

BID REQUEST

Harris County is accepting bids for guardrail installation on two roads in Harris County, per current Georgia DOT Standards and Specifications. Bidders must be unconditionally qualified prospective bidders in accordance with the Rules of the Georgia Department of Transportation. Mandatory pre-bid conference will be held at 2:00 PM, Monday, November 13, 2017 in the Conference Room of the Commissioners Office, located at 104 North College Street, Hamilton, GA. Project must begin by December 11, 2017, and be completed by March 30, 2018. The bid package, which includes details and bid form that must be used in submitting a bid, follows.

Bid must be valid at least 60 days from bid date. Bids must be sealed, bear the notation "BID: GUARDRAILS 2017", be addressed to the attention of County Clerk, and be received at Harris County Board of Commissioners, 104 North College Street, Post Office Box 365, Hamilton, GA 31811-0365, by 2:00 PM, Friday, November 17, 2017, at which time they will be publicly opened and read aloud. It is the responsibility of the bidder to ensure that their bid arrives at the proper location by the time and date indicated. Harris County reserves the right to reject any or all bids. Non-compliance with instructions may serve as cause for rejection of bid.

**BID REQUEST DETAILS
GUARDRAILS
OFF-SYSTEM SAFETY 2017
HARRIS COUNTY, GEORGIA**

PART 1. OVERVIEW & INSTRUCTIONS

- 1.1 **PROJECT.** Installation of guardrails on two (2) County roads, a total distance of .32 miles. More specifics details are provided on bid forms.
- 1.2 **TIME TABLE.**
- | | |
|------------------------------|--------------------------------------|
| Advertise/Issue Bid | November 2, 20017 |
| Mandatory Pre-Bid Conference | Monday, November 13, 2017 @ 2:00 PM |
| Deadline for Questions | Tuesday, November 14, 2017 @ 4:00 PM |
| Deadline to Receive Bid | Friday, November 17, 2017 @ 2:00 PM |
| Project to Begin | By or before December 11, 2017 |
| Project Completion | March 30, 2018 |
- 1.3 **BIDDERS SCOPE OF SERVICES.** Provide all materials, labor, tools, equipment and appurtenances necessary to install guardrails on Hamilton-Pleasant Grove Road and Lickskillet Road as set out on Bid Form.
- 1.4 **PROJECT START DATE, GDOT CONFORMANCE & COMPLETION.** Project must start and be underway within ten (10) business days from date of Notice to Proceed but no later than December 11, must conform to Georgia DOT specifications guardrails and installation, and any other GDOT specifications that apply to this project, and be completed by March 30, 2018. (This is an LMIG project, and in accordance with GDOT specifications, project must be underway before December 31.)
- 1.5 **MANDATORY PRE-BID CONFERENCE.** 2:00 PM, Monday, November 13 2017, in the Conference Room of the Commissioners' Office, 104 North College Street, Hamilton, Georgia.
- 1.6 **QUESTIONS.** All questions, clarifications or requests for general information are to be directed to Nancy McMichael, County Clerk, via e-mail at nmemichael@harriscountytga.gov; however, no questions will be received after 4:00 PM on Tuesday, November 14 2017.
- 1.7 **ADDENDUM.** Any revisions resulting from the pre-bid conference will result a written addendum to all vendors who attended the pre-bid conference. Any and all addendums must be acknowledged. Failure of the bidder to acknowledge issued addendums will deem their bid non-compliant.
- 1.8 **BID ORGANIZATION, SUBMISSION INSTRUCTIONS & DEADLINE**
- A. **Bid Organization.** To achieve a uniform review process and obtain the maximum degree of comparability, the *bid response must be organized in the manner specified below*. Bids should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete bid. Failure to organize bid response as described may result in disqualification of bid.
- (1) **Bid Form.** The bid form included in the request must be used to submit a bid. Do not use substitute forms. The complete bid price must be typed or written in ink, both in words and in numerals, with all questions answered and all blanks filled in. Any erasures, strike overs and/or changes to prices written in numerals must be initialed by bidder, and failure to do so may serve as cause for rejection of bid.
- (2) **Bid Guarantee.** If bid is over \$100,000, a certified check, cashier's check or surety bond in the amount equal to five (5) percent of the total bid shall accompany bid. Failure to include same shall be cause for rejection of bid. When contract is executed, bid guarantees will be returned to all other bidders.
- (3) **Federal Work Authorization Program Affidavits.** The Contractor affidavit included in this request must be completed in its entirety and returned as part of the bid response, and failure to do so will result in disqualification of bid. Do not use a substitute form. If a Subcontractor will be used to complete the project, the subcontractor affidavit must also be completed and returned with the bid.

