore the DEPARTMENT's contingent interest, shall be perpetual and recorded as described below. Based on the scope of work, as set forth in Exhibit A, WORK PLAN AND

APPLICABLE PHASE, the DEPARTMENT has determined the economic life of the PROJECT to be Five (5) years from the date of PROJECT Final Acceptance.

Upon any sale or disposition of the PROJECT or the filing of an application for abandonment of the PROJECT under United States Code (U.S.C.) Title 49 Chapter 109 of all or any part of the PROJECT, the SPONSOR shall repay immediately in full to the DEPARTMENT an amount equal to the Federal Share of the funds involved in the improvement or rehabilitation of such part, segment or entirety of the PROJECT under this Agreement, said Federal Share to be determined in accordance with the DEPARTMENT's determination of the fair market value of the PROJECT at the time of disposition.

The term "any sale or disposition" as used in this Article shall mean any sale, abandonment, or disposition (1) for use not consistent with the purposes for which the Federal Share was originally granted pursuant to the Agreement, or (2) for a use consistent with such purposes wherein the transferee in the sale or disposition does not enter into an assignment and assumption agreement with the owner with respect to the owner's obligation thereunder as if the transferee had been the original owner thereof.

Upon completion of the PROJECT, the SPONSOR shall record in the appropriate land records, if applicable, in a form mutually agreeable to the parties hereto, a notice reciting that the property was improved with Federal assistance under this Agreement and that its use and disposition are subject to the terms of this Agreement. Verification of compliance with this paragraph shall be provided to the DEPARTMENT.

**ARTICLE IV  
COVENANTS AGAINST CONTINGENT FEES**

The SPONSOR shall comply with all relevant requirements of all Federal, State and local laws. 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 V  
EMPLOYMENT OF DEPARTMENT'S PERSONNEL**

The SPONSOR shall not employ any person or persons in the employ of the DEPARTMENT for any work required by the terms of this Agreement, without the written permission of the DEPARTMENT except as may otherwise be provided for herein.

**ARTICLE VI  
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 any amendments thereto, including but not limited to, all reports, drawing, studies, specifications, estimates, maps and computations prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of affected public agencies, railroads and utilities insofar as the interest of each is concerned.

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

The SPONSOR shall keep accurate records in a manner approved by the DEPARTMENT with regard to the use of the property and submit to the DEPARTMENT upon request, such information as is required in order to ensure compliance with this ARTICLE.

**ARTICLE VII  
RESPONSIBILITY FOR CLAIMS AND LIABILITY**

The SPONSOR shall be responsible for any and all damages to property or persons and shall indemnify and 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 work under this Agreement.

The SPONSOR shall be responsible to perform all work required to obtain all applicable PROJECT permits, including, but not limited to, Cemetery, Tennessee Valley Authority (TVA) and US Army Corps of Engineers permits, Stream Buffer Variances and Federal Emergency Management Agency (FEMA) approvals. The SPONSOR shall provide all mitigation required for the project, including but not limited to permit related mitigation. All mitigation costs are considered PE costs. PROJECT permits and non-construction related mitigation must be obtained and completed 3 months prior to the scheduled let date. These efforts shall be coordinated with the DEPARTMENT.

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 require 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 VIII  
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 that the PROJECT is being developed under the guidance of the Innovative Financing Procedures as agreed to by the SPONSOR and as set forth in the executed Memorandum of Understanding, herein after referred to as the MOU, executed by the Parties on 11/3/2011 and on file with the DEPARTMENT. The Innovative Financing Procedures allow the SPONSOR to initiate Preliminary Engineering and Right-of-Way acquisition and apply allowable expenditures for these Phases toward the required Twenty Percent (20%) Local Match. Per the MOU the SPONSOR is responsible for 100% of Preliminary Engineering and Right-of-Way acquisition.

The estimated cost of the project is **One Hundred Fifty Five Thousand Seven Hundred Forty Six and No/100 Dollars (\$155,746.00)**. The DEPARTMENT shall reimburse the Sponsor up to eighty percent (80%) of the total cost of all eligible project expenses not to exceed the federal contribution. The SPONSOR shall be responsible for all cost exceeding the DEPARTMENT's contribution but shall contribute a minimum of twenty percent (20%).

	<u>Federal</u>	<u>Local</u>	<u>Total</u>
Construction	<b>\$124,596.80</b>	<b>\$31,149.20</b>	<b>\$155,746.00</b>

The total federal contribution for this PROJECT is **One Hundred Twenty Four Thousand Five Hundred Ninety Six and 80/100 Dollars (\$124,596.80)** and is the maximum amount of the DEPARTMENT's obligation. The SPONSOR shall be solely responsible for any and all amounts in excess of the maximum amount of the DEPARTMENT's obligation.

Federal funds may not be used to reimburse costs incurred by SPONSORS prior to the date construction funds are authorized. The DEPARTMENT will reimburse the SPONSOR for construction expenditures that occur after FHWA funds authorization. Eligible expenditures may

include payment to construction contractors, testing, Construction Engineering and Inspection, construction administration and pre-approved Force Account payments to SPONSORS. The PROJECT's total reimbursement cannot exceed the total construction expenditures or the total federal contribution.

Prior to award of the project the SPONSOR shall submit to the DEPARTMENT its written recommendation for award including a bid tabulation, the low bidder's Disadvantaged Business Enterprise (herein after referred to as "DBE") goal sheet, and the SPONSOR's cost estimate. The DEPARTMENT will review the information and issue a written recommendation to award or reject the bids. If a recommendation to award is given by the DEPARTMENT, then a written Notice to Proceed with Construction, herein after referred to as NTP, will be issued. No work shall begin until this NTP has been issued. Once the NTP is issued by the DEPARTMENT, the SPONSOR will provide the DEPARTMENT with the following: PROJECT PLANS, prime construction contract, all sub-contracts, Notice to Award, and Sponsor's NTP for construction to the prime contractor. A pre-construction meeting will be held with all parties.

The SPONSOR shall coordinate construction activities with the DEPARTMENT's Area Engineer. In the event the SPONSOR, or Area Engineer recommend changes representing a fundamental departure from the PROJECT's approved WORK PLAN, the changes shall be reviewed by the DEPARTMENT's Project Manager. If the changes are approved, the DEPARTMENT's Project Manager shall prepare a supplemental agreement to amend the AGREEMENT's Exhibit A.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT's progress including: monthly status reports, invoices, DBE reports, etc.; further work to be done and any problems encountered or anticipated. Payment shall be made monthly on the basis of calendar months, in proportion to the percentage of work completed for each phase of work and after approval of a certified voucher from the SPONSOR. 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 day of that month. The vouchers shall be numbered consecutively and submitted each month until work on the PROJECT is completed.

Payment shall 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 and shall be the basis for final payment. The final invoice shall include all eligible costs incurred by the SPONSOR for Administration, Preliminary Engineering, Right of Way, and Construction. Final payment will be made at eighty (80) percent of the final invoice, less previous partial payments, amount not to exceed the total federal contribution or the total construction expenditures.

Expense for travel will be an allowable expense for the SPONSOR under this AGREEMENT; however, travel will be limited to charges that are directly attributable to the project. In addition, no travel expenses will be allowed for out of state travel.

Should the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, terminate the work under this agreement, the SPONSOR shall be paid for the percentage of work completed at the

point of termination, notwithstanding any just claims by the SPONSOR and provided construction funds were authorized and eligible construction expenditures occurred.

