



CARTERSVILLE
CITY COUNCIL MEETING
Council Chambers, Third Floor of City Hall
Thursday, July 18, 2024 at 7:00 PM
AGENDA

COUNCIL PERSONS:

Matt Santini – Mayor
Calvin Cooley – Mayor Pro Tem
Gary Fox
Kari Hodge
Cary Roth
Jayce Stepp
Alyssa Cordell

CITY MANAGER:

Dan Porta

CITY ATTORNEY:

Keith Lovell

CITY CLERK:

Julia Drake

Work Session - 6:00 PM

Regular Meeting - 7:00 PM

OPENING OF MEETING

Invocation

Pledge of Allegiance

Roll Call

COUNCIL MEETING MINUTES

1. July 2, 2024

PUBLIC HEARING - 1ST READING OF ZONING/ANNEXATION REQUESTS

2. Z24-05. 681/683 Henderson Dr. Applicant: Lehmann Smith

3. Z24-06. 165 Cassville Rd. Applicant: Muhammad Chishti

FIRST READING OF ORDINANCES

4. T24-03. Applicant: Flournoy Holdings, LLC

CONTRACTS/AGREEMENTS

- [5.](#) Peregrin Data Integration
- [6.](#) Hamilton Place Development Agreement
- [7.](#) EAP Plan for First Responders
- [8.](#) Grassdale Rd Improvement Project (GDOT PI No. 0016628) - Project Framework Agreement with GDOT for Construction
- [9.](#) Quiet Zone Maintenance Agreement with CSX Transportation

ENGINEERING SERVICES

- [10.](#) Architectural and Engineering Services for Public Works Remodel
- [11.](#) High Pressure System Construction Management Services
- [12.](#) Sewer System Upgrade Engineering

CONTRACTS/AGREEMENTS

- [13.](#) WPCP Construction Manager at Risk (CMAR)

RESOLUTIONS

- [14.](#) MEAG Power Election Committee Delegates

BID AWARD/PURCHASES

- [15.](#) Office 365 Renewal #1
- [16.](#) Office 365 Renewal #2
- [17.](#) Laserfiche Renewal
- [18.](#) Mimecast Renewal
- [19.](#) Painting and Drywall Repair
- [20.](#) Annual Membership in the Northwest GA Regional Commission

MONTHLY FINANCIAL STATEMENT

- [21.](#) May 2024 Financial Report

ADJOURNMENT

Persons with disabilities needing assistance to participate in any of these proceedings should contact the human resources office, ADA coordinator, 48 hours in advance of the meeting at 770-387-5616.

P.O Box 1390 – 10 N. Public Square – Cartersville, Georgia 30120
Telephone: 770-387-5616 – Fax 770-386-5841 – www.cityofcartersville.org



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Council Minute Approval
DEPARTMENT NAME:	City Clerk
AGENDA ITEM TITLE:	July 2, 2024
DEPARTMENT SUMMARY RECOMMENDATION:	The minutes for the July 2, 2024, City Council Meeting have been uploaded for your review and approval.
LEGAL:	N/A

City Council Meeting
City Hall – Council Chambers
July 2, 2024
6:00 P.M. – Work Session / 7:00 P.M. – Council Meeting

WORK SESSION

Mayor Matthew Santini opened the Work Session at 6:02 P.M. Council Members discussed each item from the agenda with corresponding Staff Members.

Jim Croft came forward to give an overview of the proposed design for the new City Hall.

Mayor Santini closed Work Session at 6:43 P.M.

OPENING MEETING

Mayor Santini called the Council Meeting to order at 6:59 P.M.

Invocation by Council Member Roth.

Pledge of Allegiance led by Council Member Hodge.

The City Council met in Regular Session with Matthew Santini, Mayor, presiding, and the following present: Kari Hodge, Council Member Ward One; Cary Roth, Council Member Ward Three; Calvin Cooley, Council Member Ward Four; Alyssa Cordell, Council Member Ward Six; Dan Porta, City Manager; Julia Drake, City Clerk; and David Archer, Assistant City Attorney.

Absent: Jayce Stepp, Council Member Ward Two

Via Phone: Gary Fox, Council Member Ward Five

REGULAR AGENDA

COUNCIL MEETING MINUTES

1. June 20, 2024, Council Meeting Minutes

Council Member Roth made a motion to approve the minutes from the June 20, 2024, Council Meeting. Council Member Hodge seconded the motion. Motion carried unanimously. Vote: 5-0

APPOINTMENTS

2. Appointment of Fire Chief

Dan Porta, City Manager, stated Scott Carter, our current Fire Chief, will be retiring at the end of this month from the City of Cartersville after twenty years of service. It was recommended to appoint Hagen Champion as the new Cartersville Fire Chief effective August 1, 2024.

Council Member Cordell made a motion to appoint Hagen Champion as the Fire Chief effective August 1, 2024. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

Julia Drake, City Clerk, swore in Mr. Champion as the new Fire Chief effective August 1, 2024.

Mr. Champion took the opportunity to thank the Mayor, Council, and Management for the opportunity to serve as Fire Chief. Additionally, he thanked his team and stated it was an honor to serve the City of Cartersville.

PUBLIC HEARING – 2nd READING OF ZONING/ANNEXATION REQUESTS

3. AZ24-03: 1440 Hwy 113

Randy Mannino, Planning and Development Director, stated the applicant requests annexation of two (2) tracts identified as Tax Parcel 0055-0873-005 containing 0.42 +/- acres and Tax Parcel 0055-0873-006 containing 0.48 +/- acres. These parcels are in Land Lot 873 of the 4th District, 3rd Section, and are zoned A-1, Agricultural. The proposed zoning is H-I, Heavy Industrial.

Staff members are not opposed to the annexation or zoning. Planning Commission recommended approval.

Mayor Santini opened the public hearing for the zoning portion of the application.

Karl Lutjens, 114 Old Mill Rd., came forward to represent the application.

With no one else to come forward to speak for or against the zoning portion of the application, the public hearing was closed.

Mayor Santini opened the public hearing for the annexation portion of the application and stated that comments made for the zoning portion would be carried over and reflected for the annexation portion of the application.

With no one else to come forward to speak for or against the annexation portion of the application, the public hearing was closed.

Council Member Hodge made a motion to approve the annexation portion of AZ24-03. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

Council Member Hodge made a motion to approve the zoning portion of AZ24-03. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

Reference Ordinance #'s 29-24 and 30-24

4. AZ24-04: Walnut Grove Rd. at Cummings Rd.

Mr. Mannino stated the applicant requests the de-annexation of a portion of the property on Walnut Grove Road at Cummings Road identified as Tax Parcel C074-0002-001 containing a total of 1.00 +/- acres. The subdivided tract to be de-annexed contains 0.29 acres +/- . This parcel is zoned P-I, Public Institutional.

If approved, the de-annexed tract will be combined with the larger development tract, Parcel ID 0073-0735-001.

Staff members are not opposed to the de-annexation. Planning Commission recommended approval.

Mayor Santini opened the public hearing.

Mr. Lutjens came forward to represent the application.

With no further comments, the public hearing was closed.

Council Member Roth made a motion to approve the AZ24-04. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

Reference Ordinance # 31-24

BID AWARD/PURCHASES

5. City View – Annual Software Maintenance

Mr. Mannino stated approval was recommended for the payment of Harris Computer Systems Invoice for CityView Software for \$24,112.23.

Council Member Cordell made a motion to approve the City View Annual Software Maintenance Invoice. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

6. Electric Department Office Furniture

Freddy Morgan, Assistant City Manager, stated Office Furniture Expo has provided the cost to furnish the renovated Electric Department facility in the amount of \$86,206.75. This amount covers delivery, assembly, and installation in the facility.

Council Member Cordell made a motion to approve the Electric Department Office Furniture Purchase. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

SECOND READING OF ORDINANCES

7. Amendment to Utilities Ordinance Regarding Electric Rates

Mr. Morgan stated the proposed budget includes increases to electric rates. The Electric Department is proposing a rate increase based on the rate study provided by Electric Cities of Georgia and analysis of costs by staff due to general operations of the electric department increasing and increased costs of power generation. The proposed changes include an increase in the base rate of all rate classes. These changes were recommended for approval.

Council Member Cordell made a motion to approve the Amendment to Utilities Ordinance Regarding Electric Rates as amended. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

Reference Ordinance #'s: 32-24 and 33-24

CONTRACTS/AGREEMENTS

8. Architectural Services Agreement for Depot Restroom Addition and Renovation

Mr. Morgan stated this contract is for the architectural services with E Dunay Design for the Depot restroom addition and renovation in the amount of \$29,100.00 with provisions for additional services.

Council Member Cordell made a motion to approve the Architectural Services Agreement for Depot Restroom Addition and Renovation. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

9. Futura GIS Software License and Support Agreement

Mr. Morgan stated Futura Systems has evaluated our Electric system CAD data and provided the cost to provide software to migrate and store our existing Electric CAD data in an ESRI GIS environment. The agreement amount is \$132,237.50 and covers FieldPro inspection and staking systems, GIS/Staking/FieldPro training, and upfront licenses.

Council Member Cordell made a motion to approve the Futura GIS Software License and Support Agreement once the legal department approves. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

10. Tree Trimming Services Contract

Mr. Morgan stated an RFP for tree trimming services was initiated by the Electric Department and they received (4) four qualified bids. A panel of four evaluated the proposals and have recommended that we enter into an agreement with Bison Tree Services to perform tree trimming maintenance and service for our Electric system. Approval was recommended to move forward with Bison Tree Services as our designated tree trimming servicer.

Council Member Roth made a motion to approve the Tree Trimming Services Contract. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

Mr. Porta took a moment to thank Mr. Morgan for his time and dedication in managing the Electric Department and welcomed Tom McKee as the new Electric Department Director.

11. Structural Analysis for 19 N. Erwin Street

Mr. Porta stated to verify if the two existing walls of the old fire station can be saved, we need to hire Croft and Associates to work with a structural engineer to assist. The cost for this work is \$9,400 and is recommended for your approval.

Council Member Cordell made a motion to approve the Structural Analysis for 19 N. Erwin Street. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

12. Water Department Cleaning Services Agreement

Sidney Forsyth, Water Department Director, stated the Water Department received bids for janitorial and cleaning services for the new Bob Jones Water Department Administrative Complex. The lowest bid, meeting all cleaning requirements, was from Stratus Building Solutions, for a price of \$870.00 per month. This agreement requires a 12-month, renewable service contract. Approval of this service agreement was recommended

Council Member Cordell made a motion to approve the Water Department Cleaning Services Agreement. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

SURPLUS EQUIPMENT

13. Surplus and Sale of Fire Trucks

Scott Carter, Fire Chief, stated the two newest fire trucks are almost ready to go into service for emergencies. At that time, we would like to surplus two of our older trucks. The first one is a 2001 Pierce Saber with VIN # 4P1CTO2U4A001403, and the second one is a 2002 Pierce Saber with VIN # 4P1CT02U12A002543. We'd like to sell these trucks to Union County for use by their volunteer fire department. Union County has shown interest in purchasing these trucks and has offered \$10,000.00 for each. They have assured us that these trucks would be put to good use and would greatly benefit the county. After researching their value through our Pierce Dealer and Fire Trader, we found that their fair market value ranges from \$5,000.00 to \$15,000.00 each. We propose to sell both trucks to Union County for a total price of up to \$20,000.00. If approved, we would then ask for authorization from the legal team to handle the sale of these surplus fire trucks in their current condition.

Council Member Cordell made a motion to approve the Surplus and Sale of Fire Trucks. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

BID AWARD/PURCHASES

14. Appliance Package for Station 5

Mr. Carter stated that approval was requested to purchase the ten-piece appliance package for Fire Station #5 from Cartersville's Sam Franklin for \$18,049.90. This package includes all the necessary appliances except for the Gear Washer for protective equipment. Sam Franklin is our preferred vendor, as they can match the appliances we have installed in our other stations and are able to handle local maintenance warranties. This purchase falls within our construction budget under the FFE (Fixture, Furniture, and Equipment) line item.

Council Member Hodge made a motion to approve the Appliance Package for Station 5. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

Mr. Carter thanked everyone for the amazing opportunity to serve the City of Cartersville and stated it had been a pleasure.

Mr. Porta thanked Mr. Carter for his time and commitment that he had given to the City and wished him the best in his future endeavors.

15. Equipment Trailer Purchase

Michael Dickson, Gas Department Director, stated the Gas System is requesting the purchase of a twenty-two foot, 8-ton, Better Built equipment trailer to support our recently approved fourth crew. Rinehart Equipment Co. of Rome, GA is the sole source provider in our area for this brand and type of trailer, and they submitted a bid of \$12,635.00. This is not a budgeted item but will be paid for with Gas revenues and Council's approval to accept this bid was recommended.

Council Member Cordell made a motion to approve the Equipment Trailer Purchase. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

16. Contractor Labor for Tapping and Stopping

Mr. Dickson stated to install the natural gas service line for the SK Battery America project, we need to tap and stop two 12-inch line stopper fittings. The Gas System does not have the necessary tools or expertise for this operation, so we have requested a quote from the manufacturer's contractor, S.J.

Patterson Company, LLC. They have offered to perform the tapping and stopping operation for \$28,962.00. S.J. Patterson has successfully completed similar operations and construction projects for the Gas System in the past. This cost is within our budget, and we recommend the council's approval of this quote.

Council Member Hodge made a motion to approve the Contractor Labor for Tapping and Stopping. Council Member Roth seconded the motion. Motion carried unanimously. Vote: 5-0

17. 12-inch Main Relocation

Mr. Dickson stated that at the Council meeting on June 20, 2024, the City Council approved an easement for the construction of the project mentioned above with specific conditions. One of these conditions required the Gas System to move an existing 12” HP steel natural gas main that would conflict with future improvements to an existing driveway accessing the property owner’s parcel. The Gas System requested proposals for this relocation from three (3) contractors experienced in the construction of natural gas facilities. Two (2) proposals were received, and the lowest proposal of \$96,641.00 was submitted by Southeastern Natural Gas Services of Rome, Inc. of Lindale, Georgia. A tabulation of the proposals is attached. Southeastern Natural Gas Services of Rome, Inc. has successfully completed numerous projects for the Gas System in the past and is fully capable of satisfactorily completing this project. Therefore, the Gas System recommends that the City Council award the construction of this project to Southeastern Natural Gas Services of Rome, Inc. for a total amount of \$96,641.00. This is a budgeted item, and Council’s approval was recommended.

Council Member Cordell made a motion to approve the 12-inch Main Relocation. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

Council Member Cooley made a motion to add two (2) items to the agenda. Council Member Hodge seconded the motion. Motion carried unanimously. Vote: 5-0

18. Yard Waste Garbage Cart Purchase

Wade Wilson, Public Works Director, stated the Solid Waste Division of Public Works received two quotes from responsive garbage cart suppliers for 200-yard waste (green) carts. The best price is from Otto Environmental Systems for a total price (including shipping) of \$11,210.00.