- (4) Vendor Information Form. The Vendor Information form included in this bid request must be completed and returned as part of the bid response, and failure to do so will result in the disqualification of bid. Do not use a substitute form.
 - (5) W-9. A completed current W-9 form must be returned as part of the bid response, and failure to do so will result in the disqualification of bid.
 - (6) Other. Any other information deemed to be pertinent to the bid may be included.
- B. **Submission**. Bidders shall submit **one (1) original and (1) complete photocopied set** of all bid documents. Bid envelope/package shall be sealed and bear the notation "BID: GUARDRAILS 2017", be addressed to the attention of the County Clerk, and be received at the office of the Harris County Commissioners, 104 North College Street, PO Box 365, Hamilton, GA 31811-0365 by 2:00 PM, Friday, November 17, 2017, at which time bids will be publicly opened and read aloud. It is the responsibility of the bidder to ensure that their bid arrives at the proper location by the time indicated. Facsimile, e-mail, telephone or late bids will not be accepted or considered. Responses received after the established deadline will be returned unopened to the bidder. Note that some express mail and delivery services do not guarantee overnight delivery to Harris County.
- 1.9 **REJECTION**. Bids which are incomplete, conditional, which contain alterations of any kind, or which do not comply with instructions may serve as cause for rejection. Harris County reserves the right to waive any requirement and/or specification included herein, to reject any or all bids, waive technicalities, informalities, or any irregularities therein, and accept any bid presented that in its judgment best serves the interest of the County, and does not in any way obligate itself to accept the lowest response.
 - 1.10 **LATE SUBMITTAL, LATE MODIFICATION & WITHDRAWAL**. Bids received after the due date and time will not be considered. Modifications received after the due date and time will not be considered. Bids may be withdrawn prior to deadline for receipt of bid upon written request by bidder to County Clerk, and bidder must disclose their identify and provide a signed receipt.
 - 1.11 **CANCELLATION, PROPERTY & PREMATURE OPENING**. The County reserves the right to cancel this bid request at any time. Once opened, bids become the property of the County and will not be returned to the bidder. County assumes no responsibility for the premature opening of a response not properly addressed, identified and/or delivered to the proper designation.
 - 1.12 **BID VALIDITY**. Bids must be valid for sixty (60) days following receipt deadline.
 - 1.13 **EXCEPTIONS**. Any variations from this bid request will not be accepted.
 - 1.14 **TAXES**. The County is exempt for taxes, and contractor will be provided with County's Sales and Use Tax Certificate of Exemption.
 - 1.15 **BID PREPARATION COSTS**. Neither the County nor its representatives shall be liable for any expenses incurred in connection with the preparation and submission of a bid in response to this Bid Request or any work performed in connection therewith.
 - 1.16 **NON-DISCRIMINATORY**. County hereby notifies all bidders that it will affirmatively ensure that minority business enterprises will be afforded full opportunity to submit bids in response to this Bid Request, and that no bidder shall be discriminated against on the grounds of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability. Contractor agrees it shall not discriminate against any person who performs work thereunder because of age, race, color, sex, religion, creed, national origin, marital status, political affiliation, or disability.
 - 1.17 **EVALUATION OF BID**. County staff will evaluate the responses received in response to this Bid Request in anticipation of making the award to the bidder whose submittal is judged to be the most advantageous to the County, and a recommendation shall be made to the Harris County Board of Commissioners who will make the award during its regular meeting next following the evaluation.