## **ARTICLE IX FINAL PAYMENT**

IT IS FURTHER AGREED that upon completion and acceptance of the work by the SPONSOR, the SPONSOR shall submit to the DEPARTMENT *the “Sponsor’s Certification of Final Acceptance” form, Final DBE Report with proofs of payment, Sponsor’s Material Certification form with the approved Materials Quality Assurance Form, Sponsor’s Statement of Final Project Expenditures with proof of payment, and any other project documentation required to satisfy the requirements of the Environmental Commitments Table* with the final invoice. The DEPARTMENT shall process the final invoice report initiating the DEPARTMENT’s project close-out procedures. Whereupon the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in ARTICLE VIII, herein, and consistent with 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 shall allow the examination and verification of costs by the DEPARTMENT’s representatives, 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 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 III 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, inclusive of a job cost or project cost report, 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 this 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 contracts it may make with any subcontractor, assignee or transferee.

**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 any proposed subcontract documents together with subcontractor cost estimates for review and written concurrence of the DEPARTMENT 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 any reason, with or without cause upon thirty (30) days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment for 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 out 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 be delivered to, become and remain the property of the DEPARTMENT upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

#### **ARTICLE XVI PUBLICATION AND PUBLICITY**

Articles, papers, bulletins, data, studies, statistics, interim or final reports, oral transmittals or any other materials reporting the plans, progress, analyses, results, or findings of work conducted under this Agreement shall not be presented publicly or published without prior written approval by the DEPARTMENT.

IT IS FURTHER AGREED that all releases of information, findings, and recommendations shall include a disclaimer provision and that all published reports shall include that disclaimer on the cover and title page in the following form:

"The contents in this publication reflect the views of the author(s), who is (are) responsible for the facts and accuracy of the data presented herein. The opinions, findings, and conclusions in this publication are those of the author(s) and do not necessarily reflect the official views or policies of those of the Department of Transportation, State of Georgia or the Federal Highway Administration. This publication does not constitute a standard, specification or regulation."

IT IS FURTHER AGREED that if any information concerning the PROJECT, its conduct, results or data gathered or processed should be released by the SPONSOR without prior

approval from the DEPARTMENT, the release of same shall constitute grounds for termination of this Agreement without indemnity to the SPONSOR; but should any such information be released by the DEPARTMENT, or by the SPONSOR with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of this Agreement.

Provided, however, that should the release of such information be required under the Georgia Open Records Act, O.C.G.A. Section 50-18-70, *et seq.*, the restrictions and penalties set forth herein shall not apply. Any request for information directed to the SPONSOR, pursuant to the Georgia Open Records Act, for documents that are either received or maintained by the SPONSOR in the performance of a service or function for or on behalf of the DEPARTMENT shall be released pursuant to provisions of the Act. Further, the SPONSOR agrees to consult with the DEPARTMENT prior to releasing the requested documents.

## **ARTICLE XVII COPYRIGHTING**

The SPONSOR shall be prohibited from copyrighting the final reports or copyrighting any papers, interim reports, forms or other material which are a part of the work under this Agreement, without written approval from the DEPARTMENT. The DEPARTMENT reserves the right to a royalty-free, non-exclusive and irrevocable license to reproduce, publish, use and authorize others to use, the work prepared under this Agreement.

## **ARTICLE XVIII CONTRACT DISPUTES**

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

## **ARTICLE XIX INSURANCE**

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

- (1) Workman's Compensation Insurance in accordance with the laws of the State of Georgia.
- (2) Public Liability Insurance in an amount of not less than one hundred thousand dollars (\$100,000.00) for injuries, including those resulting in

death to any one person, and in an amount of not less than three hundred thousand dollars (\$300,000.00) on account of any one occurrence.

- (3) Property Damage Insurance in an amount of not less than fifty thousand dollars (\$50,000.00) from damages on account of any occurrence, with an aggregate limit of one hundred thousand dollars (\$100,000.00).
- (4) 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 XX COMPLIANCE WITH APPLICABLE LAW

A. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for “CERTIFICATION OF COMPLIANCES WITH FEDERAL PROCUREMENT REQUIREMENTS, STATE AUDIT REQUIREMENT, AND FEDERAL AUDIT REQUIREMENTS” as stated in Attachment A of this Agreement and will comply in full with said provisions.

B. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the provisions of O.C.G.A. Sections 50-24-1 through 50-24-6, relating to the “Drug-Free Workplace Act” as stated in Attachment B of this Agreement and will comply in full with said provisions.

C. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the provisions of the “Sponsor Certification Regarding Debarment, Suspension and Other Responsibility Matters” as stated in Attachment C of this Agreement and will comply in full with said provisions.

D. IT IS FURTHER CERTIFIED that the SPONSOR has read and understands the regulations for “COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964,” as amended, and 23 CFR 200, *et seq.* as stated in Attachment D of this Agreement and will comply in with said provisions.

E. The undersigned certify that the provisions of O.C.G.A. Sections 45-10-20 through 45-10-28 relating to Conflict of Interest and State Employees and Officials Trading with the State have been complied with in full.

F. 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.

G. IT IS FURTHER AGREED that the SPONSOR shall use its best efforts to subcontract a minimum of **Sixteen** percent (**16%**) 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 26, *et seq.* 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. The Sponsor further agrees to the following assurances for participation by Disadvantaged Business Enterprises in Department of Transportation financial assistance programs:

(1) The Sponsor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The Sponsor shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Sponsor's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation in this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter to enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(2) The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Sponsor deems appropriate.

H. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101, *et seq.* and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.

I. 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.

J. IT IS FURTHER AGREED that the SPONSOR shall be responsible for repayment of any expended federal funds if the PROJECT does not proceed forward to completion due to a lack of available funding in future PROJECT phases, changes in local priorities or cancellation of the PROJECT by the SPONSOR without concurrence by the DEPARTMENT, or if the SPONSOR is not compliant with Federal laws and regulations.

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 hand and affixed their seals the day and year above first written.

DEPARTMENT OF TRANSPORTATION

CITY OF NORCROSS

\_\_\_\_\_  
Commissioner (SEAL)

\_\_\_\_\_  
MAYOR (SEAL)

ATTEST:

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Witness

Signed, Sealed & Delivered

This \_\_\_\_ Day of \_\_\_\_\_,  
201\_\_\_.  
in the presence of:

\_\_\_\_\_  
NOTARY PUBLIC

ATTEST:

\_\_\_\_\_

\_\_\_\_\_

Federal Employer Tax No.

Attachment: 0010629 Gwinnett 2016.07.29 TE Agreement (003) (16-4442 : Transportation Enhancement Agreement -Norcross Pedestrian

**insert**

**AUTHORIZING RESOLUTION**

**here**

**(see following example)**

## FOR EXAMPLE ONLY

### AUTHORIZING RESOLUTION

Resolution authorizing <SPONSOR> (hereinafter referred to as “SPONSOR”) and the Georgia Department of Transportation (hereinafter referred to as “DEPARTMENT”) to contract for funding under the Transportation Equity Act for the 21<sup>st</sup> Century (hereinafter referred to as “TEA-21”).

