

AGREEMENT

THIS AGREEMENT, made and entered into by and between the CITY OF CARTERSVILLE, GEORGIA, hereinafter referred to as "CITY" and W. E. HICKS, INC. d/b/a/ TREES UNLIMITED, a Georgia corporation existing under the laws of the State of Georgia, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, the CITY desires to have right of way clearing and maintenance services performed on behalf of its Electric System,

WHEREAS, the Electric Cities of Georgia, of which the CITY is a member, has prepared a request for proposal, Instructions to Contractors, and General Conditions for Right of Way Clearing and Maintenance Services, attached hereto and incorporated herein as Exhibit "A".

WHEREAS, Electric Cities of Georgia, on behalf of its members, has solicited bids and proposals from various contractors on behalf of its members;

WHEREAS, based upon said proposals, the CITY has decided to employ as an independent contractor, the CONTRACTOR to perform the right of way clearing and maintenance outlined herein.

WHEREAS, CONTRACTOR has agreed to accept said work on the terms and conditions outlined herein.

NOW, THEREFORE, for and in consideration of the covenants and promises to be carried out by each party herein, it is agreed by and between the parties that the CITY shall and does engage the services of CONTRACTOR to perform certain right of way clearing and maintenance.

I. CONTRACT TERMS

The contractual terms as outlined in the Request for Proposal, Instructions to Contractors and General Conditions of the ECG Contract and Agreement Specification and Proposal Forms, for Electric Right of Way clearing and maintenance services attached hereto as Exhibit "A", is hereby agreed to and adopted by reference, except as specifically stated herein. Specifically, Division I, II, III, IV and V, and addendums related thereto, their terms and conditions contained therein are hereby adopted and included herein. This is hereafter referred to as ECG CONTRACT. Pricing is agreed to be as outlined in Exhibit "C".

II. SPECIFICATIONS

The Addendum to Specifications attached hereto as Exhibit "B" which are to be referred to as part of Division IV of the ECG CONTRACT as outlined therein.

III. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, CONTRACTOR agrees as follows: (1) CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin; (2) CONTRACTOR will, in all solicitations or advertisements for employees, qualified applicants will receive consideration for employment without regard to race, creed, color, sex or national origin; (3) CONTRACTOR will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies of raw materials.

IV. AUDITS AND INSPECTIONS

At any time during normal business hours and as often as CITY may deem necessary, the CONTRACTOR shall make available to CITY and/or representatives of CITY for examination, all of its records with respect to all matters covered by the Agreement. It shall also permit CITY and/or representatives to audit, examine, and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

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

V. INDEPENDENT CONTRACTOR

CONTRACTOR shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in the Agreement shall be interpreted or construed to constitute CONTRACTOR or any of its agents or employees to be the agent, employee, or representative of CITY.

VI. MISCELLANEOUS PROVISIONS

A. ASSIGNMENT: This Agreement is binding on the heirs, successors, and permitted assigns of the parties hereto. This Agreement may not be assigned by CITY or CONTRACTOR without prior written consent of the other.

B. INTEGRATION: This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing and signed by both parties.

C. JURISDICTION: This Agreement shall be construed, administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in Georgia. Venue for any litigation shall be in Bartow County, Georgia. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it conflicts with said laws, but the remainder of this Agreement shall be in full force and effect.

D. NOTICES: All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid. Notices shall be addressed as follows:

CITY:

City of Cartersville
P. O. Box 1390
1 North Erwin Street
Cartersville, GA 30120
Attention: Derek Hampton, Electric Director

CONTRACTOR:

Trees Unlimited
P. O. Box 10
Cave Springs, GA 30124

E. CAPTIONS: All captions, headings and paragraph numbers are solely for the purpose of facilitating references to this Agreement and shall not supplement, limit or otherwise vary the text of the Agreement in any respect.

F. REFERENCES: All references in this Agreement to Articles shall be deemed to refer to the appropriate Article of this Agreement. Use of pronouns or adjectives of one gender shall include the other gender, use of this singular shall include the plural, and use of the plural shall include the singular, all as the context of this Agreement requires. Unless otherwise specified in this Agreement, the terms "herein," "hereof," "hereunder," and other terms of similar import, shall be deemed to refer to this Agreement as a whole, and not to any particular Article hereof.

G. LEGAL PROCEEDINGS: In the event of legal proceedings in connection with this Agreement, the party prevailing therein shall be entitled to recover the costs and expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

H. INTERPRETATION: Both parties have participated fully in the negotiation and preparation hereof; and, accordingly, this Agreement shall not be more strictly construed against any one of the parties.

I. **IMMIGRATION REFORM COMPLIANCE REQUIREMENT.** During the entire duration of this contract, Contractor and all Subcontractors must remain in compliance with the Georgia Security and Immigration Compliance Act of 2007 and Georgia Code §13-10-91 and §50-36-1.

J. **EXHIBITS:** The exhibits referred to in and attached to this Agreement are incorporated herein in full by reference.


K. **AMENDMENT:** This Agreement may only be modified or supplemented by written agreement, approved and executed by both parties hereto.

L. **TIME OF ESSENCE:** Time is of the essence in this Agreement.


M. **EXTENT OF AGREEMENT:** This Agreement represents the entire and integrated agreement between the CITY and the CONTRACTOR and supersedes all prior negotiations, representations of agreements, either written or oral.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the _____ day of _____, 2023.

W.E. HICKS, INC. d/b/a TREES UNLIMITED



President



Secretary

CITY OF CARTERSVILLE, GEORGIA

Matthew J. Santini, Mayor

ATTEST: Julia Drake, City Clerk (SEAL)