- 1.18 **AWARD OF BID.** Bid shall be awarded by the Harris County Board of Commissioners during a regular meeting next following the bid opening/evaluation. The County anticipates award to the lowest reliable bidder; however the County reserves the right to reject any or all bids, waive formalities, and to solicit and re-advertise for new bids.
- 1.19 **NOTIFICATION OF AWARD.** Following the Bid award, the winning bidder and all other bidders will be notified via e-mail or first class mail.
- 1.20 **CONTRACT.** Following the Bid award, the contract, a draft of which is attached, will be provided to the successful bidder who will have five (5) business days in which to execute and return the contract to the County Clerk along with the required Performance & Payments Bonds and Insurance Certification(s).
- 1.21 **PERFORMANCE & PAYMENT BONDS.** Following notification, if bid is over \$100,000, the successful bidder must provide 100% Performance and Payment Bonds, which cannot be dated prior to the date of the contract.
- 1.22 **INSURANCE, LIABILITY.** The bid winner shall be required at all times during the term of the agreement to maintain the following insurance, the evidence of which must be presented to the County Clerk within ten (10) business days of Notification of Award:
- ▶ General Liability insurance coverage in the minimum amount of \$1,000,000 per occurrence
 - ▶ Automobile Liability of at least \$500,000 per occurrence
 - ▶ Employer's Liability of at least \$100,000 each accident
 - ▶ Umbrella coverage of at least \$1,000,000
 - ▶ In addition, winning bidder shall be responsible for damage to the County's equipment and/or property by its work, negligence in work, its personnel and equipment, and shall be responsible and liable for the safety, injury and health of its working personnel while its employees are performing work
 - ▶ County shall be named as an additional insured and loss payee on all policies, except County need not be named as an additional insured and loss payee on any Workers Compensation policy.
- 1.23 **INSURANCE, WORKERS COMPENSATION.** The bid winner shall be required at all times during the term of the project to subscribe and comply with the Workers' Compensation laws of the State of Georgia and to hold harmless Harris County from any and all liability from or under said act. Evidence of such insurance shall be provided to the County Clerk within ten (10) business days of Notification of Award.
- 1.24 **NOTICE TO PROCEED & PURCHASE ORDER NUMBER.** Following receipt of executed contract and required performance & payment bonds (if required per 1.21 above) and insurance certification(s), the County Clerk will issue a Notice to Proceed & Purchase Order Number, after which work will begin within ten (10) business days of issue date, but no later than December 11. Failure to start work within the time indicated may result in the Award being withdrawn and offered to the next bidder whose bid was judged to be advantageous to the County.
- 1.25 **COMPLETE AGREEMENT.** This Bid Request, the bid response, all attachments, any addenda, the Notice to Proceed, the Purchase Order, and any contract shall constitute the complete agreement between the bidder and the County.
- 1.26 **VENUE.** The venue for any litigation arising from this Bid Request shall lie in Harris County, Georgia.
- 1.27 **DELAYS.** If there are unreasonably delays or unauthorized suspensions of work for this project, Harris County reserves the right to charge the contractor \$250 per day, as liquidated damages, until project is complete. Neither party shall be liable to the other for any failure or delay in rendering performance arising out of causes beyond its control and without its fault or negligence. Such causes may include, but not be limited to, acts of God, the public enemy, or unusually severe weather. Dates and times of performance will be extended to the extent the delays excused by this section, provided that the contractor notifies the County promptly of the existence and nature of such delay.
- 1.28 **WORKPLACE.** The County is committed to maintaining an alcohol-free, drug-free, and smoke-free workplace. Possession, use or being under the influence of alcohol or controlled substances, or smoking on County property, by contractor or contractor's employees while in the performance of the duties associated with this project is prohibited. Violation shall constitute grounds for termination of services.

- 1.29 **BARRICADES & WARNINGS.** Contractor shall provide, erect, and maintain all necessary barricades, suitable and sufficient number of watchmen to direct traffic, and take all necessary precautions for the protection of the work and safety of the public. Barricades and obstructions shall be illuminated at night and lights shall be kept burning from sunset to sunrise.
- 1.30 **REMOVAL OF TRASH & DEBRIS.** Contractor shall be responsible for the removal and legal disposal of all waste, trash, and debris resulting from the work under this project. Work site shall be kept clean and orderly during construction; waste, trash and debris shall be removed from the site or adequately containerized daily.
- 1.31 **PRESERVATION OF PROPERTY.** Contractor shall carry out their work with such care and by the proper methods to prevent damage to the property adjacent to the work or within streets, easement locations to the extent the owner may have rights therein, or other property of the owners or of others, whether adjacent to the work site or not, the removal, relocation, or destruction of which is not called for under this project; it being a condition that the work be performed in such a manner that the property of others and other property of the owner shall not be damaged in any way. The word “property” as used herein, is intended to include among other types of property, public street improvements, storm and sanitary sewer, water lines and appurtenances, or other structures. Should any property be damaged or destroyed, the contractor at their own expense shall promptly, or within reasonable time, repair or make such restoration as is practical and acceptable to the owner of the damaged or destroyed property. In case of failure on the part of contractor to repair or restore such property, or make good such damage or injury, the County may within forty-eight (48) hours notice, proceed to repair, rebuild, or otherwise restore such property as may be necessary, and the cost thereof will be deducted from any monies due or which may become due the contractor under this contract agreement. The contractor shall, at all times in performance of the work, employ approved methods and exercise reasonable care and skill so as to avoid delay, damage, injury or destruction of existing public service installations and structures; and shall at all times in the performances of the work avoid interference with, or interruption of, public utilities services, and shall cooperate fully with the owners thereof to the end.
- 1.32 **INDEMNIFICATION.** Contractor shall indemnify, save harmless and exempt the County, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney fees, and any and all other costs or fees incidental to any work done as a result of this Bid Request and arising out of a willful and negligent act or omission of the contractor, its officers, agents, servants, and employees; provided, however, that the contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arising out of a willful or negligent act or omission of the County, its officers, agents, servants and employees.
- 1.33 **ASSIGNMENTS.** Assignment by the contractor to any third party of any portion of the project or any monies due shall be prohibited and will not be recognized by County.
- 1.34 **LIENS.** Contractor agrees to and shall indemnify and save harmless the County against any and all liens and encumbrances for all labor, goods and services which may be provided under the project. At the County’s request, contractor shall provide and deliver to County a proper release of all liens or satisfactory evidence of freedom from liens.
- 1.35 **INVOICES & PAYMENT TERMS.** Invoices, which must include the project name (Guardrails 2017), *must be itemized by road and include quantity, distance, cost per unit, etc., per road*, and submitted to the attention of the County Clerk via email or USPS First Class Mail (*but not both*) at nmcmichael@harriscountyga.gov or Harris County Commissioners, PO Box 365, Hamilton, GA 31811-0365. The County’s terms are “net 30 days” after approval of an acceptable invoice. A ten percent (10%) retainage fee will be applicable to all invoices, and following the completion of the project, a final invoice must be submitted for the withheld retainage.