WHEREAS, the Secretary of the United States Department of Transportation (hereinafter referred to as “US DOT) and the Commissioner of the DEPARTMENT are authorized to contract for Transportation Enhancement Projects; and

WHEREAS, the contract for financial assistance imposes certain duties upon SPONSOR including but not limited to the provision of its local share of the project costs; and

WHEREAS, SPONSOR guarantees that it will comply with Title VI of the Civil Rights Act of 1964, all other pertinent directives and all US DOT requirements; and

WHEREAS, to complete the project, SPONSOR will use Disadvantaged Business Enterprises to the fullest extent possible and will implement and administer procedures to ensure that minority businesses are competitive for contracts and purchase orders when procuring services including but not limited to construction contracts, supplies, equipment contracts or consultant contracts.

NOW, THEREFORE, BE IT RESOLVED BY SPONSOR THAT:

1. \_\_\_\_\_ is authorized to execute the contract on behalf of \_\_\_\_\_ with the DEPARTMENT for aid in financing construction, and all other activities incidental thereto, of Transportation Enhancement Activity pursuant to Public Law 105-178 (1998); and all other provisions as set forth in the contract with the DEPARTMENT.
2. \_\_\_\_\_ is authorized to execute and file an assurance or any other document required by the US DOT and the DEPARTMENT certifying compliance with Title VI of the Civil Rights Act of 1964.
3. \_\_\_\_\_ is authorized to furnish any and all additional information that may be required by US DOT or the DEPARTMENT in connection with the application for the Transportation Enhancement Activity project and budget.
4. That \_\_\_\_\_ is authorized to set forth and execute affirmative disadvantaged business policies in connection with the *participation goal established by the Georgia Department of Transportation.*

**CERTIFICATION**

The undersigned duly qualified and acting as \_\_\_\_\_ of the <SPONSOR> certifies the following:

The <SPONSOR> has contributed to date the sum of \$\_\_\_\_\_ towards preliminary engineering for this project.

The <SPONSOR> has identified sufficient resources to complete the Scope of Work for this project and make all payments not covered by the federal Transportation Enhancement Activity funding contribution.

The foregoing is a true and correct copy of a resolution adopted at a legally convened meeting of the \_\_\_\_\_ held on \_\_\_\_\_ 20\_\_.

<<IMPRESS OFFICIAL SEAL HERE>>

\_\_\_\_\_  
Signature of Recording Officer

\_\_\_\_\_  
Title of Recording Officer

\_\_\_\_\_  
Date

**insert**

**OPINION OF COUNSEL**

**here**

**(see following example)**

**FOR EXAMPLE ONLY**  
OPINION OF COUNSEL

Georgia Department of Transportation  
Office of Program Delivery  
One Georgia Center  
600 W. Peachtree Street NW  
Atlanta, GA 30308

Re: Contracts for Transportation Enhancement Activity funds

Dear Mr. Albert Shelby:

This communication serves as the official opinion of counsel regarding the above referenced matter pursuant to the requirements of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), P. L. 105-178 (1998). <SPONSOR> (hereinafter referred to as “SPONSOR”) has been approved for funding under TEA-21 and that the Federal Highway Administration (FHWA) has concurred in said approval. As such, I certify that SPONSOR is authorized to plan, construct and implement Transportation Enhancement Activity projects for the following reasons:

1. SPONSOR is authorized under (cite and quote from legal authority) to plan, construct, implement and maintain Transportation Enhancement Activity projects. These functions may be carried out directly by SPONSOR or by agreements with other parties.
2. SPONSOR is authorized under (cite source and provide a copy) to provide for its share of project funds for the Transportation Enhancement Activity project. *See Attached*

Further, I certify that contracting for Transportation Enhancement Funds does not violate applicable Federal, State and/or local laws. Moreover, I certify that there is no pending litigation or other pending action that may adversely affect the proposed project in the program or SPONSOR’s ability to perform its duties under the contract.

Sincerely,

Legal Counsel for <SPONSOR>

## CERTIFICATION OF SPONSOR

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

The SPONSOR also agrees that the language of this certification shall be included in all subcontracts and lower tier subcontracts which exceed \$10,000.00 and that all such recipients and sub-recipients shall certify and disclose accordingly.

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

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

- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above entity) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

except as here expressly stated (if any):

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

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

**CERTIFICATION OF DEPARTMENT OF TRANSPORTATION  
STATE OF GEORGIA**

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner

Attachment: 0010629 Gwinnett 2016.07.29 TE Agreement (003) (16-4442 : Transportation Enhancement Agreement -Norcross Pedestrian

**ATTACHMENT A**

**CERTIFICATION OF COMPLIANCES**

I hereby certify that I am a principal and duly authorized representative of \_\_\_\_\_ whose address is \_\_\_\_\_ and it is also certified that:

**I. PROCUREMENT REQUIREMENTS**

The below listed provisions of Federal Procurement requirements shall be complied with throughout the contract period:

- (a) 49 CFR Part 18 Section 36  
Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments – Procurement
- (b) 23 CFR 635 Subpart A – Contract Procedures

**II. STATE AUDIT REQUIREMENT**

The provisions of O.C.G.A. Section 36-81-7, relating to the “Requirement of Audits” shall be complied with throughout the contract period in full such that:

- (a) Each unit of local government having a population in excess of 1,500 persons or expenditures of \$300,000.00 or more shall provide for and cause to be made an annual audit of the financial affairs and transactions of all funds and activities of the local government for each fiscal year of the local government.
- (b) The governing authority of each local unit of government not included above shall provide for and cause to be made the audit required not less often than once every two fiscal years.
- (c) The governing authority of each local unit of government having expenditures of less than \$ 300,000.00 in that government’s most recently ended fiscal year may elect to provide for and cause to be made, in lieu of the biennial audit, an annual report of agreed upon procedures for that fiscal year.
- (d) A copy of the report and any comments made by the state auditor shall be maintained as a public record for public inspection during the regular working hours at the principal office of the local government. Those units of local government not having a principal office shall provide a notification to the public as to the location of and times during which the public may inspect the report.

- (e) The audits of each local government shall be conducted in accordance with generally accepted government auditing standards.

**III. FEDERAL AUDIT REQUIREMENT**

The provisions of OMB Circular A-133 issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156 shall be complied with throughout the contract period in full such that:

- (a) Non-Federal entities that expend \$ 300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of OMB Circular A-133.
- (b) Non-Federal entities that expend less than \$ 300,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).
- (c) Except for the provisions for biennial audits provided in paragraphs (1) and (2) below, audits required shall be performed annually. Any biennial audit shall cover both years within the biennial period.
  - (1) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. This requirement must still be in effect for the biennial period under audit.
  - (2) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially.
- (d) The audit shall be conducted in accordance with Generally Accepted Government Auditing Standards.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**ATTACHMENT B**  
**CERTIFICATION OF SPONSOR**  
**DRUG-FREE WORKPLACE**

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

**ATTACHMENT C**

**SPONSOR**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,  
AND  
OTHER RESPONSIBILITY MATTERS**

The SPONSOR certifies that it has read and understands the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

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

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

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

### Instructions for Attachment C Certification

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

1. By signing and submitting this contract the SPONSOR is providing the certification set out in Attachment C.

2. The inability of the SPONSOR to provide the certification required may not necessarily result in denial of participation in this covered transaction. The SPONSOR shall then submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department's determination whether to enter into this transaction. However, failure of the SPONSOR to furnish a certification or an explanation shall disqualify such person or firm from participation in this transaction.