This is a budgeted item and Public Works recommends approval to purchase these garbage carts from Otto Environmental Systems.

Council Member Cooley made a motion to approve the Yard Waste Garbage Cart Purchase. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

19. GDOT PI No. 0016628, Grassdale Road Improvements

Mr. Wilson stated the City of Cartersville has been requested to submit a Sponsor’s Recommendation Letter for the Transportation Alternatives Program (TAP) grant process in conjunction with local endorsement of the project framework agreement (PFA) from GDOT. There has been \$3,506,749.00 approved for the construction and associated utility work through the Transportation Alternatives Program (TAP) grant. This grant is an 80/20 grant meaning the grant covers 80% of the total cost with there being a 20% local match between the City of Cartersville and Bartow County with each contributing \$350,674.90 or 10% of the overall construction costs.

The Sponsor’s Recommendation Letter states that the City of Cartersville will retain the services of a consultant for construction oversight for \$193,440.00, which is proposed with Supplemental Agreement #4 through Southeastern Engineering. The \$193,440.00 for construction oversight will count towards the overall local match and will be a non-budgeted item that would be paid for by SPLOST and split evenly between Bartow County and the City of Cartersville.

Public Works recommended approval of the Sponsor’s Recommendation Letter and Supplemental Agreement #4 to keep this project moving forward through bid award and construction.

Council Member Roth made a motion to approve the GDOT PI No. 0016628, Grassdale Rd. Improvements. Council Member Hodge seconded the motion. Motion carried unanimously. Vote: 5-0

ENGINEERING SERVICES

20. Lee Street and Etowah Drive Stormwater Engineering Services

Mr. Wilson stated several years ago, the City of Cartersville purchased property near the intersection of Etowah Drive and Lee Street by utilizing FEMA flood grants due to repetitive flooding of structures in this area. Though demolition of structures located on these properties has reduced the impervious area, it has been reported that flooding has occurred downstream of this city property. The city feels that additional measures may be taken to reduce impacts of floodwater during larger storm events. This will include a small regional pond that will also be used as a pocket park. To proceed with this concept, Public Works has reached out to a local design firm, Consolidated Technologies, Inc (CTI) for a proposal to perform engineering services design for storm drainage improvements and park design on this property.

The agreement from CTI includes the development of civil documents and includes field investigations, survey services, design services, bid services, and some miscellaneous construction assistance.

The agreement for these services is \$45,000.00. Public Works would utilize America Rescue Plan Act (ARPA) Funds for this project. To qualify for these funds, we feel that this project would help our stormwater division “manage, reduce, and recapture stormwater” drainage that would result in reduced flooding at this location. Therefore, this project would meet the requirements for eligibility of ARPA funds. This is a budgeted item.

Council Member Cordell made a motion to approve the Lee Street and Etowah Drive Stormwater Engineering Services. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

ADDED ITEMS:

21. 2026 SPLOST Referendum and Resolution

Mr. Porta stated this is the agreement and resolution pertaining to the 2026 SPLOST. Approval was recommended.

Council Member Hodge made a motion to approve the 2026 SPLOST Referendum and Resolution. Council Member Cordell seconded the motion. Motion carried unanimously. Vote: 5-0

Reference Resolution # 24-24

22. CMO Basement Renovation

Mr. Porta stated that Randy Cochran with Cochran’s Construction has provided a quote to renovate the basement of the City Managers Office in the amount of \$19,680.00. Approval was recommended.

Council Member Cordell made a motion to approve the CMO Basement Renovation. Council Member Cooley seconded the motion. Motion carried unanimously. Vote: 5-0

OTHER

Mayor Santini stated that all City offices would be closed on Thursday, July 4, 2024, in observance of Independence Day. Additionally, the July 4th Parade would begin at 9am in Downtown Cartersville and festivities will continue at Dellinger Park following the parade with fireworks beginning at dark.

Mayor Santini asked if there was any other business that needed to come before the Mayor and Council.

Jason Traynor, 18 Burnt Hickory Connector, came forward to speak in regard to water testing and the amount of toxins in our drinking water.

ADJOURNMENT

With no other business to discuss, Council Member Cooley made a motion to adjourn.

Meeting Adjourned at 7:36 P.M.

/s/ _____
Matthew J. Santini
Mayor

ATTEST:

/s/ _____
Julia Drake
City Clerk



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Public Hearing – 1 st Reading of Zoning/Annexation Requests
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	Z24-05. 681/683 Henderson Dr. Applicant: Lehmann Smith
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The applicant is proposing the rezoning of the 1.286-acre property located at 681/683 Henderson Drive. The original structure was constructed c. 1996 and was designed for office/warehouse use.</p> <p>Staff does not oppose the rezoning if the following condition is included with an approval:</p> <p>All G-C uses except “Construction Contractors” and “Offices, General” are prohibited.</p> <p>Planning Commission recommended approval.</p>
LEGAL:	N/A

ZONING SYNOPSIS

Petition Number(s): **Z24-05**

APPLICANT INFORMATION AND PROPERTY DESCRIPTION

Applicant: **Lehmann Smith**

Representative: **Mark Harris**

Property Owner: **Lehmann Smith**

Property Location: **681/683 Henderson Drive Tax ID C022-0004-019**

Access to the Property: **Henderson Drive**

Site Characteristics:

Tract Size: Acres: **1.286** District: **4th** Section: **3rd** LL(S): **594**
Ward: **2** Council Member: **Jayce Stepp**

LAND USE INFORMATION

Current Zoning: **O-C (Office Commercial)**
Proposed Zoning: **G-C (General Commercial)**
Proposed Use: **Construction Contracting Services**

Current Zoning of Adjacent Property:

North: **O-C**
South: **O-C (The Rock Fitness)**
East: **O-C (Rollins Child Care)**
West: **G-C**

The Future Development Plan designates the subject property as: **Highway Commercial**

The Future Land Use Map designates the subject property as: **Commercial**

Z24-05

ZONING ANALYSIS

Project Summary:

The applicant is proposing the rezoning of the 1.286 acre property located at 681/683 Henderson Drive. The original structure was constructed c. 1996 and was designed for an office/warehouse use.

The property was home to a construction company for many years. In recent years, the building has been divided to support additional occupations. Based on historic imagery, the rear of the lot has been used as a storage lot for building material. This has likely occurred for the life of the structure (c. 1996). Planning and Development is not aware of complaints from any of the neighbors regarding the business activity being conducted on the site.

The applicant proposes to rezone the property to allow outdoor storage on the lot. Currently there are (2) storage containers on the lot, as well as various other materials. Code Enforcement notified the property owner that storage containers, as well as outdoor storage is not allowed in the O-C (Office Commercial) zoning district, thus leading to this request. This request is the first step in resolution of the storage container/outdoor storage issue on the property. The applicant is also applying for a text amendment that would allow use of storage containers on lots that allow outdoor storage, provided they are screened from all rights-of way and a special use permit is approved. The text amendment and the applicants special use permit request will be before the Planning Commission on August 6th, 2024, and City Council on August 15th, 2024.

City Department Comments

Electric: Takes no exception.

Fibercom: Takes no exception.

Fire: Takes no exception.

Gas: Takes no exception.

Public Works: No comments received.

Water and Sewer: The proposed fence around the gravel area should not be constructed over the sanitary sewer easement on the side of the lot.

City of Cartersville School District: N/A.

Z24-05

Public Comments:

None Received

STANDARDS FOR EXERCISE OF ZONING POWERS.

1. *The existing land uses and zoning of nearby property.*
The adjacent properties are zoned and used for commercial applications. The rezoning of this property is not likely to have any effect on these properties.
2. *The suitability of the subject property for the zoned purposes.*
The property is suitable for the zoned purposes.
3. *The relative gain to the public, as compared to the hardship imposed upon the individual property owner.*
The public gain would be minimal. Rezoning would allow the business to continue operation.
4. *Whether the subject property has a reasonable economic use as currently zoned.*
The property has a reasonable economic use as currently zoned.
5. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The zoning proposal would permit a use that is suitable in view of the use of the adjacent residential and commercial use properties.
6. *Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property.*
The zoning proposal should not have an adverse effect on adjacent commercial property.
7. *Whether the zoning proposal is in conformity with the current future development plan and community agenda of the comprehensive land use plan as currently adopted or amended in the future.*
The zoning proposal does conform to the Future Development Map, and the Future Land Use Map.
8. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*

Z24-05

No adverse environmental impact is anticipated with rezoning or re-use of the site.

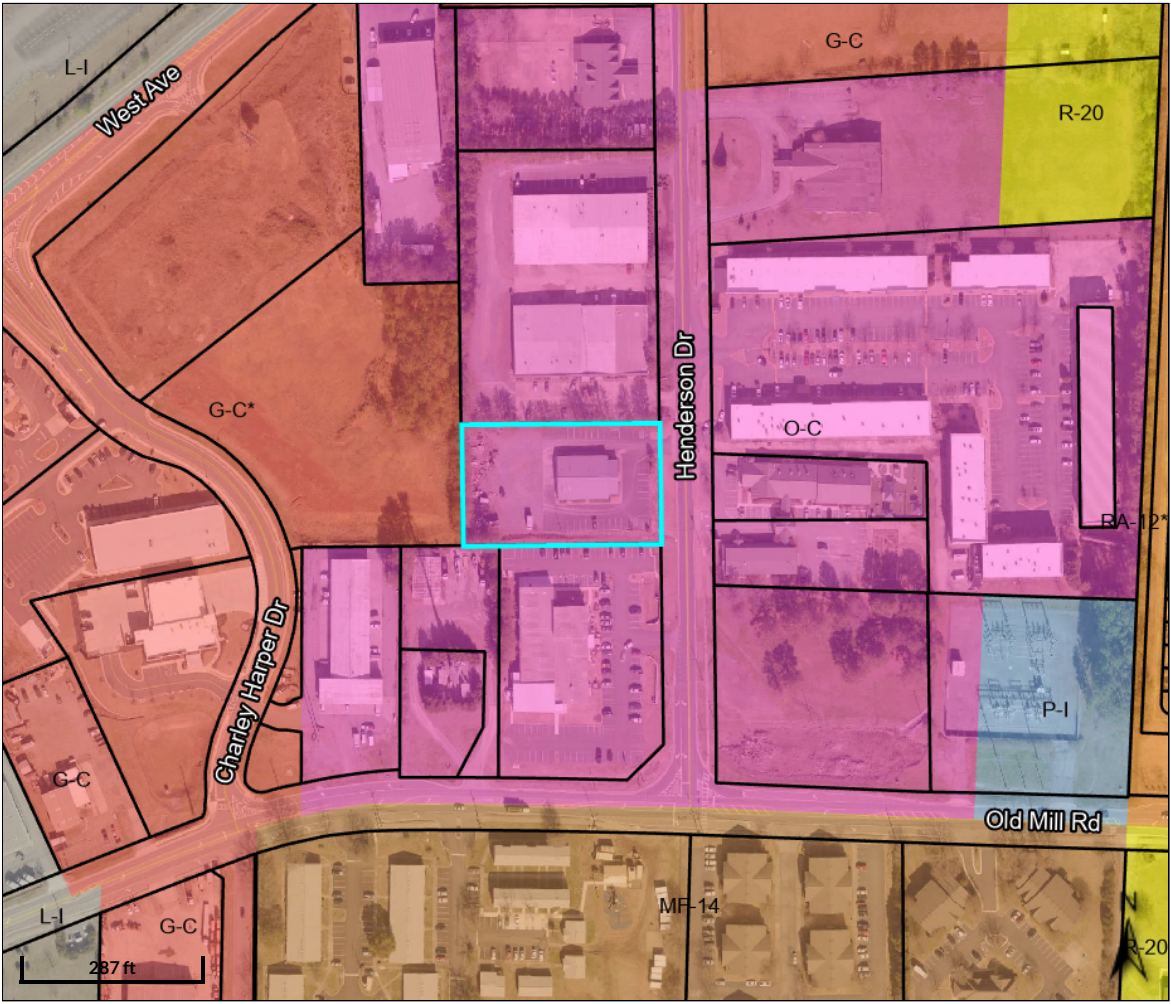
9. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
The proposed zoning use should not increase the burden to streets, transportation, or utilities.

10. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*
There are no known conditions.

STAFF RECOMMENDATION:

Staff does not oppose the rezoning if the following condition is included with an approval:

1. All G-C uses except “Construction Contractors” and “Offices, General” are prohibited.



- Legend**
- Parcels
 - Roads
- Cartersville Zoning**
- AG
 - DBD
 - G-C
 - G-C*
 - H-I
 - H-I*
 - L-I
 - L-I*
 - M-U
 - M-U*
 - MF-14
 - MF-14*
 - MN
 - O-C
 - O-C*
 - P-D
 - P-D*
 - P-I
 - P-S
 - P-S*
 - R-10
 - R-10*
 - R-15
 - R-15*
 - R-20
 - R-20*
 - R-7
 - R-7*
 - R-D
 - RA-12
 - RA-12*

Parcel ID C022-0004-019
 Sec/Twp/Rng n/a
 Property Address 683 HENDERSON DR

Alternate ID 34896
 Class Commercial
 Acreage 1.28

Owner Address SMITH L LEHMANN
 P.O. BOX 1750
 CARTERSVILLE, GA 30120

9.6.1. *G-C district scope and intent.* Regulations set forth in this section are the G-C district regulations. The G-C district is intended to provide locations in which community and regionally-oriented retail and service activities can be established so as to best serve the community and traveling public as further described in section 3.1.19 of this chapter.

9.6.2. *Use regulations.* Within the G-C district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as permitted shall be prohibited.

A. *Permitted uses.* Structures and land may be used for only the following purposes:

- Adolescent treatment facilities.
- Amateur radio transmitter.
- Amenities (as defined by this chapter).
- Amusement, indoor.
- Apartments and condominiums, above, below, or behind commercial and office uses in the same building (SU).*
- Art galleries.
- Assembly halls.
- Automotive garages.
- Automotive and truck sales or rental.
- Automotive specialty shops.
- Automotive storage yards and wrecker service.
- Barber shops and beauty salons.
- Boat sales and service.
- Bowling alleys.
- Brewpub.
- Building supply companies.
- Bus stations.
- Car washes.
- Catering, carry-out and delivery.
- Check cashing stores.
- Clinics (excludes veterinary clinic).
- Clinic or hospital, animal.
- Clubs or lodges (noncommercial) (SU).*
- Colleges and universities.