PART 2. GENERAL

- 2.1 Conditions.** By submitting a bid, the bidder acknowledges and consents to the following conditions relative to the submission of a bid.
- 2.1.1 Agree to the overview, instructions and conditions as set forth in the bid request with no exceptions and confirms that the bid was prepared by an authorized representative of the firm, that the costs and availability of all material and supplies associated with performing the project have been determined, and that all labor costs associated with the project have been determined, including all direct and indirect costs.
 - 2.1.2 Failure to submit all required forms and to provide all requested information shall be cause for the rejection of the bid. However, the County reserves the right to decide, on a case by case basis, in its sole discretion, whether or not to reject such a bid as non-responsive.
 - 2.1.3 All bids received and opened will be public documents and subject to the Open Records Act and all other laws of the State of Georgia, the United States of America, and the open records policies of the County. All such materials shall remain the property of the County and will not be returned to the bidder.
 - 2.1.4 Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the project, including without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When requested, contractor shall provide County with satisfactory proof of compliance.
 - 2.1.5 Contractor shall not be considered an employee of Harris County, nor shall Contractor be within protection or coverage of the County's Workers' Compensation Insurance, Health Insurance, Liability Insurance or any other insurance that the County from time to time may have in force and effect.

BID FORM GUARDRAILS (OFF-SYSTEM SAFETY LMIG 2017) HARRIS COUNTY

The undersigned bidder, in compliance with the Bid documents for this project, having examined said documents, the site of the proposed work and being familiar with all of the conditions of the proposed project, including the availability of materials and labor, hereby proposes to furnish all products, materials and equipment and performing all labor necessary to install guardrails on two (2) County roads, as follows:

		Hamilton Pleasant Grove Rd (CR 390)	Licksillet Rd (CR 389)	APPROX QTY & UNITS	UNIT PRICE (Dollars & Cents)	BID AMOUNT (Dollars & Cents)
1	BEGIN	.8 mi from Hamilton City Limits for 300' (then a 100' skip)	1.5 mi from SR 219	X	X	X
2	END	400' from 1.0 mi from Hamilton City Limits	1.6 mi from SR 219	X	X	X
3	Sections	2	2	X	X	X
4	Lanes	South bound only	North & South bound	X	X	X
5	Road Distance	.20 MI	.10 MI	X	X	X
6	Traffic Control	Lump Sum	Lump Sum	Lump Sum	Lump Sum	
7	Guardrail, 31", TP W, to include appropriate posts, offset blocks, and anchorage	.13 LM	.19 LM	.32 LM		
8	Guardrail Terminals/End Sections, TP 12A	4 EA	4 EA	8 EA		
TOTAL BID						

Bid (in words): _____ Dollars and _____ Cents (\$ _____)

I hereby acknowledge _____ addendum.