3. The certification, Attachment C, is a material representation of fact upon which reliance is placed by the Department before entering into this transaction. If it is later determined that the SPONSOR knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this transaction for cause of default.

4. The SPONSOR shall provide immediate written notice to the Department if at any time the SPONSOR learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction", "debarred", "suspended", "ineligible", "lower tier covered transaction", "participant", "person", "primary covered transaction", "principal", "proposal", and "voluntarily excluded", as used in these instructions and the certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Department for assistance in obtaining a copy of those regulations.

6. The SPONSOR agrees by submitting this proposal/contract that should the proposed covered transaction be entered into, it shall not knowingly enter into a lower tier covered transaction with a person/firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the Department.

7. The SPONSOR further agrees by submitting this proposal/contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", as provided by the Department without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A SPONSOR in a covered transaction may rely upon a certification of a prospective participant in lower tier covered transaction that it is not debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The SPONSOR may decide the method and frequency by which it determines the eligibility of its principals.

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

10. Except for transactions authorized under paragraph 6 of these instructions, if the SPONSOR in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction in addition to other remedies available to the Federal Government, the Georgia Department of Transportation may terminate this transaction for cause or default.

**ATTACHMENT D**

**NOTICE TO SPONSOR**

**COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

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

(1) **Compliance with Regulations:** The SPONSOR will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the Regulations [also 49 CFR Part 27]), which are herein incorporated by reference and made a part of this contract.

(2) **Nondiscrimination:** The SPONSOR, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors including procurement of materials and leases of equipment. The SPONSOR will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program, set forth in Appendix B of the Regulations. In addition, the SPONSOR will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 200.

(3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiations made by the SPONSOR for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the SPONSOR of the SPONSOR's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin or sex.

(4) **Information and Reports:** The SPONSOR will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the SPONSOR is in the exclusive possession of another who fails or refuses to furnish this information, the SPONSOR shall so certify to the State Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain this information.

(5) **Sanctions for Noncompliance:** In the event of the SPONSOR's noncompliance with the nondiscrimination provisions of this contract, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to the SPONSOR under the contract until the SPONSOR complies, and/or
- (b) Cancellation, termination or suspension of this contract, in whole or in part.

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

**EXHIBIT A  
WORK PLAN  
CONSTRUCTION PHASE**

The Scope and Procedure of the Project is stated as follows:

**SECTION A - DESCRIPTION OF THE PROJECT**

The PROJECT consists of providing services connected with construction of Norcross Pedestrian Connectivity @ 7 LOCS in

**Gwinnett County**. The PROJECT PLANS on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set out herein identify the detailed construction work to be accomplished for the PROJECT.

**The SPONSOR shall be responsible for the following activities:**

1. Comply with conditions listed in the Georgia Department of Natural Resources Historic Preservation Division finding of no adverse effect.
2. Advertise the project for public bid according to the requirements of the Official Code of Georgia, Title 32, Chapter 2, excluding that provision which provides for negotiations and the Required Contract Provisions (Form FHWA-1273) as given in 23 C.F.R. 633 subpart A and 49 C.F.R. Part 18. Upon opening bids, the SPONSOR shall award the PROJECT to the lowest reliable bidder.
3. All bidders submitting bids must be registered or pre-qualified. All bidders submitting bids in excess of \$2,000,000 must be pre-qualified with the DEPARTMENT. If construction work involves welded structures, such as bridges, the manufacturer of the structure shall be on the GDOT QPL List 60.
4. The SPONSOR shall hold a pre-construction conference for the project with, at a minimum, the contractor, DBE subcontractors, DEPARTMENTS Project Manager and Area Engineer.
5. Provide copies of the SPONSOR's construction subcontract, construction schedule, and contact list to the DEPARTMENT's Area Engineer for use in monitoring PROJECT construction and reviewing payment invoices.
6. Provide copies of the completed construction plans to the DEPARTMENT's Project Manager and to the local Area Engineer.

Revised February 5, 2015

7. Submit to the DEPARTMENT's Area Engineer a copy of all proposed DBE subcontracts, including the name of the subcontractor.
8. Ensure that DBE firms are certified with the DEPARTMENT'S Equal Employment Opportunity Office and registered subcontractors.
9. Check the third party contractor's payrolls for, including but not limited to, compliance with appropriate wage rates and Disadvantage Business Enterprise (DBE) participant goal and submit monthly reports on DBE participation to the DEPARTMENT's Area Engineer. DBE monitoring and reporting requirements are outlined in the DEPARTMENT's publication entitled "Disadvantaged Business Enterprise Program Criteria for Acceptability", current edition.
10. Retain a Resident On-site Construction Inspector.
11. Provide for total on-site PROJECT management; working with the third party contractor to establish sequences for work.
12. Submit monthly progress reports and invoices to the DEPARTMENT's Area Engineer until final acceptance of the PROJECT by the SPONSOR and submittal of "Sponsor's Certification of Final Acceptance" form, final voucher, materials certification statement, and "Statement of Final Project Expenditures" form.
13. Maintain adequate project files including but not limited to project diary, material certificates, insurance documents, complete construction plans and specifications, and third party contractor payrolls.
14. The Sponsor is responsible for field quality testing (i.e. slump, air, cylinders) of concrete used in sidewalks and other minor concrete items. The technicians that perform this work shall be GDOT certified. Concrete cylinders may be brought to a GDOT laboratory for testing or can be tested at a non-GDOT laboratory, as long as the laboratory is accredited by AASHTO in AASHTO T-22 or ASTM C-39. The Sponsor must notify the Area Engineer when the contractor intends to place concrete or asphalt mixtures. For all materials not tested by the DEPARTMENT, the SPONSOR will certify that material suppliers and materials conform to the requirements of the Agreement, plans and specifications. These materials are expected to comply with generally accepted industry standards for the individual items.
15. Have a Resident Inspector obtain AS BUILT CONSTRUCTION PLANS.
16. Furnish the DEPARTMENT with a copy of the AS BUILT CONSTRUCTION PLANS.

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17. Comply with all applicable state and federal laws, rules and regulations and guidelines as well as the environmental commitments for the project.

**The DEPARTMENT shall be responsible for the following activities:**

1. Provide a project engineer to conduct spot inspections, verify progress, and approve invoices for payment.
2. Conduct materials testing of all materials typically used in highway construction that become a permanent part of the travelway and its safety appurtenances. An exception to this are minor concrete items such as sidewalks.

**The SPONSOR and DEPARTMENT shall follow the following reimbursement procedures:**

For payment purposes, the SPONSOR shall forward monthly invoices, with copies of the contractor's invoices, descriptions of work performed during the payment period, and any other documentation requested or required by the DEPARTMENT, to the DEPARTMENT's Area Engineer. The DEPARTMENT shall process the SPONSOR's reimbursement request according to standard procedures established by the DEPARTMENT. It is understood that the DEPARTMENT shall process or make findings on all reimbursement requests in a timely and efficient manner.

The SPONSOR agrees to abide by the terms and conditions governing the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 49 CFR Part 18.