- Construction contractors:
 - ▲ General building contractors (provided there is no exterior storage of equipment, materials, and construction vehicles).
 - ▲ Heavy equipment contractors (provided there is no exterior storage of equipment, materials, and construction vehicles).
 - ▲ Special trade contractors, including, but not limited to, construction subcontractors, engineers, architects, and land surveyors (provided there is no exterior storage of equipment, materials, or construction vehicles).
- Consumer fireworks retail sales facility.
- Convenience stores.
- Dancing schools.
- Day care facilities.
- Delicatessens.
- Distillery (SU).*
- Distribution centers, (not including processing, fabrication or manufacturing).
- Drive-in theaters.
- Dry cleaners.
- Farm equipment and supplies stores.
- Financial establishments.
- Fortunetellers.
- Funeral homes (crematories may be allowed in conjunction with a funeral home).
- Gymnasiums/health clubs.
- Halfway houses.
- Homeless shelters (SU).*
- Hospices.
- Hospitals.
- Hotels.
- Indoor firing range.
- Institutions of higher learning, business colleges, music conservatories, and similar institutions.
- Kennels.
- Laboratories.
- Landscaping businesses.

- Laundromats.
- Laundry/dry cleaning pick-up stations.
- Libraries.
- Medical offices.
- Manufactured home sales.
- Microbreweries (SU).*
- Motels.
- Museums.
- Nightclubs.
- Nursing home facilities.
- Offices, general.
- Office parks.
- Outdoor golf driving ranges.
- Other consumer goods and services.
- Parking garages.
- Parking lots.
- Pawn shops and/or title pawn.
- Pet grooming.
- Personal care homes (SU).*
- Places of assembly (SU).*
- Planned shopping developments.
- Plant nurseries.
- Plumbing shops (associated with retail sales).
- Printing establishments.
- Public utility facilities.
- Pubs or taverns.
- Radio and television broadcast stations.
- Radio, television, or other communication towers.
- Religious institutions (SU).*
- Repair garages, automotive.
- Repair garages, heavy equipment.
- Repair services, heavy (large appliances and similar).



- Research laboratories.
- Restaurants.
- Retail, general.
- Retail package stores (liquor).
- Retirement centers (SU).*
- Reupholstery and furniture repair shops.
- Schools, private (SU).*
- Self service storage facilities (mini-warehouses).
- Service establishments.
- Service stations.
- Skating rinks.
- Stadiums.
- Storage, general.
- Taxi stands.
- Theaters.
- Truck stops.
- Wholesale sales office.
- Wholesale trade and distribution.
- Wildlife conservation park (SU).

* Special use approval required.

B. *Accessory uses.* Structures and land may be used for uses customarily incidental to any permitted use.

9.6.3. *Development standards.*

- A. *Height regulations.* Building shall not exceed a height of sixty (60) feet or four (4) stories, whichever is higher.
- B. *Front yard setback:* Twenty (20) feet.
- C. *Side yard setback:* Ten (10) feet.
- D. *Rear yard setback:* Twenty (20) feet.
- E. *Minimum lot area:* None.
- F. *Minimum heated floor area per dwelling unit.*
 - *3-bedroom:* Nine hundred (900) square feet.
 - *2-bedroom:* Seven hundred fifty (750) square feet.

- *1-bedroom*: Six hundred (600) square feet.
- *Studio/loft (in existing buildings)*: Four hundred fifty (450) square feet.

G. *Minimum buffer requirements.* In addition to required setbacks, a minimum twenty-five-foot wide buffer, ten (10) feet of which can be within required setback, shall be required along all property lines which abut a residential district or use to provide a visual screen in accordance with section 4.17 of this chapter.

H. *Minimum lot frontage*: One hundred ten (110) feet adjoining a street.

I. *Minimum lot width at the building line*: One hundred (100) feet.

J. *[Metal panel exterior.]* A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the G-C district, unless finished with a product consisting of brick, stone, or hard-coat stucco, with the following exception:

1. The rear wall of a metal building may be allowed to be finished with a metal panel.

K. *Accessory structure requirements.* See section 4.9 of this chapter.

L. *Other required standards.*

1. All structures associated with a kennel, or veterinary clinic shall be a minimum of one hundred (100) feet from all property lines which abut a residential district.

9.6.4. *Other regulations.* The headings below contain additional, but not necessarily all provisions applicable to the G-C district.

- City of Cartersville Landscaping Ordinance.
- City of Cartersville Sign Ordinance.

(Ord. No. 01-13, § 11, 1-3-13; Ord. No. 23-15, § 2, 7-2-15; Ord. No. 09-16(Corrected), § 1, 4-7-16; Ord. No. 02-18, § 5, 1-18-18; Ord. No. 34A-18, § 5, 12-6-18)

Application for Rezoning

City of Cartersville

Case Number

Meeting: July 18, 2024 Item 2.

Date Received: 4-23-24

Public Hearing Dates:

Planning Commission 7/9/24 5:30pm 1st City Council 7/18/24 7:00pm 2nd City Council 8/1/24 7:00pm

Applicant L. Lehmann Smith (printed name) Office Phone 770.382.3497
 Address 681 Henderson Drive Mobile/ Other Phone 770.387.7043
 City Cartersville State GA Zip 30120 Email lehmann@womacklewissmith.com
 Representative's printed name (if other than applicant) Mark A. Harris Phone (Rep) 770.314.3145
 Email (Rep) mark@handhrealty.net
 Representative Signature Mark A. Harris Applicant Signature L. Lehmann Smith
 Signed, sealed and delivered in presence of:
Shirley Brown Notary Public



* Titleholder L. Lehmann Smith (titleholder's printed name) Phone 770.387.7043
 Address 681 Henderson Dr. Email lehmann@womacklewissmith.com
 Signature L. Lehmann Smith
 Signed, sealed, delivered in presence of:
Shirley Brown Notary Public



Present Zoning District O-C Requested Zoning G-C
 Acreage 1.286 Land Lot(s) 594 District(s) 4 Section(s) 3
 Location of Property 681-683 Henderson Dr (Old Mill) Parcel ID No. 0022-0004-019
 Reason for Rezoning Request: CONFORM to surrounding zoning and land uses
 (attach additional statement as necessary)

* Attach additional notarized signatures as needed on separate application pages.

Case No: _____

Exhibit to: Rezoning Application for 681-683 Henderson Drive, Cartersville, GA 30120

➤ **Requirements**

- **Existing conditions:** the property is located along the western right-of-way of Henderson Drive between Old Mill Road and West Avenue. The property is improved with a brick and metal commercial structure containing approximately 5,663 square feet constructed in 1996. This is a two-tenant building, whereby the owner occupies about half of the space and the other half is rented to a plumbing contractor. The site is level and slightly above street grade, and the building is set back approximately 60' from the right-of-way. The site immediately surrounding the building is asphalt paved with 34 striped parking spaces and site to the rear of the building is gravel with a rear setback of over 140'.
- **Proposed conditions or project:** no significant changes to the site or building are planned, other than fencing and gating the gravel area to the rear of the building.
- **Confirmation of availability of utilities:** The building is connected to all public (City of Cartersville) utilities.
- **Project meets the proposed zoning district development standards:** The property meets or exceeds the minimum zoning requirements and is similar the surrounding projects.
- **Project meets the access requirements of the City's development regulations:** The existing project is served by one curb cut entrance to Henderson Drive and there is adequate space to drive around the entire building. Front setback is about 60', the side setback is about 50' and the rear setback is about 140', all of which meet or exceed minimum standards. Insofar as we are aware the site and improvements meet or exceed the City of Cartersville's development requirements.

317-173

SURVEY FOR

JAMES WOMACK

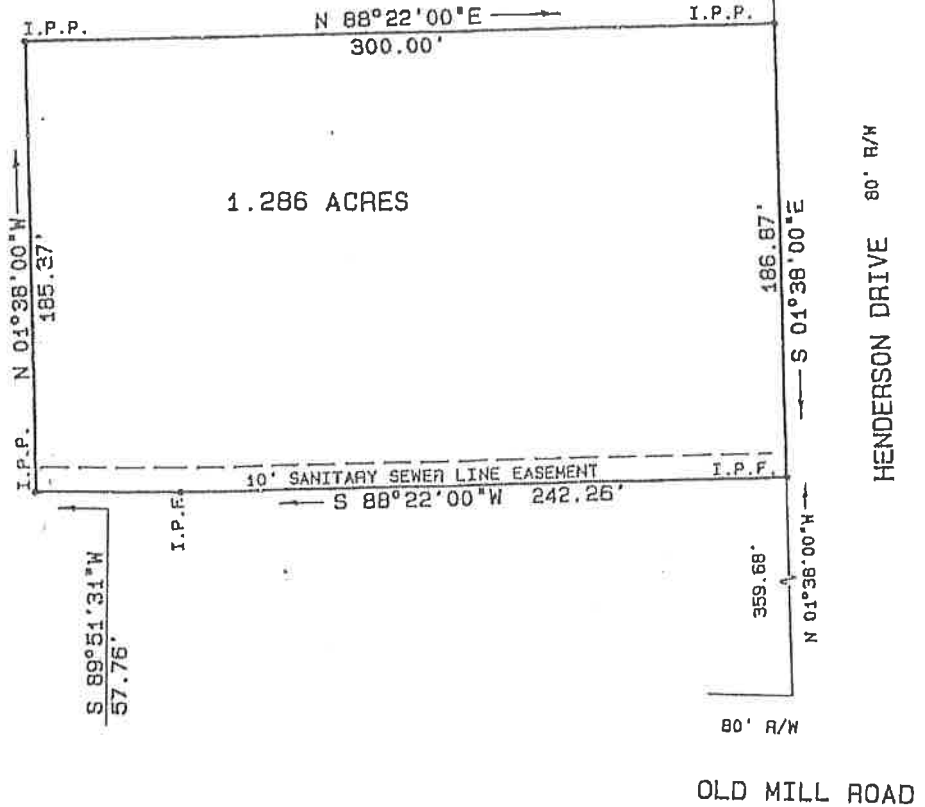
Meeting: July 18, 2024 Item 2.

PROPERTY IN THE CITY OF CARTERSVILLE
IN LAND LOT 594,
4th DISTRICT, 3rd SECTION,
BARTOW COUNTY, GEORGIA

GEORGIA, BARTOW COUNTY
CLERK'S OFFICE SUPERIOR COURT

Filed for record this 8 day of
April 1988 at 11:30 A.M. o'clock
Recorded in Plat record No. 31
Page 123 this 11 day of April 1988

GRADY JEFFERSON, Clrd.



FIELD TRAVERSE:
CLOSURE; ONE FOOT IN 12,000 FEET
USING A GTS-2 TOPCON.
ANGULAR ERROR: 0°00'04" PER ANGLE
POINT USING A GTS-2 TOPCON.
ADJUSTED; USING THE COMPASS RULE.

A, c2657-2, p2567-4, n957.7, s928.2.
NOTE: IRON PINS ARE (1/2" RE-BAR)
EXCEPT AS SHOWN.

FLOOD HAZARD BOUNDARY MAP 0005 E
DATED JUNE 1, 1984 SHOWS THIS
PROPERTY IS NOT IN A FLOOD ZONE.

SMITH & SMITH LAND SURVEYORS, P.C.
2 SOUTH AVENUE, CARTERSVILLE, GA.
ZIP 30120 PHONE 404-382-0457

PLAT CLOSURE;
ONE FOOT IN
250,000 FEET.
AUGUST 19, 1987

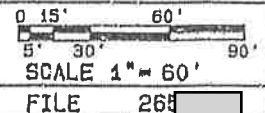
MAG. NORTH

A. Lee Smith

REGISTERED LAND SURVEYOR No. 1309



R/W	RIGHT OF WAY	R	RADIUS
I.P.P.	IRON PIN PLACED	X	FENCE
I.P.F.	IRON PIN FOUND	---	LAND LOT LINE
C.M.	CONCRETE MARKER	⊙	CENTER LINE
CH.	CHORD	---	POWER LINE
L	LENGTH OF CURVE		



681-683 Henderson Drive Zoning Application
Surrounding Property Owners

Created by: H & H REALTY, LLC



Parcel ID	C022-0004-019	Alternate ID	34896	Owner Address	SMITH L LEHMANN
Sec/Twp/Rng	n/a	Class	Commercial		P.O. BOX 1750
Property Address	683 HENDERSON DR	Acreeage	1.28		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL594 LD4				

(Note: Not to be used on legal documents)

Image from 10/2012

681 Henderson Dr Absolute Plumbing, Water Heaters, and...

Bedham Meet

Neena's New York Style Pizz

Sixes Tavern

Rollins Child D

Image from 11/2021

Southern Leaf

Neena's New York Style P...

Sixes Tavern

681 Henderson Dr. Absolute Plumbing, Water Heaters, and...

Rollins Child...

6/2022

Meeting: July 18, 2024 Item2.

Image from 6/2022

681 Henderson Absolute Plumbing, Water Heaters, and...

Southern Heat

Norco's New York Style Pizzeria

Sixes Tavern

Rollins Child

Jun 14, 2024 at 12:20:23
681 Henderson Dr
Cartersville GA 30120
United States



Jun 14, 2024 at 12:20:43
681 Henderson Dr
Cartersville GA 30120
United States



Jun 14, 2024 at 12:27:00
681 Henderson Dr
Cartersville GA 30120
United States



Jun 14, 2024 at 12:27:30
681 Henderson Dr
Cartersville GA 30120
United States





CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Public Hearing – 1 st Reading of Zoning/Annexation Requests
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	Z24-06. 165 Cassville Rd. Applicant: Muhammad Chishti
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The applicant requests a change in zoning from O-C (Office Commercial) to General Commercial (G-C) to operate a liquor store in a tenant space on the property. The property is currently a service station with two (2) unused tenant spaces.</p> <p>Staff does not oppose the General Commercial (G-C) zoning.</p> <p>Planning Commission recommended approval.</p>
LEGAL:	N/A

ZONING SYNOPSIS

Petition Number(s): Z24-06

REQUEST SUMMARY:

Muhammad Chishti, applicant, requests a change in zoning from O-C (Office Commercial) to General Commercial (G-C) to operate a liquor store in a tenant space on the property. The property is currently a service station with two (2) unused tenant spaces.

APPLICANT INFORMATION AND PROPERTY DESCRIPTION

Applicant: Muhammad Chishti
Representative: None
Location: 165 Cassville Rd. (Tax ID No. C013-0001-003)
Total Acreage: .92 +/- Acres

LAND USE INFORMATION

Current Zoning: O-C (Office Commercial)
Proposed Zoning: General Commercial (G-C)
Proposed Use: Convenience Store/ Liquor Store

Current Zoning of Adjacent Property:

North: P-I (Public/Institutional)
South: L-I (Light Industrial)
East: G-C (General Commercial)
West: County A-1 (Agricultural)

For All Tracts:

District: 4th **Section:** 3rd **LL(S):** 380
Ward: 4 **Council Member:** Calvin Cooley

The Future Development Map designates adjacent properties as: Community Parks, Recreation, and Conservation and Transitional Use Area.