COMPANY NAME _____

COMPANY ADDRESS _____

COMPANY MAILING ADDRESS _____

CONTACT NAME _____

CONTACT TITLE _____

CONTACT EMAIL _____

OFFICE PHONE _____ CELL PHONE _____

FAX _____ DATE _____

SIGNATURE _____

(THIS • FORM • MUST • BE • COMPLETED • AND • RETURNED • WITH • BID • PACKAGE)

FEDERAL WORK AUTHORIZATION PROGRAM AFFIDAVIT - CONTRACTOR

By executing this affidavit, the undersigned contractor verifies its compliance with the Official Code of Georgia Annotated (O.C.G.A.) 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with Harris County has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United State Department of Homeland Security or any equivalent federal work authorization program operation by the United State Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to an award of contract with Harris County, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to Harris County at the time the subcontractor(s) is retained to perform such service.

GUARDRAILS OSS 2017
Project/Contract Name

Contract Amount

Contractor Firm Name

Address

City/State/Zip

EEV / Basic Pilot Program* User ID Number
[If NO EMPLOYEES, you must provide legible copy of State issued Photo ID (like a Driver's License)]

Date of Authorization from EEV / Basic Pilot Program

Signature of Authorized Officer or Agent

Printed Name of Authorized Officer or Agent

Title of Authorized Officer or Agent

Date Signed

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

Notary Public
My Commission Expires: _____

(seal)

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

Authority O.C.G.A. 13-10-91

**(THIS • FORM • MUST • BE • COMPLETED • AND • RETURNED • WITH • BID • PACKAGE)
DO NOT USE A SUBSTITUTE FORM**

FEDERAL WORK AUTHORIZATION PROGRAM AFFIDAVIT - SUBCONTRACTOR

By executing this affidavit, the undersigned subcontractor verifies its compliance with the Official Code of Georgia Annotated (O.C.G.A.) § 13-10-91, stating affirmatively that the individual, firm, or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of Harris County, Georgia, 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 subcontractor will continue to use the federal work and authorization program throughout the contract period, and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned contractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five (5) business days of receipt. If the undersigned subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned subcontractor must forward, within five (5) business days of receipt, a copy of the notice to the contractor.

Sub-contractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

GUARDRAILS OSS 2017
Project/Contract Name

Contract Amount

Sub-Contractor or Sib-Contractor Firm Name

Address

City/State/Zip

EEV / Basic Pilot Program* User ID Number
[If NO EMPLOYEES, you must provide legible copy of State issued Photo ID (i.e. a Driver's License or similar ID)]

Date of Authorization from EEV / Basic Pilot Program

Signature of Authorized Officer or Agent

Printed Name of Authorized Officer or Agent

Title of Authorized Officer or Agent

Date Signed

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

Notary Public
My Commission Expires: _____

(seal)

Authority of O.C.G.A. 13-10-91

**(IF • APPLICABLE • THIS • FORM • MUST • BE • COMPLETED • AND • RETURNED • WITH • BID • PACKAGE)
DO NOT USE A SUBSTITUTE FORM**

BIDDER INFORMATION FORM

Harris County, Georgia

- 1. Name of Bid: GUARDRAILS OSS 2017
- 2. Legal Name of Business: _____
- 3. Company Name: _____
- 4. Street Address: _____
City/State/Zip: _____
- 5. Mailing Address: _____
City/State/Zip: _____
- 6. Type of Business (corporation, partnership, etc.): _____
- 7. Years in Business: _____
- 8. Primary Contact: _____
- 9. Office Phone: _____ Fax: _____
Other Phone: _____
- 10. Company Website: _____
- 11. Tax ID and State where issued: _____
- 12. Has your company ever been debarred from doing business with any federal, state, or local agency? Yes _____ No _____

If "yes", please state the agency name, dates and reason for debarment. _____

**(THIS • FORM • MUST • BE • COMPLETED • AND • RETURNED • WITH • BID • PACKAGE)
DO NOT USE A SUBSTITUTE FORM**

GUARDRAIL (OFF SYSTEM SAFETY LMIG 2017) CONTRACT AGREEMENT

This Agreement is made and entered into this _____ day of _____, 2017 (the "effective date"), by and between **HARRIS COUNTY, GEORGIA**, a political subdivision of the State of Georgia, acting by and through its governing authority, the Harris County Board of Commissioners (hereinafter referred to as the "County"), and _____, a _____, (hereinafter referred to as the "Contractor"), collectively referred to herein as the "Parties".

WITNESSETH:

WHEREAS, the County is desirous of securing the services of the Contractor to furnish all products, materials and equipment and performing all labor necessary to install guardrails on two (2) County roads; and

WHEREAS, the Contractor desires to provide such services to the County.