**The SPONSOR shall comply with the following provisions applicable to construction of the PROJECT:**

- a. Content of Construction Contracts. The SPONSOR hereby agrees to contract for the construction of the PROJECT in accordance with the legal requirements imposed on the DEPARTMENT, specifically but not limited to the provisions governing the DEPARTMENT's authority to enter into contracts, Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated, as amended and the Department of Transportation's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5 and 23 CFR Part 633, Required Contract Provisions (Form FHWA –1273)

The SPONSOR certifies and shall require any contractor or subcontractor to certify that it has examined the plans for the PROJECT and the Department's "Standard Specifications", 2013 Edition; ***"Supplemental***

***Specifications Book", current edition;*** and any Supplemental Specifications and Special Provisions applicable for the PROJECT and shall construct or cause the construction of the PROJECT in accordance with the requirements of the DEPARTMENT.

The SPONSOR further certifies and shall require any contractor or subcontractor to certify compliance with the responsibilities detailed under Subsection e. Work Stoppage, below.

- b. Right to Inspect. The DEPARTMENT, its authorized representatives, agents or employees and the Federal Highway Administration shall have the right to inspect any and all construction and work within the right of way of the PROJECT in order to verify that the SPONSOR, its authorized representatives, agents, employees, contractor, or subcontractor are complying with all undertakings, duties and obligations under this Agreement. Such inspections shall not unreasonably or unnecessarily interfere with any construction. The SPONSOR shall keep the DEPARTMENT notified of all construction and construction schedules.

The right to inspect shall include but not be limited to the right to spot inspect and verify the progress of the work, confirm quantities and quality of the work and provide for the testing of concrete and asphalt if needed.

At approximately fifty percent (50%) completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division of the Georgia Department of Natural Resources and arrange a site visit. Upon completion of the PROJECT, the SPONSOR shall contact the Historic Preservation Division in order to arrange for a final site visit. The purpose of the inspections by the Historic Preservation Division is to ensure that the materials used will meet the U.S. Secretary of Interior's Standards for Rehabilitation.

- c. No Assumption of Liability. The DEPARTMENT by reserving the right to review and inspect the SPONSOR's construction plans, contract documents and schedules and to inspect and review the construction and work shall have no obligation to inspect and review. Further, the DEPARTMENT, does not assume, but expressly disclaims, any liability or responsibility for the SPONSOR's or any other entities work on the PROJECT.
- d. Standards of Construction. All construction activities on the PROJECT shall be performed:

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1. in a good, workmanlike and non-negligent manner;
  2. in a manner that avoids endangering the safety of any person, employee, tenant, servant, guest, invitee, contractor, subcontractor or agent;
  3. in accordance with all applicable laws, the provision of applicable contract documents and the applicable provisions of this Agreement; and
  4. free of all mechanics' and material liens upon or against the entire PROJECT property.
- e. Work Stoppage. In the event of the discovery of significant archaeological remains, construction shall be stopped and the SPONSOR shall notify the Georgia Department of Natural Resources of the discovery. In this context, to be "significant", such remains would have to be able to provide important and non-redundant information that could not be obtained from other sources. The SPONSOR shall notify the Georgia Department of Natural Resources of the discovery of intact cultural features such as, but not limited to, foundations and wells. The construction shall remain stopped until the Georgia Department of Natural Resources has completed their evaluation of the remains.
- f. Project Maintenance and Operation. Upon completion of the PROJECT, the SPONSOR shall assume full responsibility for the continued operation and maintenance, including the grass strip between the curb and gutter and the sidewalk within the Project limits, at no additional cost to the DEPARTMENT. The DEPARTMENT and Federal Highway Administration reserve the right to conduct periodic site inspections for the purpose of confirming proper operation and maintenance of the PROJECT.



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

<b>Contractor's Name:</b>	City of Norcross
<b>Solicitation/Contract No./ Call No. or Project Description:</b>	PI 0010629, Gwinnett County, Norcross Pedestrian Connectivity @ 7 LOCS

CONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, entity or corporation which is engaged in the physical performance of services on behalf of the Georgia Department of Transportation has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number (EEV / E-Verify User Identification Number)

\_\_\_\_\_  
Date of Authorization

\_\_\_\_\_  
Name of Contractor

**I hereby declare under penalty of perjury that the foregoing is true and correct**

\_\_\_\_\_  
Printed Name (of Authorized Officer or Agent of Contractor)

\_\_\_\_\_  
Title (of Authorized Officer or Agent of Contractor)

\_\_\_\_\_  
Signature (of Authorized Officer or Agent)

\_\_\_\_\_  
Date Signed

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

[NOTARY SEAL]

My Commission Expires: \_\_\_\_\_

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

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

**II. NONDISCRIMINATION**

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

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

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

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

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

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

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

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

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

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

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

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

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

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

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

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

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

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

**6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

**9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

**10. Assurance Required by 49 CFR 26.13(b):**

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

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

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

## 2. Withholding

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

## 3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

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

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

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

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

##### b. Trainees (programs of the USDOL).

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

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

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.**

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

## VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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

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

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

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

Shall be fined under this title or imprisoned not more than 5 years or both."

#### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

#### **X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **1. Instructions for Certification – First Tier Participants:**

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

## **2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

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

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

### **2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

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

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

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

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

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

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

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

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

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

First Use Date: October 18, 2013

## SPECIAL PROVISION

### Required Contract Provisions Federal-Aid Construction Contracts

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1. *Subsection I.4 Selection of Labor; Delete the last sentence in the paragraph.*
2. *Subsections IV Davis Bacon and Related Act Provisions; Delete the first paragraph in its entirety and substitute the following:*

“This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts. The requirements apply to all projects located within the right-of-way of a roadway.”

**GEORGIA DEPARTMENT OF TRANSPORTATION  
REQUIRED CONTRACT PROVISIONS, FEDERAL-AID HIGHWAY PROGRAM**

**EFFECTIVE FEBRUARY 15, 2016**

The Cargo Preference Act (CPA) establishes certain requirements for the use of privately owned United States-flag commercial vessels in transporting equipment, materials, and commodities by ocean vessel. Contractors are required to comply with the CPA requirements and 46 CFR 381 and are required to insert the substance of these provisions into any subcontracts issued pursuant to this contract.

**Cargo Preference Act Requirements**

All Federal-aid projects shall comply with 46 CFR 381.7 (a)–(b) as follows:

(a) *Agreement Clauses.* Use of United States-flag vessels:

(1) Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)) at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available.

(2) Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a)(1) of this section shall be furnished to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(b) *Contractor and Subcontractor Clauses.* Use of United States-flag vessels: The contractor agrees—

(1) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the Gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(2) To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b) (1) of this

section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(3) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

The CPA requirements would be appropriate for oceanic shipments of materials or equipment that is intended for use on a specific Federal-aid project, such as a precast concrete structural members, fabricated structural steel, tunnel boring machines, or large-capacity cranes.

The CPA requirements are not applicable for goods or materials that come into inventories independent of an FHWA funded-contract. For example, the requirements would not apply to shipments of Portland cement, asphalt cement, or aggregates, as industry suppliers and contractors use these materials to replenish existing inventories. In general, most of the materials used for highway construction originate from existing inventories and are not acquired solely for a specific Federal-aid project.

A test for whether CPA requirements apply or do not apply to shipped goods or materials would be if the goods or materials are what one would consider to be common inventory supplies for highway construction contractor, then CPA would **not apply**. If the materials or goods are considered to be supplies one would consider to be not common supplies of a highway construction contractor then CPA would **apply**.