The Future Land Use Map designates adjacent or nearby city properties as: Commercial, Public/Institutional, and Industrial.

ANALYSIS

City Departments Reviews

Electric: Takes no exception

Fibercom: Takes no exception.

Fire: Takes no exception

Gas: Takes no exception

Planning and Development: Takes no exception.

Public Works: No Comments Received.

Water and Sewer: Takes no exception.

Cartersville School District: No objections.

Bartow County: NA

Public comments: None received as of 6-17-2024.

STAFF SUMMARY:

Applicant requests to rezone .92 acres (+/-) located at 165 Cassville Road (Tax ID C013-0001-003). The property is owned by Muhammad Chishti and the property is currently used as a gas station and convenience store. The existing building also has two (2) vacant suites. The owner wishes to have more available uses for the vacant suites than the O-C zoning ordinance allows, particularly the retail package store (liquor) use.

G-C, General Commercial, zoning is requested for the parcel. The existing zoning is O-C.

The property is within the FEMA floodplain. The current and proposed use are not expected to affect the floodplain unless expansion of the building footprint occurs.

STANDARDS FOR EXERCISE OF ZONING POWERS.

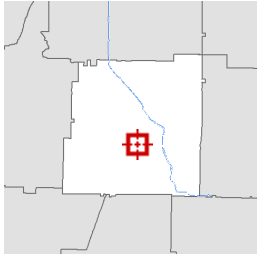
- A. *Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.*
The zoning proposal will not change use of adjacent properties.

- B. *Whether the zoning proposal will create an isolated district unrelated to adjacent and nearby districts.*
The proposed application will not create an isolated district.
- C. *Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.*
The proposed zoning should not adversely affect the existing use or usability of adjacent property.
- D. *Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.*
The property does have a reasonable economic use as currently zoned (O-C).
- E. *Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.*
The zoning proposal should not result in a use that will have an excessive or burdensome use of streets, transportation facilities, utilities or schools.
- F. *Whether the zoning proposal is in conformity with the adopted local Comprehensive Land Use Plan.*
The proposed zoning would conform to the city’s land use plan for the area.
- G. *Whether the zoning proposal will result in a use which will or could adversely affect the environment, including but not limited to drainage, wetlands, groundwater recharge areas, endangered wildlife habitats, soil erosion and sedimentation, floodplain, air quality, and water quality and quantity.*
The zoning proposal should not have an adverse environmental effect.
- H. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.*
No additional conditions are known.



RECOMMENDATION: Staff does not oppose the General Commercial (G-C) zoning.



Overview



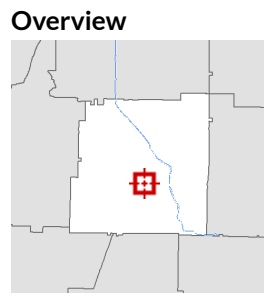
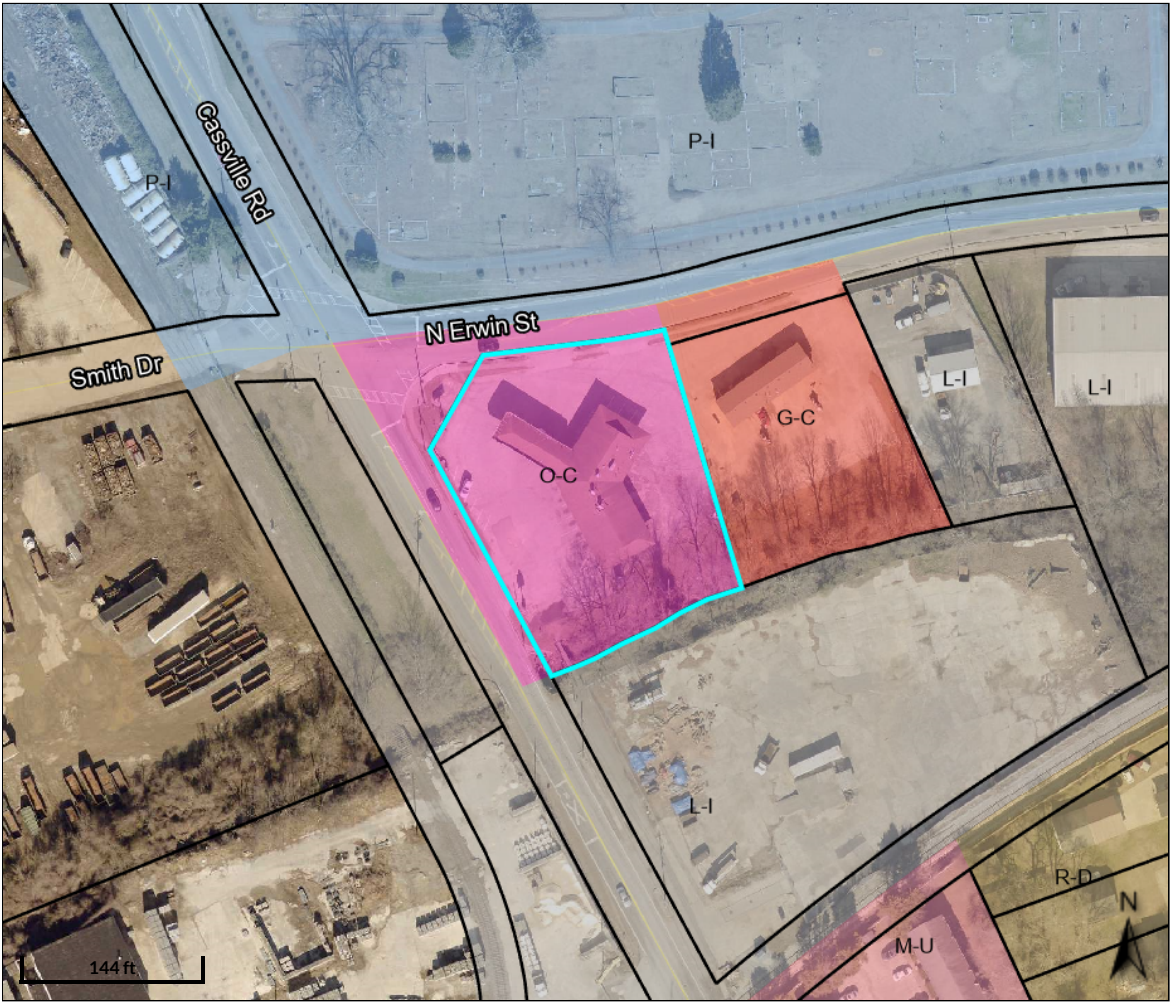
Legend

-  Parcels
-  Roads

Parcel ID	C013-0001-003	Alternate ID	33526	Owner Address	HDA PROPERTIES AND HOMES LLC
Sec/Twp/Rng	n/a	Class	Commercial		5352 SAVILLE DR
Property Address	165 CASSVILLE RD	Acreage	0.92		ACWORTH, GA 30101
District	Cartersville				
Brief Tax Description	LL 380 D 4 Short Trip Citgo				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 5/13/2024
 Last Data Uploaded: 5/10/2024 11:07:36 PM

Developed by  **Schneider**
 GEOSPATIAL



- Legend**
- Parcels
 - Roads
- Cartersville Zoning**
- AG
 - DBD
 - G-C
 - G-C*
 - H-I
 - H-I*
 - L-I
 - L-I*
 - M-U
 - M-U*
 - MF-14
 - MF-14*
 - MN
 - O-C
 - O-C*
 - P-D
 - P-D*
 - P-I
 - P-S
 - P-S*
 - R-10
 - R-10*
 - R-15
 - R-15*
 - R-20
 - R-20*
 - R-7
 - R-7*
 - R-D
 - RA-12
 - RA-12*

Parcel ID C013-0001-003
 Sec/Twp/Rng n/a
 Property Address 165 CASSVILLE RD

Alternate ID 33526
 Class Commercial
 Acreage 0.92

Owner Address HDA PROPERTIES AND HOMES LLC
 5352 SAVILLE DR
 ACWORTH, GA 30101

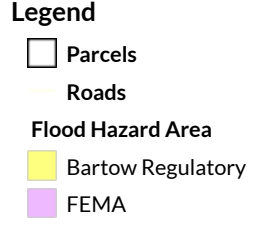
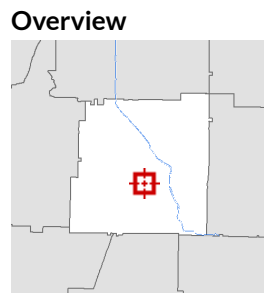
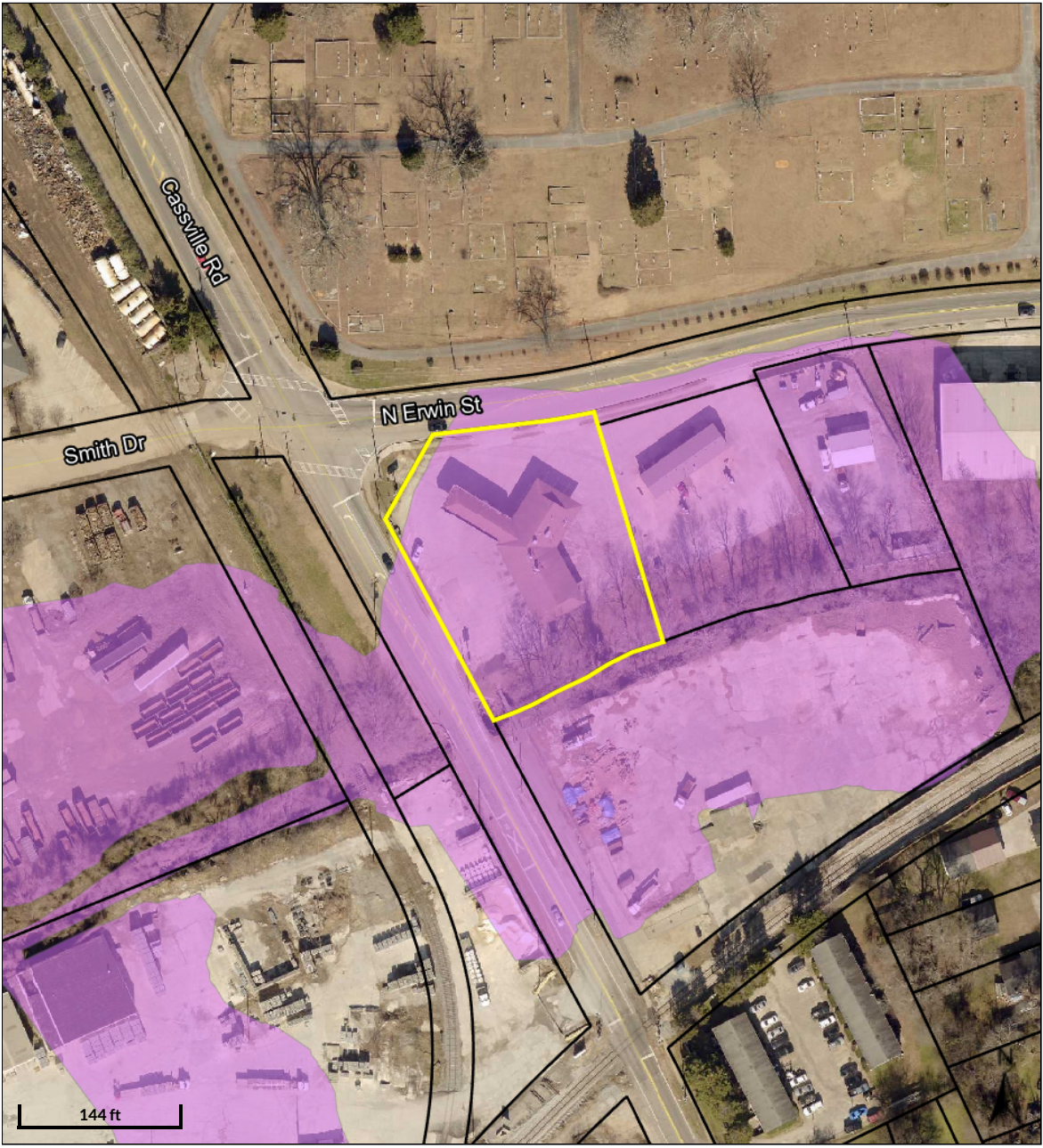
District
Brief Tax Description

Cartersville
LL 380 D 4 Short Trip Citgo
(Note: Not to be used on legal documents)

Meeting: July 18, 2024 Item3.

Date created: 6/20/2024
Last Data Uploaded: 6/19/2024 10:38:29 PM

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GEOSPATIAL



Date created: 6/17/2024
Last Data Uploaded: 6/14/2024 10:32:05 PM

Developed by  **Schneider**
GEO SPATIAL

Application for Rezoning

City of Cartersville

Case Number: 24-06

Date Received: 4/17/24

Public Hearing Dates:

Planning Commission July 9 5:30pm 1st City Council July 18 7:00pm 2nd City Council Aug 1 7:00pm

Applicant MUHAMMAD S CHISHTI (printed name) Office Phone 678-770-0287

Address 165 CASSVILLE RD Mobile/ Other Phone 678-770-0287

City CARTERSVILLE State GA Zip 30120 Email SUMAIL CHISHTI @GMAIL.COM

Representative's printed name (if other than applicant) _____ Phone (Rep) _____

_____ Email (Rep) _____

Representative Signature _____ Applicant Signature [Signature]

Signed, sealed and delivered in presence of _____ My commission expires: 11/29/24

[Signature] Notary Public



* Titleholder Muhammad S Chishtis (titleholder's printed name) Phone 678-770-0287

Address 165 CASSVILLE RD Email SUMAIL CHISHTI @GMAIL.COM

Signature [Signature]

Signed, sealed, delivered in presence of _____ My commission expires: 11/29/24

[Signature] Notary Public



Present Zoning District OC Requested Zoning GC

Acreage _____ Land Lot(s) _____ District(s) _____ Section(s) _____

Location of Property: 165 CASSVILLE RD CARTERSVILLE, GA Parcel ID No. C013001003
(street address, nearest intersections, etc.)

Reason for Rezoning Request: IN ORDER TO OPEN UP A DIFFERT BUSINESS WHICH FALLS UNDER GC ZONING.

(attach additional statement as necessary)

* Attach additional notarized signatures as needed on separate application pages.