NOW, THEREFORE, for and in consideration of the mutual promises, the public purposes, and the acknowledgments and agreements contained herein, and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties do mutually agreed as follows:

- 1. AWARD OF AGREEMENT/CONTRACT DOCUMENTS.** The County represents and warrants that it has the authority to enter into this Agreement with the Contractor. The Contractor represents and warrants that the individual executing this Agreement on behalf of the Contractor has obtained all necessary approvals of Contractor's board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Agreement, if applicable. This Agreement includes and incorporates by reference the Bid Request, the Contractor's Bid Response, Contractor's Affidavit, Subcontractor's Affidavit (if applicable), and Project Manual.
- 2. PROJECT DESCRIPTION.** The "Project" at issue in this Agreement is generally described as the installation of guardrails on two (2) County roads, a total distance of .32 miles in accordance with bid documents.
- 3. SCHEDULE, COMPLETION DATE & TERM.** Contractor understands that time is of the essence of this Agreement and warrants and expresses that it will perform the Work in a prompt and timely manner, which shall not impose delays on the progress of the Work. The term of this Agreement shall begin on the Effective Date set forth above and expire March 30, 2018. This Agreement may only be renewed upon the mutual written agreement of both parties.
- 4. POINT OF CONTACT.** All contacts between the Contractor and the County shall be directed to the attention of Nancy McMichael, County Clerk. The point of contact for Contractor shall be _____, or his/her successor or designee.
- 5. COMPLIANCE WITH LAWS.** Each party shall perform this agreement in compliance with all applicable state, federal and local laws and ordinances; provided, however, that the terms of this agreement shall govern the obligations of the Contractor where conflicting County ordinances exist.
- 6. INDEMNIFICATION.** Contractor shall defend, indemnify and hold harmless County and County's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney's fees and costs of defense ("Liabilities"), to the extent arising from or resulting from an alleged willful, negligent or tortious act or omission arising out of the provision of services by Contractor, any subcontractor, anyone directly or indirectly employed by Contractor or its subcontractor or anyone for whose acts or omissions Consultant or subcontractor may be liable. The indemnity obligation provided herein shall exist regardless of whether the act or omission is caused in part by County and shall exclude only liability created by the sole and exclusive negligence or wrongful conduct of County. It is the intent of this section to require Contractor to indemnify the County to the fullest extent permitted under Georgia law. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement. County agrees to give prompt notice to Contractor upon being notified in writing of any claims as to which indemnity shall be sought, and shall permit Contractor (at this own expense) to assume the defense of

any such claim or any litigation resulting therefrom; provided, that counsel for Contractor, who shall conduct the defense of said claim or litigation, shall be qualified and experienced. In the defense of any such claim or litigation, Contractor shall not, without the consent of the County, consent to the entry of any judgment or enter into any settlement agreement that does not include as an unconditional term, the giving by the claimant or plaintiff to County a release from all liability with respect to such claim or litigation.

7. **SOVEREIGN IMMUNITY; RATIFICATION.** Nothing contained in this Agreement shall be construed to be a waiver of County's sovereign immunity or any individual's qualified, good faith or official immunities or to create personal liability of any kind on the part of any of County's elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys, or volunteers. Ratification of this Agreement by a majority of the Board of Commissioners shall authorize the Chairman and County Clerk to execute this Agreement on behalf of the County.

8. **OPEN RECORDS REQUIREMENTS.** Contractor acknowledges that County's disclosure of documentation is governed by Georgia's Open Records Act, and Contractor further acknowledges that if Contractor submits records containing trade secret information, and if Contractor wishes to keep such records confidential, Contractor must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10, and the Parties shall follow the requirements of O.C.G.A. §50-18-72(a)(34) related thereto.

9. **NONDISCRIMINATION.** In accordance with Title VI of the Civil Rights Act of 1974, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Contractor agrees that, during performance of this Agreement, Contractor, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, Contractor agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

10. **SECURITY AND IMMIGRATION COMPLIANCE.** Pursuant to O.C.G.A § 13-10-91, County shall not enter into a contract for the physical performance of services unless:

- (a) Contractor shall provide evidence on County-provided forms (affidavits regarding compliance with the E-Verify program to be sworn under oath under penalty of false swearing pursuant to O.C.G.A. § 12-10-71), that it and Contractor's subcontractors have registered with, are authorized to use and use the federal services 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; and that they will continue to use the federal services authorizations programs throughout the contract period, OR
- (b) Contractor provides evidence that it is not required to provide an affidavit because it is an individual (not a Contractor) licenses pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing.

Contractor hereby verifies that it has, prior to executing this Agreement, executed a notarized affidavit, the form of which has been provided by County, and submitted such affidavit to County or provided County with evidence that it is an individual not required to provide such an affidavit because it is licensed and in good standing as noted above. Further Contractor hereby agrees to comply with the requirements of the Federal Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603, O.C.G.A. § 13-10-91, and Georgia Department of Labor Rule 300-10-1-.02.

