

1301406

**AN ORDINANCE
BY COUNCILMEMBER**



AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, TO ENTER INTO AMENDMENT AGREEMENT NUMBER 11 WITH TOPLE CONSTRUCTION, INC., FOR FC-4943E, ANNUAL CONTRACT TO CONSTRUCT SIDEWALKS, DRIVEWAYS, CURBS, AND GUTTERS TO EXTEND THE TERM OF THE AGREEMENT ON A MONTH-TO-MONTH BASIS FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS ON BEHALF OF THE DEPARTMENT OF PUBLIC WORKS; TO WAIVE THE COMPETITIVE PROCUREMENT PROVISIONS CONTAINED IN ARTICLE X OF THE PROCUREMENT AND REAL ESTATE CODE OF THE CITY OF ATLANTA CODE OF ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta (“City”) did solicit Bids for Contract No. FC- 4943, Annual Contract to Construct Sidewalks, Driveways, Curbs, and Gutters (“Contractors”); and

WHEREAS, the Atlanta City Council adopted Resolution 09-R-1550 on September 21, 2009, and the Mayor approved the same on September 25, 2009 which authorized the Agreement for FC-4943E with Tople Construction, Inc.; and

WHEREAS, the base term of the Contract was for a period of two (2) years, with two (2) one (1) year renewal options to be exercised at the sole discretion of the City effective October 20, 2009 through October 19, 2011; and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 1 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveway, Curbs and Gutters via Resolution 09-R-1877 adopted by the City Council on November 2, 2009 and approved by the Mayor on November 6, 2009 in an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00); and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 2 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveway, Curbs and Gutters via Resolution 09-R-1925 adopted by the City Council on November 16, 2009 and approved by the Mayor on November 24, 2009 in an amount not to exceed Three Hundred Thirty Four Thousand Eight Hundred Ninety Five Dollars and Eighty Six Cents (\$334,895.86); and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 3 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 10-R-1060 adopted by the City Council on June 21, 2010 and approved by the Mayor on June 29, 2010 in an amount not to exceed Two Hundred Eighty Thousand Dollars (\$280,000.00); and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 4 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 10-R-1270 adopted by the City Council on July 19, 2010 and approved by

the Mayor on July 27, 2010 in an amount not to exceed Two Hundred Sixty Five Thousand Eight Hundred Ninety Nine Dollars and Forty Five Cents (\$265,899.45); and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 5 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 10-R-1827 adopted by City Council on November 1, 2010 and approved per City Charter Section 2-403 on November 10, 2011 in an amount not to exceed Four Hundred Eighty One Thousand Seven Hundred Seventy One Dollars and Sixteen Cents (\$481,771.16); and

WHEREAS, the Department of Public Works submitted Amendment Agreement Number 6 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 10-R-2222 filed by City Council on February 7, 2011 in an amount not to exceed Seventy Eight Thousand Four Hundred Ninety Six Dollars and Twenty Cents (\$78,496.20); and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 7 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 11-R-0086 adopted by the City Council on January 18, 2011 and approved per City Charter Section 2-403 on January 27, 2011 in an amount not to exceed One Million One Hundred Thirty Seven Thousand Six Hundred Dollars and No Cents (\$1,137,600.00); and

WHEREAS, the Chief Procurement Officer authorized a 90-day extension of the Contract on September 27, 2011 giving a new expiration date of January 17, 2012; and

WHEREAS, the Department of Public Works entered into Renewal Agreement Number 1 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters for time only and to add "Brick" as an additional line item via Resolution 11-R-1734 adopted by the City Council on December 6, 2011 and approved by the Mayor on December 12, 2011; and

WHEREAS, the Department of Public Works entered into Renewal Agreement Number 2 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters for time only via Resolution 12-R-1360 adopted by the City Council on October 15, 2012 and approved per City Charter Section 2-403 on October 24, 2012 giving a new expiration date of December 25, 2013; and

WHEREAS, the Department of Public Works submitted Amendment Agreement Number 8 with Tople Construction, Inc., Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters via Resolution 12-R-1733 to include additional unit price line items for bridges, but said legislation was not passed, and instead, was filed by the City Council on January 22, 2013; and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 9 with Tople Construction, Inc., for FC-4943E, Annual Contract to Construct Sidewalks,

Driveways, Curbs and Gutters in an amount not to exceed Four Hundred Eighty Eight Thousand Six Hundred Seventeen Dollars and No Cents (\$488,617.00) via Resolution 13-R-0425 adopted by the City Council on March 18, 2013 and adopted per City Charter Section 2-403 on March 27, 2013; and

WHEREAS, the Department of Public Works entered into Amendment Agreement Number 10 with Tople Construction, Inc., for FC-4943E, Annual Contract to Construct Sidewalks, Driveways, Curbs and Gutters to include additional unit price line items for recycled concrete via Resolution 13-R-3009 adopted by City Council on May 6, 2013 and approved per City Charter Section 2-403 on May 15, 2013; and

WHEREAS, Tople Construction, Inc. has performed the contracted services satisfactorily; and

WHEREAS, the Department of Public Works desires to enter into Amendment Agreement Number 11 with Tople Construction, Inc., for FC-4943E to extend the term of the agreement on a month-to-month basis for a period not to exceed six (6) months; and

WHEREAS, the Commissioner of the Department of Public Works recommends Amendment Agreement Number 11 for FC-4943E, Annual Contract to Construct Sidewalks, Curbs and Gutters.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

SECTION 1: That the Mayor, or his designee, is authorized to enter into Amendment Agreement Number 13 for FC-4943E, Annual Contract to Construct Sidewalks, Driveways, Curbs, and Gutters with Tople Construction, Inc. to extend the term of the agreement on a month-to-month basis for a period not to exceed six (6) months on behalf of the Department of Public Works.

SECTION 2: That Article X, of the Real Estate and Procurement Code, of the City of Atlanta Code of Ordinances, specifically including and without limitation, “Division 4. Source Selection and Contract Formation” is hereby waived to the extent applicable to meet the intent and purpose of this ordinance.

SECTION 3: That the Chief Procurement Officer is directed to assist the City Attorney in the preparation of the appropriate Agreement for execution by the Mayor, or his designee.

SECTION 4: That the Agreement will not become binding upon the City, and the City will incur no liability under it until the Agreement has been approved by the City Attorney as to form, executed by the Mayor, attested to by the Municipal Clerk, and delivered to Tople Construction, Inc.