CAMPAIGN DISCLOSURE REPORT
FOR REZONING ACTIONS

Pursuant to O.C.G.A. 36-67A-3 any and all applicants to a rezoning action must make the following disclosures:

Date of Application: 4-17-24



Date Two Years Prior to Application: _____

Date Five Years Prior to Application: _____

1. Has the applicant within the five (5) years preceding the filing of the rezoning action made campaign contributions aggregating \$250.00 or more to any of the following:

	YES	NO
Mayor: Matt Santini	_____	<u>X</u>
Council Member:		
Ward 1- Kari Hodge	_____	<u>X</u>
Ward 2- Jayce Stepp	_____	<u>X</u>
Ward 3- Cary Roth	_____	<u>X</u>
Ward 4- Calvin Cooley	_____	<u>X</u>
Ward 5- Gary Fox	_____	<u>X</u>
Ward 6- Taff Wren	_____	<u>X</u>
Planning Commission		
Lamar Pendley, Chair	_____	<u>X</u>
Anissa Cooley	_____	<u>X</u>
Fritz Dent	_____	<u>X</u>
Greg Culverhouse	_____	<u>X</u>
Jeffery Ross	_____	<u>X</u>
Stephen Smith	_____	<u>X</u>
Travis Popham	_____	<u>X</u>

2. If the answer to any of the above is **Yes**, please indicate below to whom, the dollar amount, date, and description of each campaign contribution, during the past five (5) years.

 4/17/24
 Signature Date

 Print Name

BK:3514 PG:31

EXHIBIT "A"

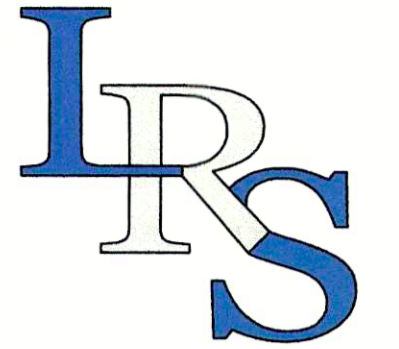
LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in land lot 380, 4th District, 3rd Section, City of Cartersville, Bartow County, Georgia and being more particularly described as follows:

BEGINNING at the intersection of the easterly right of way line of Cassville Road (a 60 foot right of way) and the southerly right of way line of North Erwin Street (a 40 foot right of way), thence running along the southerly right of way line of North Erwin Street North 20 degrees 13 minutes 51 seconds East a distance of 47.27 feet to a point; thence continuing along the southerly right of way line of North Erwin Street North 81 degrees 10 minutes 13 seconds East a distance of 175.61 feet to a point; run thence South 15 degrees 09 minutes 17 seconds East a distance of 201.75 feet to a point; run thence South 68 degrees 03 minutes 02 seconds West a distance of 51.28 feet to a point; run thence South 60 degrees 49 minutes 25 seconds West a distance of 99.02 feet to a point located on the easterly right of way line of Cassville Road; thence North 29 degrees, 38 seconds, 17 seconds West along the easterly right of way line of Cassville Road a distance of 219.59 feet to the POINT OF BEGINNING.

The above courses and distances are taken from that certain survey for Dabbs Properties, Inc. and Robert Dabbs dated October 31, 1995, prepared by Johnny R. Knight, Georgia Registered Land Surveyor number 1917.

*165 Cassville Rd
Cartersville, GA 30120*



LRS Surveying LLC

25 Maple Ridge Dr. Suite A
Cartersville, GA. 30121
Tel: (770) 235-3610

email: LShelton@LRSsurveying.com
GA Land Survey Firm # LSF001008

Client

Suhail Chishti

REVISIONS		
No	Revision	Date
1		
2		
3		
4		
5		
6		
7		
8		

© Copyright 2024 LRS Surveying LLC
This drawing is the property of LRS Surveying and is intended only for the client named above.

Retracement Survey
165 Cassville Road
Cartersville, Ga. 30120

Tax Parcel
C013-0001-003

Land Lot 380
4th District, 3rd Section
Bartow County, Georgia

Date:	5/9/24
Scale:	1"=30'
Surveyed By:	S.S
Drawn By:	L.R.S./D.S
Checked By:	L.R.S.
Project No.:	24-048
DWG. No.:	24-048
FBK. No.:	N.A.



RESERVED FOR THE CLERK OF THE SUPERIOR COURTS

NOTES

- THE UTILITIES SHOWN HEREON HAVE BEEN LOCATED FROM ABOVE GROUND, VISIBLE EVIDENCE. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
- THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, RESERVATIONS, RIGHTS OF WAY OR RESTRICTIONS WHICH ARE NOT RECORDED OR WOULD BE DISCLOSED BY AN ACCURATE AND CURRENT TITLE SEARCH, OR OTHERWISE KNOWN TO THE SURVEYOR; THEREFORE EXCEPTION IS TAKEN TO ANY SUCH ITEMS.
- THE PURPOSE OF THIS SURVEY IS TO RETRACE THE PROPERTY DESCRIBED IN DEED BOOK 3514 PAGE 31 BARTOW COUNTY RECORDS.
- BASED ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AVAILABLE ONLINE AT WWW.MSC.FEMA.GOV, AND BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS LOCATED WITHIN A HIGH RISK AREA AS PER FEMA FLOOD INSURANCE RATE MAP OF BARTOW COUNTY, GEORGIA AS SHOWN ON COMMUNITY PANEL NO. 13015C0266H DATED 10/5/2018.

ABBREVIATIONS

DB	DEED BOOK	P/L	PROPERTY LINE
PG.	PAGE	PB	PLAT BOOK
R/W	RIGHT OF WAY	N/F	NOW OR FORMERLY
B.S.L.	BUILDING SETBACK LINE		

PROPERTY CORNERS

#4 R.S.	REBAR SET
#4 R.F.	REBAR FOUND
N.F.	NAIL FOUND
C.M.F.	CONC. MONUMENT FOUND

SYMBOLS

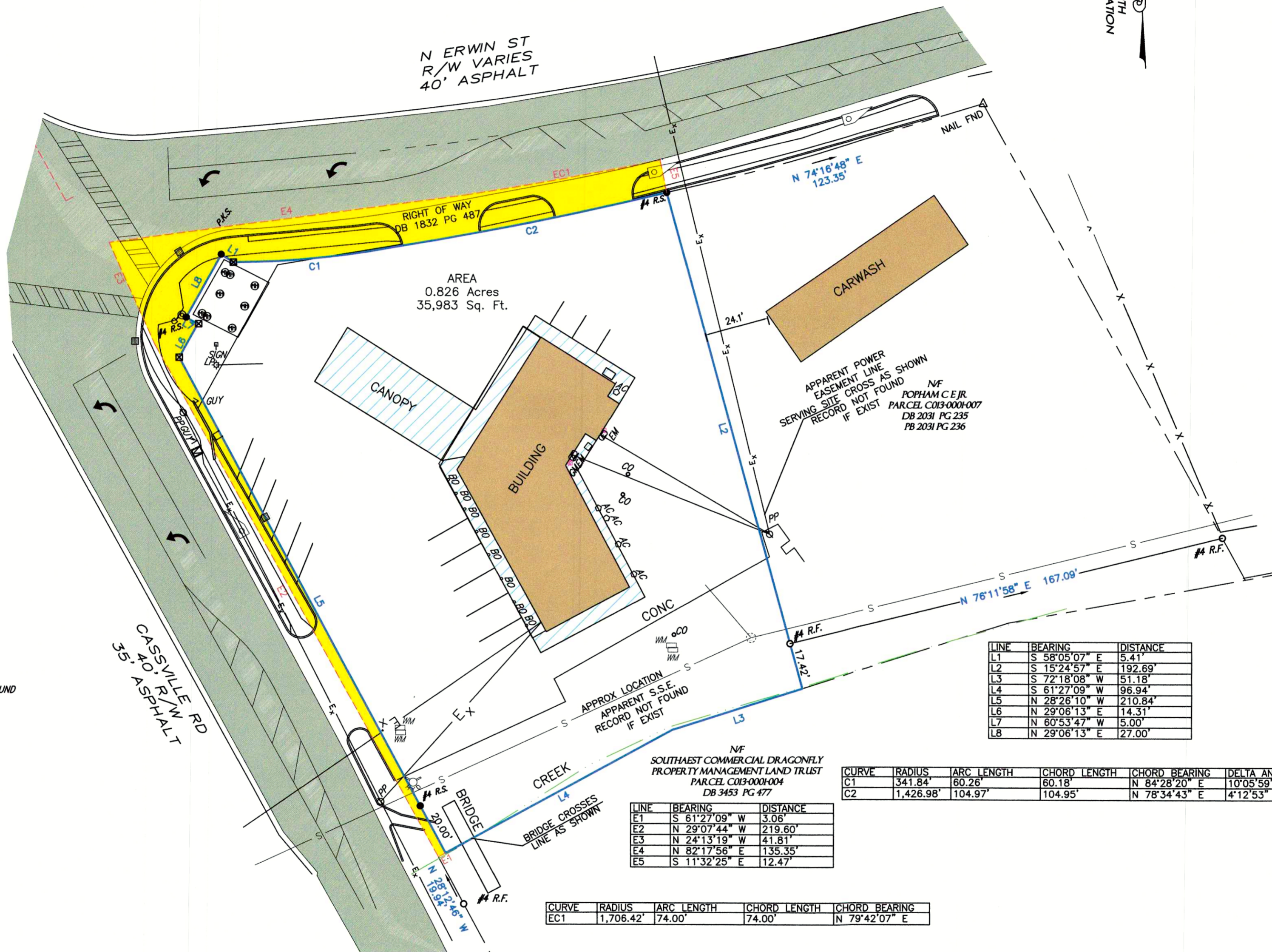
○	CLEANOUT (CO)
⊗	FIRE HYDRANT (FH)
⊕	WATER VALVE (WV)
⊖	WATER METER (WM)
⊙	GAS METER (GM)
☎	TELEPHONE BOX (TELB)
⊕	POWER POLE (PP)
⊙	LIGHT POLE (LP)
⊖	POWER BOX (PB)
⊕	ELECTRIC METER (EM)
>	GUY WIRE (GUY)
⊖	SINGLE WING CATCH BASIN (SWCB)

LINE TYPES

—	SUBJECT PROPERTY LINE
- - -	ADJACENT PROPERTY LINE
—E—	OVERHEAD ELECTRIC LINE
—G—	UNDERGROUND GAS LINE
—UE—	UNDERGROUND ELECTRIC
—X—	FENCE LINE
—S—	SEWAGE
—SD—	STORM DRAIN
—OC—	OVERHEAD COMMUNICATION
—CU—	UNDERGROUND COMMUNICATION
—	LAND LOT LINE
—W—	WATER LINE

TECHNICAL DATA

DATE OF FIELD SURVEY: 4-10-24 & 5/8/24
EQUIPMENT USED: CARLSON BRx7 (BASE & ROVER, RTK)
CARLSON CR2 ROBOTIC TOTAL STATION
PRECISION: BASED ON REDUNDANT MEASUREMENTS FIELD DATA AS A PRECISION OF (±0.04)
PLAT CLOSURE: 1:144,128



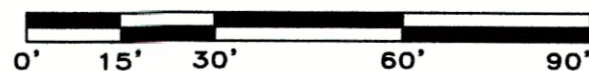
LINE	BEARING	DISTANCE
L1	S 58°05'07" E	5.41'
L2	S 15°24'57" E	192.69'
L3	S 72°18'08" W	51.18'
L4	S 61°27'09" W	96.94'
L5	N 28°26'10" W	210.84'
L6	N 29°06'13" E	14.31'
L7	N 60°53'47" W	5.00'
L8	N 29°06'13" E	27.00'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	341.84'	60.26'	60.18'	N 84°28'20" E	10°05'59"
C2	1,426.98'	104.97'	104.95'	N 78°34'43" E	4°12'53"

LINE	BEARING	DISTANCE
E1	S 61°27'09" W	3.06'
E2	N 29°07'44" W	219.60'
E3	N 24°13'19" W	41.81'
E4	N 82°17'56" E	135.35'
E5	S 11°32'25" E	12.47'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING
EC1	1,706.42'	74.00'	74.00'	N 79°42'07" E

GRAPHIC SCALE
1"=30'



SURVEYOR'S CERTIFICATE



Lewis R. Shelton 5/13/24
LEWIS R. SHELTON
GEORGIA REGISTERED LAND SURVEYOR NO. 2971

This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. RECORDATION OF THIS PLAT DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-8-67.

Jun 14, 2024 at 11:41:55
165 Cassville Rd
Cartersville GA 30120
United States



Jun 14, 2024 at 11:41:17
165 Cassville Rd
Cartersville GA 30120
United States



Jun 14, 2024 at 11:40:30
165 Cassville Rd
Cartersville GA 30120
United States



Jun 14, 2024 at 11:40:30
165 Cassville Rd
Cartersville GA 30120
United States



Jun 17, 2024 at 12:25:38
165 Cassville Rd
Cartersville GA 30120
United States



CITY OF CARTERSVILLE
ZONING NOTICE
CASE NO. **224-06**
APPLICATION HAS BEEN MADE FOR
REZONING OF THIS PROPERTY
FROM **O-C** TO **G-C**
PLANNING COMMISSION MEETING
AT 5:30 P.M. ON **7-9-2024**
CITY COUNCIL FIRST READING
AT 7:00 P.M. ON **7-18-2024**
CITY COUNCIL SECOND READING
AT **7:00 PM** ON **8-1-2024**
HEARINGS TO BE HELD AT CITY HALL
10 NORTH PUBLIC SQUARE
FOR ADDITIONAL INFORMATION
CONTACT PLANNING AND DEVELOPMENT
DEPT. AT 770-387-5600



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	First Reading of Ordinances
DEPARTMENT NAME:	Planning and Development
AGENDA ITEM TITLE:	T24-03. Applicant: Flournoy Holdings, LLC
DEPARTMENT SUMMARY RECOMMENDATION:	<p>Text Amendment to Chapter 20, Signs and Outdoor advertising, Article II, Sign Ordinance, Sec. 20-29 (b) (1)(f), Billboards, to amend the text from:</p> <p>(f): Shall not be visible from or located along Interstate Highway 75</p> <p>To:</p> <p>(f) Shall be setback at least six hundred sixty-one (661) feet from right-of-way of Interstate 75.</p> <p>Staff is/is not opposed to the amendment.</p> <p>Planning Commission vote 2-1-1. Motion failed due to lack of votes.</p>
LEGAL:	N/A

MEMO

To: Planning Commission, Mayor Santini & City Council

From: Randy Mannino, David Hardegree, and Zack Arnold

Date: June 17, 2024

Re: *Text Amendment T24-03. Amendment to Chapter 20, Signs and Outdoor advertising, Article II, Sign Ordinance, Sec. 20-29, Billboards*

Text Amendment to Chapter 20, Signs and Outdoor advertising, Article II, Sign Ordinance, Sec. 20-29 (b)(1)(f), Billboards, to add:

“(f). Shall be set back at least six hundred and sixty one (661) feet from the right-of-way of Interstate Highway 75.”

This amendment would permit the applicant to install static billboard at 2337 Hwy 411.