11. **DRUG-FREE WORKPLACE ACT COMPLIANCE.** Contractor certifies that the provisions of O.C.G.A. § 50-24-1 through 50-24-6, related to the Drug-Free Workplace Act, will be complied with in full, and further certifies:

- (a) Contractor will provide a drug-free workplace for its employees during the performance of the agreement;
- (b) Contractor will secure a written agreement from each subcontractor hired that certifies a drug-free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to O.C.G.A. § 50-24-3 (7)(B); and
- (c) Contractor nor his employees and/or subcontractors will engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this contract.

12. INDEPENDENT CONTRACTOR STATUS. Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of County. Nothing in this Agreement shall be construed to make Consultant or any of its employees, servants, or subcontractors, an employee, servant or agent of County for any purpose. Contractor agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of consultants, agents or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding and all other regulations governing such matters. Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and County by virtue of this Agreement with Contractor. Any provisions of this Agreement that may appear to give County the right to direct Contractor as to the details of the services to be performed by Contractor or to exercise a measure of control over such services will be deemed to mean that Contractor shall follow the directions of County with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and County may hire additional entities to perform the Work related to this Agreement. Inasmuch as County and Contractor are independent of each other, neither has the authority to bind the other to any third party or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Contractor agrees not to represent itself as County's agent for any purpose to any party or to allow any employee of Contractor to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. Contractor shall assume full liability for any contracts or agreements Contractor enters into on behalf of County without the express knowledge and prior written consent of County.

13. INSURANCE. During the term of this agreement, Contractor shall maintain in full force and effect the following insurance issued by an insurer licensed or approved by the Insurance Commissioner to transact business in the State of Georgia and with an A.M. Best Policyholder's rate of no less than A- and with a financial rating of Class VII or greater:

- ▶ Workers Compensation insurance per Statutory requirements of State of Georgia
- ▶ General Liability insurance coverage in the minimum amount of \$1,000,000 per occurrence
- ▶ Automobile Liability insurance coverage of at least \$1,000,000 per occurrence
- ▶ Employer's Liability insurance coverage of at least \$100,000 each accident
- ▶ Umbrella coverage of at least \$1,000,000
- ▶ In addition, contractor shall be responsible for damage to County equipment and/or property by its work, negligence in work, its personnel and equipment, and shall be responsible and liable for the safety, injury and health of its working personnel while its employees are performing work

If higher limits are maintained by Contractor than shown above, the County shall be entitled to coverage for any additional insurance proceeds over and above the specified minimum limits maintained by Contractor. County shall be named as an additional insured and loss payee on all policies required by this Agreement, except County need not be named as an additional insured and loss payee on any Workers Compensation policy.

Contractor shall furnish to County for County approval certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of Work. Without limiting the general scope of this requirement, Contractor is specifically required to provide an endorsement naming County as an additional insured when required. The certifications of insurance and endorsements for each insurance policy are to be on a form utilized by Contractor's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. Contractor shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage and shall extend any claims-made insurance policy for at least one (1) year after termination or final payment under the agreement, whichever is later, and have an effective date which is on or prior to the effective date.

14. FORCE MAJEURE. The performance of this agreement may be suspended and the obligations of either party excused in the event of and during the period that such performance is prevented or delayed by a Force Majeure occurrence, except that payments to Contractor for Services actually performed shall not be suspended or adversely affected by a Force Majeure event. "Force Majeure" shall mean:

- (a) An act of God, including hurricanes, tornadoes, landslides, lightning, earthquakes, weather conditions, fire, flood, explosion, act of terrorism, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot, civil disturbance, governmental actions or regulations, governmental

requests or requisitions for national defense;