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4439                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Revisions to Erosion and Sedimentation Control Ordinance

**Sponsors:**

**Code Sections:** Section 109, Article VIII

**Attachments:**

1. [davis\\_MEMO\\_16-08-02](#)
2. [ORDINANCE - 08-2016 sec 109 mayor sig](#)

**Title**  
**Revisions to Erosion and Sedimentation Control Ordinance**

**Drafter**

**Jon Davis**



# CITY OF NORCROSS

## Community Development Department

TO: Jon Davis, Director & City Planner

FM: Jeff Mueller, City Engineer

DATE: August 2, 2016

RE: City Council Agenda Item(s), Approval of Revisions to Erosion and Sedimentation Control Ordinance, Related to Compliance with GA EPD Request for Modifications

Jon,

This ordinance is forwarded to you for the consideration of the Mayor and City Council in response to a request of the GA EPD to make subsequent modifications to our local Erosion Control Ordinance (Chapter 109, Article VIII of the City Code). These modifications are necessary under our continuing certification obligation under O.C.G.A. 12-7-8(a)(2), the Georgia Erosion and Sedimentation Control Act of 1975, as amended. This amended state act requires all Local Issuing Authorities of land disturbing permits to keep their local ordinances in accord with amendments to the state act. Accompanying this memo is the resolution modifying the ordinance. The practical changes to the ordinances include:

1. Revise the definition "CPESC" in Section 109-434 by referencing the entity that provides current certification.
2. Revise the definition "Design Professional" in Section 109-434 by referencing the entity that provides current certification, and adding a statement concerning the manner of their practice.
3. Add road or maintenance projects undertaken by any county or municipality to the list of land disturbing activities exempted from the ordinance per Section 109-452(9).

Background information from the EPD follows on the next page. Please do not hesitate to let me know if you have any questions.

Dear Sir/Madam:

As per the Georgia Erosion and Sedimentation Act (O.C.G.A. 12-7-8(a)(2)), Local Issuing Authorities must amend their ordinances within 12 months of any amendment of the Act. Therefore, the deadline for Local Issuing Authorities to amend their local erosion and sedimentation ordinances to reflect the 2015 and earlier amendments to the Georgia Erosion and Sedimentation Act is December 31, 2016.

The Georgia Environmental Protection Division (EPD) and the Georgia Soil and Water Conservation Commission (GSWCC) believe it is in the best interest of local governments to retain their Local Issuing Authority status. A model erosion and sedimentation ordinance is available on the EPD website at [http://epd.georgia.gov/sites/epd.georgia.gov/files/related\\_files/site\\_page/Model\\_Ordinance\\_July\\_2009%20Final%206-14-2016.doc](http://epd.georgia.gov/sites/epd.georgia.gov/files/related_files/site_page/Model_Ordinance_July_2009%20Final%206-14-2016.doc) and the GSWCC website at [http://gaswcc.georgia.gov/sites/gaswcc.georgia.gov/files/related\\_files/document/Model\\_Ordinance\\_June\\_2016.doc](http://gaswcc.georgia.gov/sites/gaswcc.georgia.gov/files/related_files/document/Model_Ordinance_June_2016.doc) to assist Local Issuing Authorities in revising their ordinances. Continuing the certification of a Local Issuing Authority is conditioned upon the implementation and utilization of an ordinance that meets or exceeds the standards, requirements and provisions of the Act. Please mail revised ordinances to the address below.

We suggest that you address this matter at your earliest convenience. Please contact me if you need further information.

Michael Berry

Georgia Environmental Protection Division

Watershed Protection Branch

Erosion and Sedimentation Control Unit

2 Martin Luther King, Jr. Drive SW, Suite 1462

Atlanta, Georgia 30334

(404) 651- 8554

Attachment: davis\_MEMO\_16-08-02 (16-4439 : Revisions to Erosion and Sedimentation Control Ordinance)

**Ordinance No. 02-2012**

**Chapter 109, Article VIII**

**Soil Erosion and Sedimentation Control**

CHAPTER AND PURPOSE. Chapter 109, Article VIII of the Code of the City of Norcross.

ENACTING CLAUSE. THE COUNCIL OF THE CITY OF NORCROSS, GEORGIA HEREBY ORDAINS that the provisions of Chapter 109, Article VIII, “Soil Erosion and Sedimentation Control,” of the Code of Ordinances of the City of Norcross shall be amended by replacing Section 109-434, “Definitions”; Section 109-452(1), “Exempt Land-disturbing Activities”; and Section 109-490(d), “Permit Requirements”; which shall read as follows:

**PART I**

**Section 109-434 Definitions**

*CPESC* means certified professional in erosion and sediment control with current certification by ~~Certified Professional in Erosion and Sediment Control Inc., a corporation registered in North Carolina~~ **by EnviroCert, Inc.**, which is also referred to as CPESC or CPESC, Inc.

*Design professional* means a professional licensed by the state **of Georgia** in the field of engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by ~~Certified Professional in Erosion and Sediment Control Inc~~ **EnviroCert, Inc. Design Professionals shall practice in a manner that complies with applicable Georgia law governing professional licensure.**

**Section 109-452 Exempt Land-Disturbing Activities**

(9)

Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the Georgia Department of Transportation, the Georgia Highway Authority, the Georgia Tollway Authority, **or any road construction or maintenance project, or both, undertaken by any county or municipality**; provided, however, that construction or maintenance projects of the Georgia Department of Transportation or the Georgia Tollway Authority which disturb one or more contiguous acres of land shall be subject to the provisions of O.C.G.A. § 12-7-7.1; except where the Georgia Department of Transportation, the Georgia Highway Authority, or the State Road and Tollway Authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under

ORDINANCE - 08-2016 sec 109 mayor sig

the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;

## PART II

It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance be severable. If any provision of this section or the application of any provision hereof to any circumstance is adjudged to be illegal, invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such invalidity shall not affect the balance of the terms and provision of the section or the application of the provision in question to any other circumstance, all of which shall continue in full force and effect.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused this seal to be affixed. This \_\_\_\_\_, 2016.

\_\_\_\_\_  
Bucky Johnson, Mayor

\_\_\_\_\_  
Attest: Monique Lang, City Clerk

ORDINANCE - 08-2016 sec 109 mayor sig



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4443                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Request for a New Job Description Entitled "Crime Scene Investigator / Property & Evidence Custodian"

**Sponsors:**

**Code Sections:**

**Attachments:**

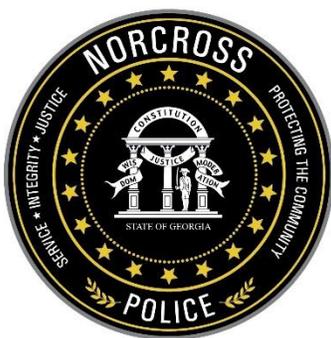
1. [Crime Scene Investigator Job Description Request Memo](#)
2. [Crime Scene Invest Property Evidence Cust](#)

**Title**

**Request for a New Job Description Entitled "Crime Scene Investigator/  
Property & Evidence Custodian"**

**Drafter**

**Bill Grogan**



# NORCROSS POLICE DEPARTMENT

CHIEF BILL GROGAN

**TO:** Rudolph Smith, City Manager

**FROM:** Bill Grogan, Chief of Police

**DATE:** August 3<sup>rd</sup>, 2016

**RE:** Crime Scene Investigator / Property & Evidence Custodian Job Description

I respectfully request a new job description titled "Crime Scene Investigator / Property & Evidence Custodian (Civilian)" be created within the Norcross Police Department. I have documented the need and justification for this position below.