The closest billboards to this proposed area are at 2197 Hwy 411 (Christian Fellowship Church) which is approximately 2,600 feet to the south, and at 2471 Hwy 411 (Sunoco Gas Station) which is approximately 2,760 feet to the north. Both are static billboards. The billboard at 2471 Hwy 411 (Sunoco Gas Station) is visible from Interstate Highway 75, but pre-dates the zoning ordinance, therefore it is in a “legal non-conforming” status.

Staff is not opposed to the amendment.

**Application for Text Amendment(s)
To Zoning Ordinance
City of Cartersville**

Case Number: 124-03
Date Received: 5-24-23

Public Hearing Dates:

Planning Commission July 7th 5:30pm 1st City Council July 18th 7:00pm 2nd City Council Aug 1, 2024 7:00pm

APPLICANT INFORMATION

Applicant Rich Flournoy Office Phone _____
 (printed name)

Address 175 Pine Grove Rd - Suite 125 Mobile/ Other Phone 770-815-8599

City Cartersville State GA Zip 30120 Email Richard@flournoyholdings.com

Jack Howard Phone (Rep) 719-323-7467
 Representative's printed name (if other than applicant)

Email (Rep) Jack@flournoyholdings.com

[Signature] Representative Signature [Signature] Applicant Signature

Signed, sealed and delivered in presence of _____ My commission expires: 11/14/2026

[Signature] Notary Public



1. Existing Text to be Amended:

Article II, Section 20-29, Subsection (b)(1)(f)

Existing Text Reads as Follows: "Shall not be visible from or located along Interstate Highway 75"

2. Proposed Text:

Proposed Text Reads as Follows: "Shall be set back at least six hundred and sixty one (661) feet
from right-of-way of Interstate Highway 75"

(Continue on additional sheets as needed)

3. Reason(s) for the Amendment Request: The existing section 20-29 (b)(1)(f) was implemented over twenty years ago and the reasoning behind the verbiage was to preserve the veiwscope of the city. However, the current verbiage of "visible from or located along" presents a subjective and arbitrary criterion that creates a grey area within the city ordinance. There currently is not a clear definition for "along" or "visible" form I-75. Regarding being "visible" from I-75, does that mean the billboard face/advertisement cannot be read or visible from I-75 or does it refer to any part of the

(Continue on additional sheets as needed)

**REQUIREMENTS FOR FILING
AN APPLICATION FOR TEXT AMENDMENT(S)
CITY OF CARTERSVILLE, GA**

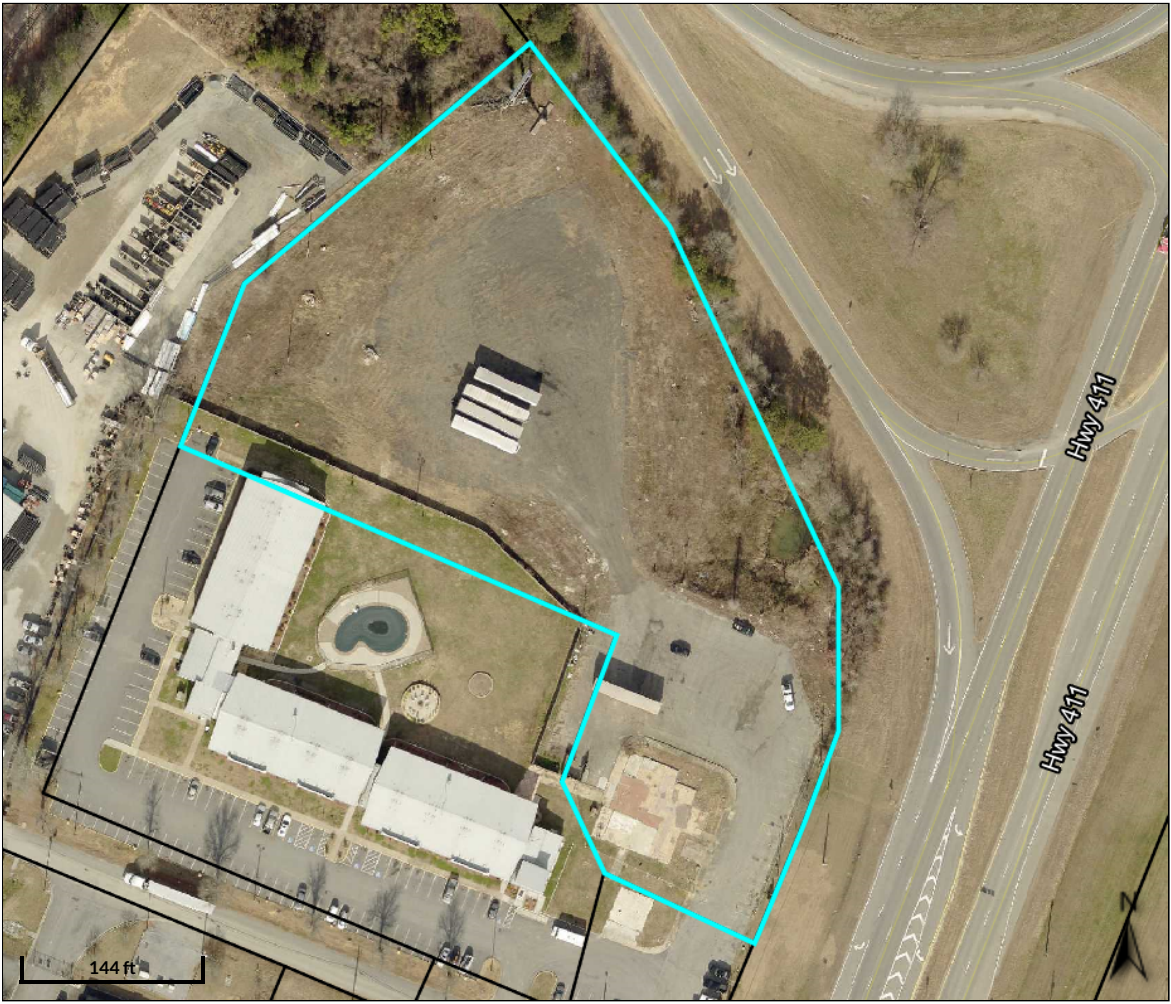
Completed applications must be submitted to the City of Cartersville Planning & Development Department, located at 10 N. Public Square, 2nd Floor. Cartersville, GA 30120.



Requirements

- 1. Completed Application:** Include all signatures. Complete items 1, 2 and 3.
- 2. Filing Fee:** A non-refundable filing fee of \$400.00 must accompany the completed application.
- 3. Public Notice Fee (Optional):** The applicant may choose to have city staff prepare and manage the public notification process outlined in **Requirement 4** below. If this option is requested, there is an additional, non-refundable fee of \$50.00 which covers the cost of the newspaper ad and Publication affidavit.
- 4. Public Notification:** The applicant is responsible for the following **public notification** process unless the applicant has requested that staff manage this process as outlined in **item 4** above:
 - a. Not less than fifteen (15) days and not more than forty-five (45) days prior to the scheduled date of the public hearing being the final action by the City Council and not less than ten (10) days prior to the Planning Commission meeting, a **notice of public hearing** shall be published in the legal notice section of the Daily Tribune newspaper within the City of Cartersville. Such notice shall state the application file number, and shall contain the location of the property, its area, owner, current zoning classification, and the proposed zoning classification. Such notice shall include both the Planning Commission and the City Council meeting dates. (See attached Notice of Public Hearing).

Text Amendment – Section 3 Continued

billboard structure itself. Additionally, by not defining the terms “along” and “visible”, it is currently not possible to apply for a variance. The Georgia Outdoor Advertising Control Act 32-6-72/73 uses a distance of six hundred sixty (660) feet from the nearest right-of-way as a delineating criteria for billboards along Interstate Highway 75. This distance was established based off a study that was performed by the DOT that determined the distance at which the human eye could read a six hundred (600) square foot billboard face while traveling along the highway. By amending the text to “shall be set back at least six hundred and sixty one (661) feet from right-of-way of Interstate Highway 75,” the city is now equipped with a structured criteria to enforce. Furthermore, the original intent of preserving the view scape of the city will still be met when you couple in the additional ordinances of height and billboard face square footage restrictions.



Legend
 Parcels
 Roads

Parcel ID	C049-0004-007	Alternate ID	36461	Owner Address	FLOURNOY HOLDINGS LLC
Sec/Twp/Rng	n/a	Class	Commercial		PO BOX 2737
Property Address	2337 HWY 411	Acreage	3.75		CARTERSVILLE, GA 30121
District	Cartersville				
Brief Tax Description	LL 238 239 D5 TR 1 PLAT 59-283				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 6/17/2024
Last Data Uploaded: 6/14/2024 10:32:05 PM

Developed by 

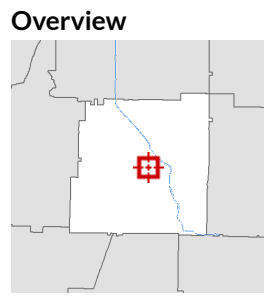
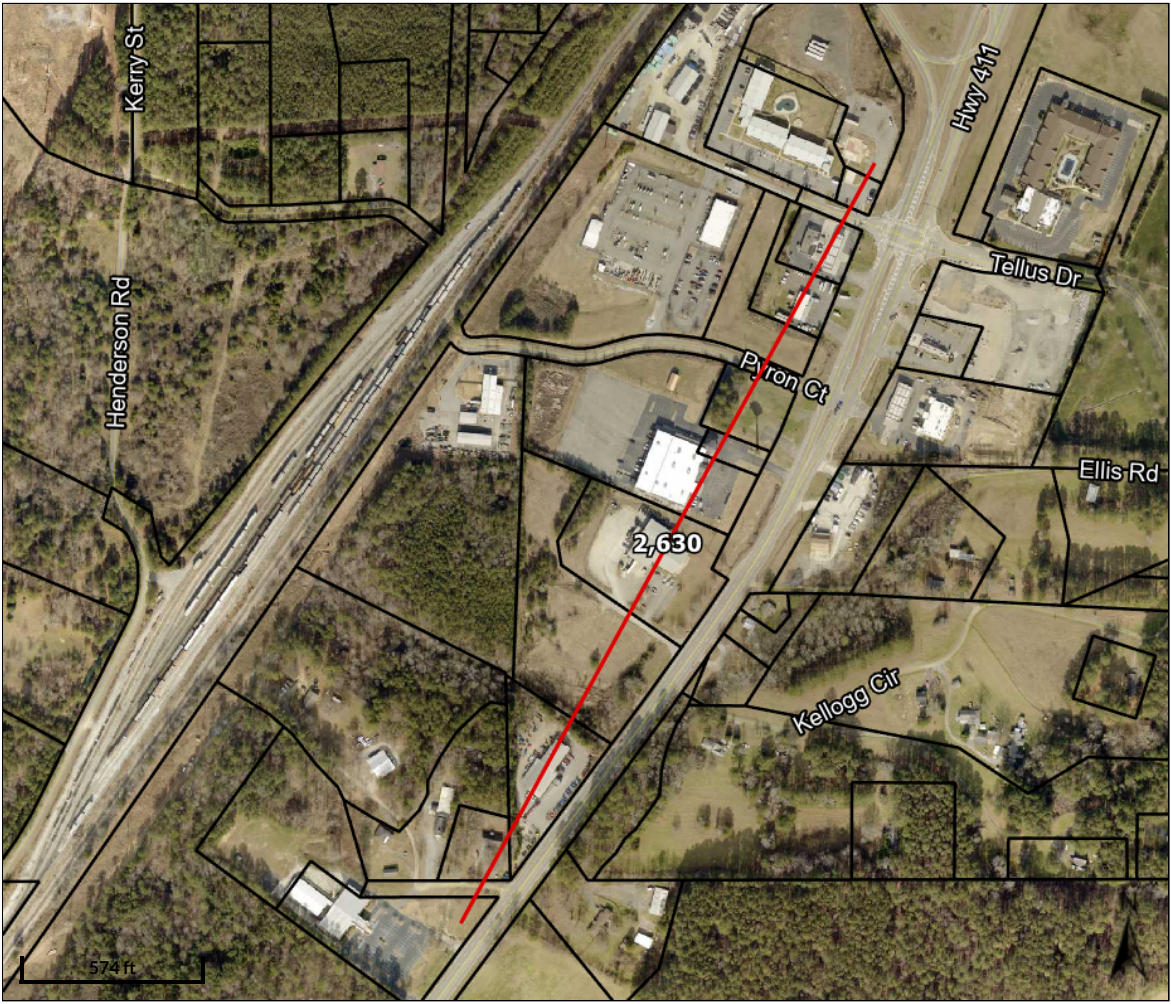


Legend
 □ Parcels
 — Roads

Parcel ID	C052-0002-002	Alternate ID	36471	Owner Address	US 411 LLC
Sec/Twp/Rng	n/a	Class	Commercial		11 WOODLAND DRIVE
Property Address	2471 HWY 411	Acreage	0.85		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL266 D5 S3 Sunoco				
	(Note: Not to be used on legal documents)				