- (b) The order or judgment of any federal, state, or local court, administrative agency or governmental body (excluding decisions of federal courts interpreting federal tax laws, and decisions of State courts interpreting State tax laws) if it is not also the result of the willful misconduct or negligent action or inaction of the party relying thereon; provided that neither the contesting in good faith of any such order or judgment nor the failure to so contest shall constitute or be construed as a measure of willful misconduct or negligent action or inaction of such party;
- (c) The suspension, termination, interruption, denial, or non-renewal of any permit or approval essential to the operation of the Contractor; or
- (d) A change in law, which means (I) the adoption, promulgation, or modification or reauthorization after the date of this agreement of any law, regulation, order, statute, ordinance, rule or binding judicial or administrative ruling that was not adopted, promulgated, modified or reissued on or before the date of this agreement, or (ii) the imposition of any material conditions in connection with the issuance, renewal, or modification of any permit, license, registration notice of intent or approval after the date of this agreement, which in the case of either (a) or (b) establishes requirements affecting a party's operation under this agreement that would be more burdensome than the requirements that are applicable to such party and in effect as of the date of this agreement. A change in any federal, state, county or other tax law or workers compensation law shall not be a change of law. However, in the event that a federal, state, or local entity imposes a fee, charge or tax after the date of this agreement that applies to a party's operations *per se*, such fee, charge or tax shall be treated as a change of law.
- (e) If the service interruption caused by the Force Majeure continues beyond ninety (90) days, either party shall have the right to terminate the agreement with respect to the services not performed and for which satisfactory alternative service is not provided during the Force Majeure by giving the other party at least seven (7) days prior written notice. To be effective, such notice must be delivered during the Force Majeure event.

15. **TERMINATION.**

- A. For Cause. Contractor shall have the right to terminate this agreement in the event of County's breach or default, including County's failure to pay Contractor within thirty (30) calendar days. Contractor shall provide County with written notice of the default or breach and at least seven (7) days notice to cure before terminating this agreement. In the event that the default is payment not being made when due and after County has been provided notice of a delinquent payment and an opportunity to cure, Contractor retains the right to suspend service until the past due balance is paid in full. In the event that service is suspended in excess of fifteen (15) days, Contractor may terminate this agreement for such default and recover any equipment and all amounts owed hereunder for services already provided. In the event of Contractor's breach or default under this agreement, County may terminate this Agreement for cause. County shall give Contractor at least seven (7) calendar days' written notice of its intent to terminate the agreement for cause and the reasons therefor. If Contractor fails to cure the breach or default within that seven (7) day period, or otherwise remedy the breach or default to the reasonable satisfaction of County, the County may, at its election (a) in writing terminate the agreement in whole or in part, (b) pursue any other remedy then available, at law or in equity, to County for such default.
- B. Payment Upon Termination. Upon termination, County shall provide for payment to Contractor for services rendered; provided that, where this agreement is terminated for cause, County may deduct from such payment any portion of the cost for County to complete (or hire someone to complete) the Work, as determined at the time of termination.
- C. Reservation of Rights and Remedies. The rights and remedies of County and Contractor provided in this section are in addition to any other rights and remedies provided under this agreement or at law or in equity.

16. **NOTICE.** Notice hereunder shall be deemed delivered upon receipt when deposited in the United States mail, registered or certified mail, return receipt requested, or by nationally recognized overnight courier and addressed to the parties at the addresses listed below. The addresses designated below may be changed from time to time by either party providing written notice in accordance with this section.

County:

County Clerk
Harris County Board of Commissioners
104 North College Street
Post Office Box 365
Hamilton, GA 31811

Contractor:

17. **ASSIGNMENT.** Neither party shall assign its rights, responsibilities and obligations under this agreement to a third party without the prior written consent of the other party. This agreement shall be binding on and shall inure to the benefit of the parties and their respective lawful successors and permitted assigns.

18. **SEVERABILITY.** If any provision of this agreement, or if the application of such provision to any particular person or circumstance, shall to any extent be held by a court of law with jurisdiction over the parties to be illegal or invalid, then such provision shall be modified, if possible, to fulfill the intent of the parties as reflected in the original provision, or else stricken from this agreement. The remainder of this agreement, and/or the application of such provision to the persons or circumstances other than those as to which it is held illegal or invalid, shall not be affected thereby, and all other provisions of this agreement shall remain valid and enforced to the fullest extent permitted by law.

19. **MISCELLANEOUS.** This agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto. This agreement shall be governed by and construed in accordance with the laws of the State of Georgia. Any action of suite related to this agreement shall be brought in the Superior Court of Harris County, Georgia, and Contractor submits to the jurisdiction and venue of such court. In the event that either party to this agreement files a lawsuit against the other party, the non-prevailing party in the lawsuit shall pay all reasonable attorneys' fees, collection fees and costs incurred by the prevailing party to enforce this agreement. No failure or delay by either party to enforce any right, power or privilege hereunder shall operate as a waiver thereof as any ongoing waiver, nor shall any partial exercise thereof preclude any further exercise thereof or the exercise of any other right, power or privilege. Time is on the essence of each and every part of this agreement. The headings contained in this agreement are inserted for convenience only and shall not be a part of or affect the meaning and interpretation of this agreement. This agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

HARRIS COUNTY, GEORGIA

CONTRACTOR

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

(SEAL)

(CORPORATE SEAL)