**Jeremy Anderson** has been employed with Norcross since 2009 when he began as a Communications Officer (Police Dispatcher). Jeremy was an excellent Comms Officer and in 2011 our Property/Evidence Custodian position became available. Jeremy was selected for the position and quickly excelled by auditing and purging the room of property and evidence long overdue for destruction. Jeremy completed Marijuana Tester school that same year and began a process of overhauling the way small evidence/property was stored in the room. Jeremy then took on the duty of issuing false burglar alarm warning and tickets to violators of City ordinance. He took on the duty of reviewing arrestee medical claims for our insurance provider and a variety of other duties not within his normal scope of work.

In 2013 Jeremy was asked by his supervisor if he would be interested in seeking certification in latent print examination with the ultimate goal of becoming a certified Crime Scene Investigator; the first in Norcross' history. Jeremy enthusiastically agreed to start the arduous process. Over the next 2 years Jeremy took the required seven (7) 3-5 day classes required to become a Crime Scene Investigator in the State of Georgia. Jeremy excelled in all of these classes.

In August of 2014 Jeremy completed a laborious 5-month process to bring to Norcross a fingerprint examination and submission hardware along with direct connectivity to the GBI's fingerprint database via a system called IAFIS. We are now one of few Metro Atlanta Municipalities with this incredible capability that significantly expedites fingerprint hits. Instead of taking 6-12 months or more at the crime lab, we have reduced fingerprint processing to a few days and even hours. We have solved/closed nearly 40

major cases in the 2 years following full IAFIS Connectivity establishment. About **15** separate cases have been solved/closed with victim/other elimination prints, mostly using the new system.

Jeremy received the **2013 & 2014 Norcross PD Civilian Employee of the Year** Awards and a **2015 Special Recognition** Award for work helping to solve a homicide case and a homicide/suicide case. He has tested nearly **400** cases with marijuana in 5 years, conducted 9 Evidence/Property Pulls, and participated in 5 Major Annual Evidence Inventories. He has developed and implemented Crime Scene Processing training for 4 sworn personnel (one is on his way to being fully crime scene certified by GA POST) and provided extensive department wide training on the handling and processing of evidence collection.

Currently, Jeremy's title is Property & Evidence Custodian. However, he does much more than that. He is fulfilling a new role as Crime Scene Investigator, of which Norcross has never had but is lucky to employ.

\*A full job description for this new position is attached.

# CITY OF NORCROSS

## JOB DESCRIPTION



**Job title:** Crime Scene Investigator & Property/Evidence Custodian (Civilian)

**Job Level:** 29

**Department:** Public Safety

**General Position Summary:**

Under the direction of the Criminal Investigation Division, this position is responsible for managing the day to day operations of the Norcross Police Department Evidence and Property Room along with Crime Scene Investigation. Job has recurring work situations involving high degrees of discretion. The need for accuracy and effective utilization of accepted programs and routines is high. Incumbent operates independently but work is verified. Content of work priorities are determined by supervision. Successful performance contributes to the proper conformance of the Federal and State laws and the guidelines of the Norcross Police Department in the handling of evidence and property. Contacts are typically representatives of the judicial system, officials from State, Federal and local levels.

**Reports to:** Criminal Investigations Division Unit Supervisor

Full-time

Part-time

Non-Exempt

Exempt

**Essential Duties and Responsibilities:**

- Receives, sorts, and screens property delivered to the Norcross Police Department Evidence / Property Room.
- Evaluates submitted property and/or evidence to assure items have been correctly packaged and marked in accordance with Federal, State and departmental guidelines.
- Organizes, verifies, prepares, and transports evidence to be submitted to and from the State Crime Laboratory for analysis.
- Accounts for security and integrity of the evidence room. Follows strict procedures on evidence storage and disposition. Preserves the critical chain of custody of all evidence and/or property.
- Provides testimony in court proceeding when subpoenaed.
- Follows appropriate and lawful disposition of evidence and/or property guidelines, prepares disposition notices and condemnation documentation in accordance with legal requirements and accreditation standards.
- Releases evidence and/or property to officers, agents of the court or other law enforcement agencies for prosecution. Releases property to lawful owners.
- Prepares property for destruction, sale or condemnation and maintains accurate records of all evidence and/or property releases and/or transfers.
- Maintains supplies for crime scene and/or processing evidence.
- Receives phone calls and correspondence. Explains evidentiary procedures to department personnel, the general public and other agencies and will only release authorized information.
- Provides technical guidance and training on handling, preparing, packaging and logging in evidence/property in accordance with legal and departmental requirements.
- Primary Marijuana Examiner
- Trains and assists in the processing of crime scenes which includes: taking photographs, sketching scenes, locating and processing physical evidence, producing cast impressions of shoeprints, tire tracks, and other applicable duties.

- Trains and assists in processing evidence for fingerprints with powders and chemicals, identifies biological substances, such as blood, and utilizes specialized equipment.
- Trains and assists in developing and printing film and digital media. Maintains applicable equipment and supplies.
- Trains and assists in fingerprinting victims and suspect(s) and maintains applicable documents and materials.
- Functions as expert witness by preparing for and testifying in court.
- Answers and routes phone calls and provides assistance when applicable.
- Performs fingerprint comparisons of known fingerprints to latent fingerprints recovered from crime scenes.
- Develops and conducts training classes on current processes and new technology within crime scene investigations.
- Serves as a lead to lower level staff to include assigning and monitoring work and providing direction.
- Performs other related duties as directed by the Chief of Police or supervisory personnel within the assigned division.

**Competencies:**

- **Detailed oriented**
- **Research**
- **Presentation**
- **Organization**
- **Technical (Forensic Equipment)**

**Education and Minimum Requirements:**

- Associate's Degree in Criminal Justice, Forensic Science, or 3-5 years of experience in a related field or performing the essential duties of the job.
- At least one-year relevant experience analyzing and comparing latent prints (min of 500 documented latent print exams & 75 cases through AFIS/IAFIS).
- GA P.O.S.T. Crime Scene Technician Certification, GA P.O.S.T. Marijuana Examiner Certification, and Automated Fingerprint Identification System (AFIS) Certification or equivalent.
- A valid driver's license issued in the State of Georgia.
- Must possess excellent communication skills (both verbal written).
- Prior use and techniques in the collection, inventorying, processing, storage, and disposition of law enforcement evidence in various conditions and environments.
- Prior experience processing crime scene and analyzing evidence to include marijuana testing, DNA collection, latent print collection, examination and comparison.
- Prior use of still photography and video equipment.
- Experience testifying in court, training other employees, budgeting, and ordering supplies related to job duties.

**Knowledge, Skills and Abilities:**

- Thorough knowledge of personnel methods, laws, policies and procedures as they pertain to the responsibilities of personnel manager.
- Manage and administer various personnel programs such as employee training and orientation programs, safety programs, etc.
- Knowledgeable of employee rights and the laws, which govern them.
- Knowledgeable of training methods and has the ability to instruct others through explanation, demonstration and supervised practice; or making recommendations on the basis of technical disciplines.
- Ability to give oral and written instructions, schedule daily activities and establish short and long-term priorities in order to meet established goals.
- Skilled in applying independent judgment and discretion in managing the personnel function including such difficult situations as resolving conflicts/disputes, hiring/terminating employees,

providing employee counseling, etc.