Date created: 6/18/2024
 Last Data Uploaded: 6/17/2024 10:23:44 PM

Developed by  Schneider
 GEOSPATIAL



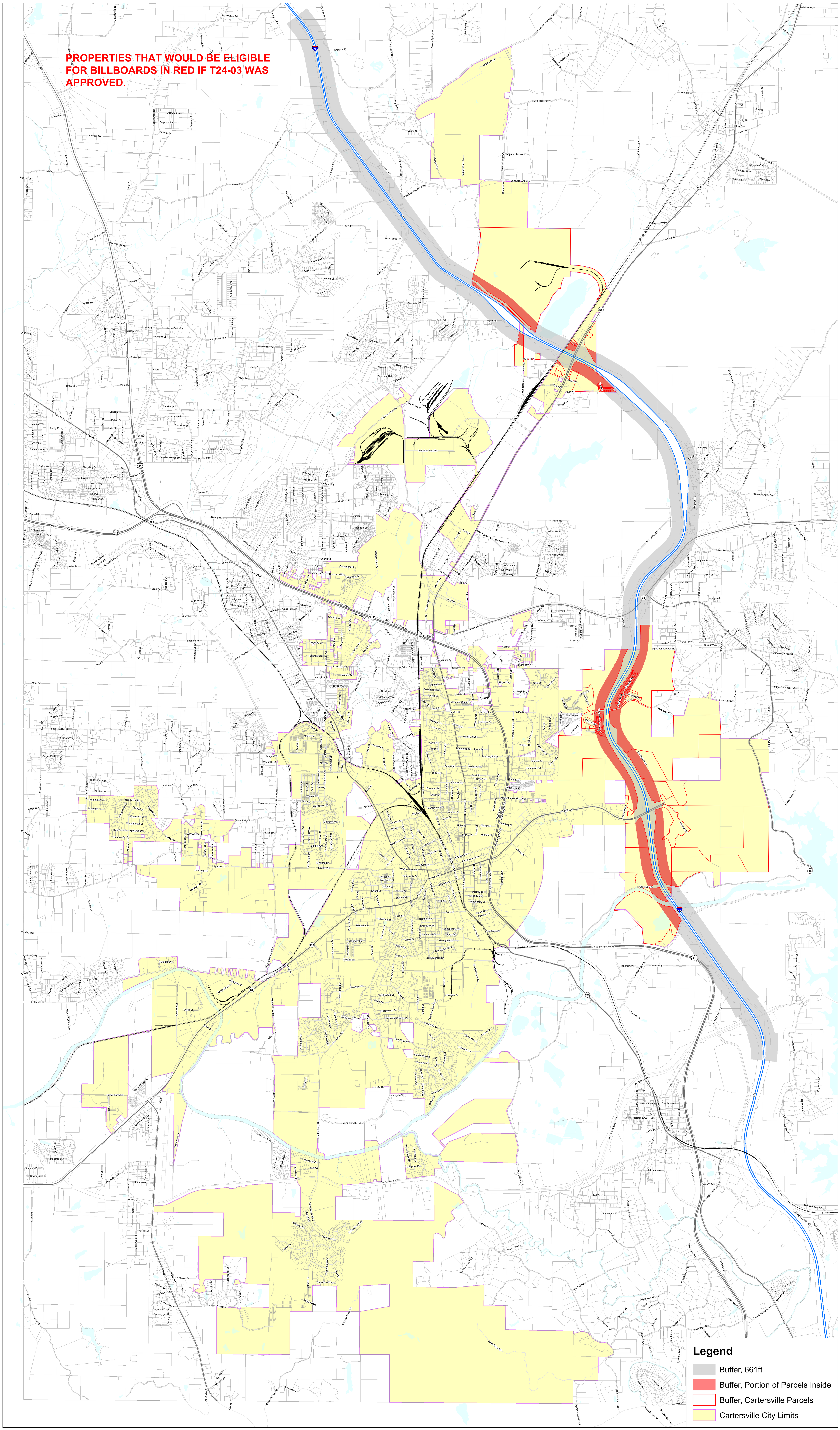
Legend
 □ Parcels
 — Roads

Parcel ID	C052-0002-002	Alternate ID	36471	Owner Address	US 411 LLC
Sec/Twp/Rng	n/a	Class	Commercial		11 WOODLAND DRIVE
Property Address	2471 HWY 411	Acreage	0.85		CARTERSVILLE, GA 30120
District	Cartersville				
Brief Tax Description	LL266 D5 S3 Sunoco				
	<i>(Note: Not to be used on legal documents)</i>				

Date created: 6/18/2024
 Last Data Uploaded: 6/17/2024 10:23:44 PM

Developed by Schneider
 GEOSPATIAL

PROPERTIES THAT WOULD BE ELIGIBLE FOR BILLBOARDS IN RED IF T24-03 WAS APPROVED.



Legend

- Buffer, 661ft
- Buffer, Portion of Parcels Inside
- Buffer, Cartersville Parcels
- Cartersville City Limits

Sec. 20-29. Billboards.

- (a) Billboards shall be allowed, in addition to freestanding signs, on nonresidential use properties adjacent to only the following roads:
- (1) State Route 20.
 - (2) U.S. 41 and corresponding frontage roads.
 - (3) U.S. 411 and corresponding frontage roads.
 - (4) West Ave. (beginning at, and including, the intersection with Henderson Dr. and running southwest).
 - (5) State Route 113 (beginning at the centerline of the I-75 right-of-way intersection with the GA Hwy. 113 centerline and continuing west a distance of two thousand seven hundred (2,700) feet radially; provided however, that this section shall supersede any conditions placed on billboards in this geographic location).
- (b) Billboards require a permit to be erected, and shall comply with the following regulations:
- (1) *General standards.*
 - a. Shall be allowed a maximum sign area of three hundred (300) square feet.
 - b. Shall not exceed a height of thirty (30) feet. Height shall be measured from the nearest road grade elevation.
 - c. Shall be set back at least fifty (50) feet from the right-of-way of a public street or highway and twenty-five (25) feet from all property lines and buildings on the site.
 - d. Shall be a minimum of five hundred (500) feet from a residential zoning district.
 - e. Shall be a minimum of one thousand five hundred (1,500) feet from all other billboards. Distance shall be measured from one (1) billboard to another on the same road.
 - f. ~~Shall not be visible from or located along Interstate Highway 75.~~
 - f. Shall be set back at least six hundred and sixty-one (661) feet from the right-of-way of Interstate Highway 75.
 - g. Shall not be attached to or painted directly on any building or any other natural or manmade structure or object other than the supporting structure specifically built for said sign.
 - (2) *Electronic billboards.*
 - a. Billboards which are directly illuminated, exhibit animation, blink, change copy, display moving pictures or images, flash, contain light emitting diode (LED), and/or contain liquid crystal display (LCD) shall be prohibited except when located adjacent to one (1) of the following roads:
 1. State Route 20.
 2. U.S. 41 and corresponding frontage roads.
 3. U.S. 411 and corresponding frontage roads.
 4. West Avenue (beginning at, and including, the intersection with Henderson Drive and running southwest).
 5. State Route 113 (beginning at the centerline of the I-75 right-of-way intersection with the Georgia Highway 113 centerline and continuing west a distance of two thousand seven

hundred (2,700) feet radially; provided however, that this section shall supersede any conditions placed on billboards in this geographic location).

6. Old Mill Road (beginning at the centerline of the Old Mill Road right-of-way intersection with the Erwin Street center line and continuing west a distance of one thousand (1,000) feet. Applicable to billboard signs existing as of July 26, 2022).
 - b. Shall be a minimum of five thousand (5,000) feet from all other electronic billboards and a minimum of one thousand five hundred (1,500) feet from nonelectronic billboards.
 - c. Any permit for an electronic billboard shall include a maximum number of displays per cycle for the structure. No more than six (6) displays per minute shall be allowed, and each display shall not change more frequently than once every ten (10) seconds.
 - d. Such displays shall contain static messages only, changed instantaneously, through dissolve or fade transitions, or other subtle transitions that do not have the appearance of moving text or images. In any event, such billboards may not have movement, or the appearance of or illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement of any illumination or the flashing, scintillating, or varying of light intensity.
 - e. All such billboards shall be programmed to automatically freeze in a single display in the event of a malfunction or computer/system error.
 - f. The planning and development department shall be provided with an on-call contact person and phone number for each permitted electronic billboard. The contact person must have the ability and authority to make immediate modifications to the displays and lighting levels should the need arise. In the event the contact person is unobtainable or unresponsive, the permit holder grants to the planning and development department the authority to access and disable the sign in cases of emergency or when the sign poses a threat to public safety.
- (3) *Nonconforming billboards.* Billboard signs legally existing on the date of adoption of this article may be continued even though such signs do not conform to this provision. Such nonconforming signs shall not be expanded, relocated or replaced by another nonconforming sign, except that the substitution of interchangeable poster panels, painted boards or demountable material on nonconforming signs shall be allowed. No such nonconforming sign shall continue after the discontinuance of the nonconforming use for a period of six (6) months.

(Ord. No. 26-12, 5-3-12; Ord. No. 29-18, § 1, 11-1-18; Ord. No. 20-22, § 1, 10-6-22)



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Police Department
AGENDA ITEM TITLE:	Peregrin Data Integration
DEPARTMENT SUMMARY RECOMMENDATION:	<p>I am requesting approval to enter into a contractual agreement with Peregrin Advanced Public Safety Technologies, a data integration company specializing in public safety. Peregrin will integrate data from various sources currently used by the Cartersville Police Department. This data integration will include Tyler Technologies CAD (Dispatch and response data), Tyler Technologies Records Management Systems (RMS), Utility/Polaris Evidence (body/car cameras, digital evidence storage) ArcGIS Layers (Mapping), Flock License Plate Readers (LPR), E-Cite Citations, Palatine Warrants, City Utilities data via CSV files, Court Justice System data via CSV files, and Leads Online (pawn shop database). By integrating the data from all these systems, unlimited users (police employees) will have access to records across all these systems, which are currently unconnected. This data integration will make us more effective and unify our information so that it is readily available with a single search.</p> <p>Peregrine will provide an introductory training session that provides an overview of the Service, background on accessible data sources and an introduction to the analytic capabilities of the service. Peregrine will provide additional training, including refresher sessions and advanced training modules, from time to time upon mutual agreement of the parties. The length of the initial contract will be for a period of three years.</p> <p>Total cost of the contract will be \$247,500.00, payable as follows:</p> <p>\$82,500 for budget year 2024 (due within 30 days of signed contract). \$82,500 for budget year 2025 (due within 30 days of August 1, 2025). \$82,500 for budget year 2026 (due within 30 days of August 1, 2026).</p> <p>This is a budgeted item and will be purchased using the General Fund. E-Verify and E-save documents have been submitted to the police department and are on file. I am requesting your support and recommendation for this purchase.</p>
LEGAL:	N/A



City of Cartersville

P O L I C E D E P A R T M E N T

Memorandum

To : Dan Porta, City Manager
From : Chief Frank L. McCann
Date : July 9, 2024
Ref : Peregrin data integration

I am requesting approval to enter into a contractual agreement with Peregrin Advanced Public Safety Technologies, a data integration company specializing in public safety. Peregrin will integrate data from various sources currently used by the Cartersville Police Department. This data integration will include Tyler Technologies CAD (Dispatch and response data), Tyler Technologies Records Management Systems (RMS), Utility/Polaris Evidence (body/car cameras, digital evidence storage) ArcGIS Layers (Mapping), Flock License Plate Readers (LPR), E-Cite Citations, Palatine Warrants, City Utilities data via CSV files, Court Justice System data via CSV files, and Leads Online (pawn shop database). By integrating the data from all these systems, unlimited users (police employees) will have access to records across all these systems, which are currently unconnected. This data integration will make us more effective and unify our information so that it is readily available with a single search.

Peregrine will provide an introductory training session that provides an overview of the Service, background on accessible data sources and an introduction to the analytic capabilities of the service. Peregrine will provide additional training, including refresher sessions and advanced training modules, from time to time upon mutual agreement of the parties.

The length of the initial contract will be for a period of three years.

Total cost of the contract will be \$247,500.00, payable as follows:

\$82,500 for budget year 2024 (due within 30 days of signed contract).
\$82,500 for budget year 2025 (due within 30 days of August 1, 2025).
\$82,500 for budget year 2026 (due within 30 days of August 1, 2026).

This is a budgeted item and will be purchased using the General Fund. E-Verify and E-save documents have been submitted to the police department and are on file. I am requesting your support and recommendation for this purchase.

PEREGRINE CUSTOMER ORDER FORM & SCOPE OF SERVICES

Customer Information	
Customer Name: The City of Cartersville, Georgia	Contact: Frank McCann
Address: 195 Cassville Rd, Cartersville, GA 30120	Phone: 404-372-8092
Email: flmccann@cartersvillepolice.com	Fax: N/A

Peregrine Services
Effective Date: August 1, 2024
Term: From the Effective Date through July 31, 2027 (" <u>Initial Term</u> ").
<p>Service Fee: The following fee schedule is available to the Customer if Order Form is signed on or before July 31, 2024. Unless otherwise terminated as set forth in the Terms and Conditions, Customer shall pay Peregrine a service fee of \$82,500 annually for the Term as follows:</p> <ul style="list-style-type: none"> a. \$82,500 within 30 days of the Effective Date b. \$82,500 within 30 days of August 1, 2025 c. \$82,500 within 30 days of August 1, 2026
Users: Customer may allow an unlimited number of employees of the Cartersville Police Department to access and use the Service.
Onboarding and Training Services: Peregrine will provide Customer with an introductory training session that provides an overview of the Service, background on accessible data sources as of the Effective Date and an introduction to the analytic capabilities of the Service. Peregrine will provide additional training, including refresher sessions and advanced training modules, from time to time upon mutual agreement of the parties.
<p>Professional Services: The initial Customer Data sources and systems that Peregrine will integrate with the Service for Customer are: Tyler Technologies CAD, Tyler Technologies RMS, Utility/Polaris Evidence, ArcGIS Layers, Flock LPR (30-day retention), E-Cite Citations, Palatine Warrants, City Utilities data via CSV files, Court Justice System data via CSV files, and Leads Online.</p> <p>The fee schedule above includes allowance for up to \$5,000 of API or other data access fees. Customer is responsible for any such fees beyond that allowance. Additionally, the fee schedule above includes support for up to 40 million annual LPR reads, additional fees may apply if annual LPR reads exceed that number.</p>

Any additional data integrations or new functionality shall be subject to mutual written agreement of the parties, including with respect to fees. All additional data integration services or new functionality and corresponding fees will be set forth in a statement of work.

For clarity, Peregrine will provide any other Professional Services and additional data integration services in accordance with Section 2.2 of the Terms and Conditions.

Peregrine services are provided subject to the terms set forth above on this Order Form together with the attached terms and conditions (the **“Terms and Conditions,”** and together with this Order Form, the **“Agreement”**). Any capitalized term used in this Order Form but not defined herein shall have the meaning ascribed to it in the Terms and Conditions. By signing this Order Form, Peregrine and Customer each agree to the terms and conditions set forth in this Agreement. In the event of any conflict between this Order Form and the Terms and Conditions, the terms of this Order Form shall govern to the extent of such conflict. This Order Form may be executed in counterparts (which may be delivered by electronic mail of .pdf files), each of which counterparts, when so executed and delivered, shall be deemed to be an original, and all of which counterparts, taken together, shall constitute one and the same instrument.

Peregrine:

Customer:

By: _____

By: _____

Name: Nicholas Noone

Name: Matthew Santini

Title: President & CEO

Title: Manager

Signed by: July 31, 2024

Signed by: July 31, 2024

Attest:

City Clerk, Julia Drake

Peregrine Customer Terms and Conditions

These Peregrine Customer Terms and Conditions govern the provision of the services described on the attached Order Form (“**Order Form**”) by Peregrine Technologies, Inc. (“**Peregrine**”) to The Cartersville Police Department (“**Customer**”). By executing an Order Form with Peregrine, Customer agrees to be bound by these Terms and Conditions.

1. Definitions.

“**Aggregated Data**” has the meaning specified in Section 6.1.

“**CJIS Security Policy**” means the FBI CJIS Security Policy document as published by the FBI CJIS Information Security Officer, currently located at <https://www.fbi.gov/services/cjis/cjis-security-policy-resource-center>.

“**Client-Side Software**” means any software in source or object code form that Peregrine makes available for use in connection with the Service, including Peregrine’s mobile application(s).

“**Criminal Justice Information Services Division**” or “**CJIS**” means the FBI division responsible for the collection, warehousing, and timely dissemination of relevant criminal justice information to the FBI and to qualified law enforcement, criminal justice, civilian, academic, employment and licensing agencies.