- Requires ability to read directions, instruction and methods of procedures. Ability to write a report; learn and understand relatively complex administrative and personnel related principles and techniques; and the ability to record and deliver information, explain procedures.
- Requires the ability to compare and/or judge the readily observable functional, structural, or compositional characteristics of data, people, or things.

#### **JOB CONDITIONS:**

The physical demands described here are representative of those that must be met by an associate to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

The work typically performed with the employee sitting at a desk with intermittent standing or walking. The employee must occasionally lift light objects, be able to distinguish between shades of color, and use the physical force necessary to arrest and/or restrain a person.

Positions in this class typically require: climbing, balancing, stooping, kneeling, crouching, crawling, reaching, standing, walking, pushing, pulling, lifting, fingering, grasping, feeling, talking, hearing, seeing and repetitive motions.

**Medium Work:** Exerting up to 50 pounds of force occasionally, and/or up to 20 pounds of force frequently, and/or up to 10 pounds of force constantly to move objects.

- resolving conflicts/disputes, hiring/terminating employees, providing employee counseling, etc.
- Requires ability to read directions, instruction and methods of procedures. Ability to write a report with proper spelling and punctuation; learn and understand relatively complex administrative and personnel related principles and techniques; and the ability to record and deliver information, explain procedures and follow verbal and written instructions.
- Requires the ability to compare and/or judge the readily observable functional, structural, or compositional characteristics of data, people, or things.

Incumbents may be subjected to fumes, odors, dusts, gases, poor ventilation, chemicals, oils, extreme temperatures, inadequate lighting, travel, blood, bodily fluids, and excessive stress.

This position may require: 24-hour on call assignment, overtime, or working weekends, holidays, 10-hour, 12-hour and rotating shifts.

**Work Environment:** The work is typically performed in an office and occasionally outdoors at scenes of accidents and incidents. The employee may be exposed to occasional inclement weather, infectious diseases, and/or irritating chemicals. The work may require the use of protective equipment such as a mask or gloves.

#### **LIMITATIONS AND DISCLAIMER:**

The above job description is meant to describe the general nature and level of work being performed. It is not intended to be an exhaustive list of all responsibilities, duties and skills required for the position.

All job requirements are subject to possible modification to reasonably accommodate individuals with disabilities. Some requirements may exclude individuals who pose a direct threat or significant risk to the health and safety of themselves or other employees.

This job description in no way states or implies that these are the only duties to be performed by the employee occupying this position. Employees will be required to follow any other job-related instructions and to perform other job-related duties requested by their supervisor in compliance with Federal and State Laws.

Requirements are representative of minimum levels of knowledge, skills and/ or abilities. To perform this job successfully, the employee must possess the abilities or aptitudes to perform each duty proficiently. Continued employment remains on an "at-will" basis.

**Associate Confirms Receipt of Description (Print Name):**

**Employee Signature:**

**Date:**

**Approved by Director:**

**Approved by City Manager:**



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

**File #:** 16-4447                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** Budget Process

**Sponsors:** Council Member Josh Bare

**Code Sections:**

**Attachments:**

1. [Memo - budget process](#)

**Title**

**Budget Process**

**Drafter**

**Councilman Bare**



## MEMO

**TO:** Mayor and City Council

**FROM:** Councilman Bare

**DATE:** 08/09/2016

**SUBJECT:** Budget Process

Just had some thoughts I wanted to share for next year's budget process. I sure would like to have our budget schedule look more like this. I know we have the limitation of when the tax digest comes in but I think we could get that number narrowed down in advance with a good forecast.

May 15th - all department budgets submitted

May 15th to June Policy meeting - Citizen Budget committee meet and review budget over 30 day period

June Policy meeting - Citizen Budget committee gives presentation on budget and council receives a final copy of budget - 45 days before final vote

July Policy meeting - talk about budget

Aug Council meeting - vote on budget, 1st hearing for millage rate

Aug Policy meeting - 2nd millage rate hearing

Sep Council meeting - 3rd and final millage rate hearing

It would be great to discuss the plusses and minuses of having a citizen budget committee review process like Duluth does.

-Josh

Attachment: Memo - budget process (16-4447 : Budget Process)



MAYOR **BUCKY JOHNSON** · MAYOR PRO TEM **CRAIG NEWTON** · COUNCILMAN **DAVID MCLEROY** · COUNCILMAN **JOSH BARE** ·  
COUNCILMAN **ANDREW HIXSON** · COUNCILMAN **PIERRE LEVY** · CITY MANAGER **RUDOLPH SMITH** · CITY CLERK · **MONIQUE LANG**

## City of Norcross

### Legislation Details (With Details)

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**File #:** 16-4431                      **Version:**

**Type:** Agenda Item                      **Status:** Agenda Ready

**On Agenda:** 8/15/2016 6:30 PM   **In Control:** Policy Work Session

**Title:** 2017 SPLOST Projects Wish List

**Sponsors:** Council Member Josh Bare

**Code Sections:**

**Attachments:**

1. [FY 2017- splost projects funding -jb](#)

**Title**  
**2017 SPLOST Projects Wish List**

**Drafter**  
**Rudolph Smith**

# SPLOST Projects Analysis

FY 2017 ~ Transportation, Recreation and Parking

Project Name	TOTAL LOCAL ONLY
<b>Parks Projects</b>	<b>\$4,572,000</b>
Rossie Brundage playground (ADA)	
Pinnacle Park, Passive Recreation, Trails, Shelter with Rest Rooms	
Discovery Garden, Phase 2, including restrooms, greenhouse, outdoor kitchen and master plan for additional property	
Rossie Brundage access trail from Kennemore Manor	
Johnson Dean Park: Building Renovation, Trail Loop, Play Field and Play Ground	
Betty Mauldin -Public Art Installation	
Cemetery Field Park Additional Parking	
Cemetery Park Pavilion and 8 parking spaces	
Heritage Park Public Art Installation	
Rossie Brundage Park Wayfinding Signage and Park Rules and Regulations Signage	
South Point Park Waste Receptacle, Public Art and Landscaping	
Water Tower Park Sign	
<b>Transportation Projects</b>	<b>\$6,095,000</b>
Holcomb Br Rd RR Xing Implementation -improve vertical curve	
Buford Highway Streetscape (Library) both sides from Mitchell Road to Holcomb Bridge Road	
Holcomb Bridge Rd Multi-Use Trail & Drainage Improvements	
Beaver Ruin Creek Greenway	
Langford Rd/Medlock Br Rd ADA Imp	
S Cemetery St Extension	
N Norcross-Tucker/S P'tree Roundabout	
Pedestrian Enhancements, including landscaping, lighting and multi-use trails on Mitchell Road from Buford Hwy to Brookhollow Parkway	
Downtown Pedestrian Improvements, Project T-1B, 2011 NTC LCI: Bulbouts: Jones St. at Skin Alley, Lawrenceville Street, and College Street; Speed tables: Britt Ave. and College St.	
Project T-2, 2011 NTC LCI: City wide Sharrows (Bicycle Pavement Markings)	
Norcross Elem Bike/Ped Connectivity, Project T-3A, 2011 NTC LCI: Born St Multi-Use Trail	
Norcross Elem Bike/Ped Connectivity, Project T-3B, 2011 NTC LCI: Sidewalks on Beutell St., Summerour St., Rakestraw St.	
<b>Parking Projects</b>	<b>\$4,572,000</b>
<b>TOTAL</b>	<b>\$15,239,000</b>