“**Customer Data**” means any of Customer’s data, information, documents or electronic files that are provided to Peregrine via the Service or otherwise in connection with this Agreement, including any databases Customer procures from third party vendors for Peregrine’s integration with the Service; provided that, for purposes of clarity, Customer Data as defined herein does not include Aggregated Data.

“**Documentation**” means the materials supplied by Peregrine hereunder, in any media, including any and all installer’s, operator’s and user’s manuals, training materials, guides, functional or technical specifications or other materials for use in conjunction with the Service.

“**Personal Information**” means any information that, individually or in combination, does or can identify a specific individual or by or from which a specific individual may be identified, contacted, or located, including without limitation all data considered “personal data”, “personally identifiable information”, or something similar under applicable laws, rules, or regulations relating to data privacy.

“**Professional Services**” has the meaning specified in Section 2.2.

“**Service**” means Peregrine’s proprietary platform that assists Users with criminal investigations and police leadership decision making, consisting of a hosted web-based interface and the Client-Side Software. For purposes of this Agreement, the Service is exclusive of Professional Services that may be rendered upon mutual agreement of the parties in accordance with Section 2.2.

“**SOW**” has the meaning specified in Section 2.2.

“**Third Party Data**” means any third party databases that Peregrine licenses from third party vendors and makes accessible via the Service. For clarity, Third Party Data does not include any Customer Data.

“**Third Party Products**” means any third-party products provided with, integrated with, or incorporated into the Service, including Third Party Data.

“**Users**” means the individuals authorized by Customer to use the Service in accordance with the terms in the Order Form (including number and type of individuals who may access the Service) and that have been supplied user identifications and passwords by Peregrine.

2. Provision of the Service and Additional Services.

2.1. Service. During the Term and subject to the terms and conditions of this Agreement, including payment of the fees set forth on the Order Form, Customer may: (a) access and use the Service for up to the number of Users set forth in the Order Form, (b) download and reproduce the applicable Documentation solely for internal use in association with the Service, and (c) download, install, and use any Client-Side Software in support of Customer’s use of the Service, in each case on a nonexclusive, non-transferable, and non-sublicensable basis and solely for Customer’s internal business purposes. Peregrine shall provide Customer

with authentication credentials for individual Users upon written request from authorized personnel of Customer, (ii) onboarding and training services as set forth in the Order Form (“**Onboarding and Training Services**”), and (iii) telephone and standard technical support to Customer during normal business hours (“**Technical Support**”). Except as set forth herein, Peregrine shall, at its sole cost and expense, provide all facilities and equipment that may be necessary for Peregrine to perform the Services.

2.2. Professional Services. Except as set forth in the Order Form, in the event that Customer requests that Peregrine perform data integration, configuration or implementation services regarding the Service, including integration of Customer Data or Third Party Data and creation of specific modifications to the Service (but excluding any Onboarding and Training Services), Peregrine will discuss the scope and fees for such services and, if agreed, such work will be performed pursuant to a statement of work executed by the parties and referencing this Agreement that describe such scope and fees (an “**SOW**,” and such services, the “**Professional Services**”). Any fees associated with the Professional Services shall be set forth in the applicable SOW and Customer shall pay such fees in accordance with Section 4.2 below. To the extent the Professional Services result in any software code or other tangible work product (“**Work Product**”), all such Work Product will remain owned solely and exclusively by Peregrine and may be used by Customer solely in connection with Customer’s authorized use of the Service under this Agreement. Customer shall permit Peregrine access to Customer’s offices and any other facilities necessary for Peregrine to provide the Professional Services.

2.3. Access and Policies. Customer will permit Peregrine access to Customer’s offices and any other facilities necessary for Peregrine to provide the Service, Onboarding and Training Services, Technical Support, and any Professional Services. Peregrine agrees to, and cause its personnel to, abide by Customer’s facilities access and use policies as provided by Customer to Peregrine in writing in advance of any on-site visits. Customer will also permit and enable Peregrine to have offsite access to Customer Data and the Customer’s production platform for the Service in order to provide the Service, Technical Support and Professional Services. Peregrine agrees to comply with the CJIS Security Policy in connection with its access to Customer Data, including CJIS-defined policies for remote access.

2.4. Compliance with Applicable Laws. Each party and its agents shall comply with all laws applicable to the performance or receipt, as applicable, of the Service hereunder.

2.5. Licenses and Permits. Peregrine and its employees, agents, and any subcontractors have, and will maintain at their sole cost and expense, all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. In addition to the foregoing, Peregrine and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from Customer as required by law.

2.6. Nondiscrimination and Equal Opportunity. Peregrine shall not discriminate, on the basis of a person’s race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, genetic information, marital status, sex, sexual orientation, gender or gender identity, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Peregrine under this Agreement. Peregrine shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Peregrine thereby.

2.7. Suspension. Notwithstanding anything to the contrary in this Agreement, Peregrine may temporarily suspend Customer’s and any User’s access to any portion or all of the Service if: (a) Peregrine reasonably determines that (i) there is a threat or attack on the Service; (ii) Customer’s or any User’s use of the Service disrupts or poses a security risk to the Service or to any other customer or vendor of Peregrine; (iii) Customer, or any User, is using the Service for fraudulent or illegal activities; (iv) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; (v) Peregrine’s provision of the Service to Customer or any User is prohibited by applicable law; or (vi) any Customer Data submitted, posted, or otherwise transmitted by or on behalf of Customer or an User through the Service may infringe or otherwise violate any third party’s

intellectual property or other rights; (b) any vendor of Peregrine has suspended or terminated Peregrine's access to or use of any Third Party Products required to enable Customer to access the Service; or (c) if Customer fails to pay any undisputed fees when due (any such suspension described in subclauses (a), (b), or (c), a "**Service Suspension**"). Peregrine shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Service following any Service Suspension. Peregrine shall use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Peregrine will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any User may incur as a result of a Service Suspension.

2.8. Third Party Products. Peregrine may from time to time make Third Party Products available to Customer or Peregrine may allow for certain Third Party Products to be integrated with the Service. For purposes of this Agreement, such Third Party Products are subject to their own terms and conditions. Peregrine is not responsible for the operation of any Third Party Products and makes no representations or warranties of any kind with respect to Third Party Products or their respective providers. If Customer does not agree to abide by the applicable terms for any such Third Party Products, then Customer should not install or use such Third Party Products. By authorizing Peregrine to transmit Customer Data from Third Party Products into the Service, Customer represents and warrants to Peregrine that it has all right, power, and authority to provide such authorization.

2.9. Open Source Components. Certain aspects of the Service, such as the Client-Side Software, may contain or be distributed with open source software code or libraries ("**Open Source Components**"). Peregrine will provide a list of Open Source Components for a particular version of any distributed portion of the Service, such as the Client-Side Software, on Customer's request. To the extent required by the license applicable to such Open Source Components: (a) Peregrine will use reasonable efforts to deliver to Customer any notices or other materials (such as source code); and (b) the terms of such licenses will apply to such Open Source Components in lieu of the terms of this Agreement. To the extent the terms of such licenses prohibit any of the restrictions in this Agreement with respect to any particular Open Source Component, such restrictions will not apply to such Open Source Component. To the extent the terms of such licenses require Peregrine to make an offer to provide source code or related information in connection with the Open Source Component, such offer is hereby made. For purposes of clarity, Open Source Components are Third Party Products.

3. Customer Responsibilities.

3.1. Generally. Customer is responsible for all activities that occur under User accounts. Customer also shall: (a) ensure it has all rights necessary for Peregrine to integrate the Customer Data with the Service; (b) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (c) prevent unauthorized access to, or use of, the Service, and notify Peregrine immediately of any unauthorized access or use; (d) ensure each User has its own unique account on the Service and that Users do not share their account credentials with one another or any third party; and (e) comply with all applicable laws in using the Service. Customer agrees to provide its Users with the applications necessary to run the Service as set forth in the Documentation.

3.2. Use Restrictions. Customer shall not use the Service for any purposes beyond the scope of access granted under this Agreement. Without limiting the generality of the foregoing, Customer shall not, and shall ensure Users do not: (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party; (b) send spam or otherwise duplicative or unsolicited messages via the Service; (c) send or store infringing or unlawful material; (d) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (e) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (f) attempt to gain unauthorized access to the Service or its related systems or networks; (g) copy, modify, or create derivative works based upon the Service or any component thereof; (h) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Service or any component thereof; (i) use the Service in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property or other right of any third party or that violates any applicable law; (j) access or use the Service for purposes of competitive analysis of Peregrine or the Service, the development, provision, or use of a competing service or product, or any other purpose that

is to Peregrine's detriment or commercial disadvantage; or (k) input, upload, transmit, or otherwise provide to or through the Service any information or materials, including Customer Data, that are unlawful or injurious in any way

3.3. CJIS Requirements. Customer certifies that it and its Users will comply with the following CJIS requirements: (a) Customer agrees to use training, policy and procedures to ensure Users use proper handling, processing, storing and communication protocols for Customer Data and any Third Party Data; (b) Customer agrees to protect the Service and any Third Party Data by monitoring and auditing staff user activity to ensure that it is only within the purview of system application development, system maintenance and the support roles assigned; (c) Customer will only provide access to the Service and any Third Party Data through Customer-managed role-based access and applied sharing rules configured by Customer; (d) Customer agrees to create and retain activity transaction logs to enable auditing by Peregrine staff, CJIS and any Third Party Data owners; (e) Customer agrees to perform independent employment background screening for its staff at Customer's own expense; and (f) Customer agrees to reinforce staff policies for creating User accounts with only one Customer domain email address for each User, with exceptions only as granted in writing by Peregrine.

3.4. Operation Restrictions. Under certain circumstances, it may be dangerous to operate a moving vehicle while attempting to operate a laptop, mobile device or other touch screen and any of their applications. Customer agrees that the Users will be instructed to only utilize the interface for the Service at times when it is safe to do so. Peregrine is not liable for any accident caused by a result of distraction such as from viewing the screen while operating a moving vehicle.

3.5. Customer Logo. Peregrine may use Customer's name and logo in Peregrine's lists of customers provided that such use will comply with any standard trademark guidelines provided by Customer to Peregrine.

3.6. Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to Peregrine by mail, email, telephone, or otherwise, suggesting or recommending changes to the Service, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), Peregrine is free to use such Feedback irrespective of any other obligation or limitation between the parties governing such Feedback.

4. Fees & Payment.

4.1. Fees. Customer shall pay the fees for the Service as specified in the Order Form and in any SOWs. All fees are non-refundable except to the extent otherwise expressly set forth in this Agreement.

4.2. Payment Terms. Except as set forth on the Order Form, Customer shall pay all fees within thirty (30) days of Peregrine issuing an invoice.

5. Proprietary Rights. The "**Peregrine Technology**" means (a) the Peregrine name, the Peregrine logo, and other trademarks and service marks; (b) audio and visual information, documents, software and other works of authorship, including training materials; (c) other technology included in the Service, including Client-Side Software, graphical user interfaces, workflows, products, processes, algorithms, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information provided by Peregrine under this Agreement; and (d) the work product or other results of Professional Services. Peregrine owns and shall retain all rights in the Peregrine Technology. Other than as expressly set forth in Section 2.1 above, no license or other rights in or to the Peregrine Technology or related intellectual property rights are granted to Customer or Users, and all such licenses and rights are hereby expressly reserved to Peregrine. For clarity, "**Peregrine Technology**" does not include Customer Data.

6. Data Access, Sharing and Security.

6.1. Customer Data. Peregrine may access, reproduce, and use Customer Data to provide the Service, including to provide Technical Support, Onboarding and Training Services and any Professional Services. Customer agrees that Peregrine may generate technical logs, data and insights about Customer's usage of the Service (e.g., frequency of logins) ("**Peregrine Insights**") and may use the Customer Data in aggregated and anonymized form that does not individually identify any person or entity, including Customer or its Users

("Aggregated Data") for Peregrine's internal business purposes and to operate and improve Peregrine's proprietary software and services, and that Peregrine shall own the Peregrine Insights and the Aggregated Data. Peregrine shall destroy Peregrine Insights and Aggregated Data on termination of this Agreement. Peregrine may choose to terminate the provision of any Customer Data via the Service if the provision of such data may be harmful to the Service, as determined by Peregrine in its reasonable discretion.

6.2. CJIS Security Policy. Peregrine has implemented procedures to allow for adherence to the CJIS Security Policy. The hosting facility for the Service uses access control technologies that meet or exceed CJIS requirements. In addition, Peregrine has installed and configured solid network intrusion prevention appliances for adherence to the CJIS Security Policy.

6.3. Third Party Data. Any Third Party Data that Peregrine may provide via the Service is governed by the third party owner's retention policy. Peregrine does not provide any warranties with respect to any Third Party Data and Peregrine may choose to terminate the provision of any Third Party Data via the Service if Peregrine's applicable rights to such Third Party Data terminate or the provision of such data may be harmful to the Service, as determined by Peregrine in its reasonable discretion.

6.4. Processing of Personal Information. Peregrine's rights and obligations with respect to Personal information it collects directly from individuals are set forth in Peregrine's Privacy Policy <<https://peregrine.io/privacy-policy/>>. Personal Information included within Customer Data and processed by Peregrine on behalf of Customer is governed by this Agreement.

6.5. Sensitive Information; Marking Requirements. To the extent Customer provides Customer Data that Customer considers to be sensitive, proprietary, restricted, or otherwise requiring sensitive treatment ("**Sensitive Information**"), Customer is solely responsible for providing appropriate markings to designate the applicable Customer Data as Sensitive Information. Customer shall provide Peregrine with documentation and/or instructions in writing with sufficient detail for Peregrine to identify and distinguish content that is Sensitive Information within other provided Customer Data. Customer shall (a) mark Sensitive Information on its face, (b) make the appropriate designations for Sensitive Information in document metadata, (c) provide Peregrine with a table or other list of Sensitive Information that contains sufficient detail to identify the Sensitive Information; or (d) identify Sensitive Information to Peregrine in some other mutually agreed upon method. Peregrine shall not be responsible for failure to designate Sensitive Information with specific access control status based on Customer failure to provide sufficient information to identify Sensitive Information.

7. Confidentiality.

7.1. Definition of Confidential Information. The term "**Confidential Information**" and rules for declaring any given information as such reflects the definitions contained in *OCGA 50-18-72 a 34*.

7.2. Confidentiality. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party except to perform its obligations or exercise its rights under this Agreement, except with the Disclosing Party's prior written permission on a case-by-case basis. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event with less than reasonable care. If the Receiving Party is compelled by law or a government authority to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent practicable and legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

7.3. Exceptions. The parties' obligations in Section 7.2 shall not apply to any information that: (a) is or becomes publicly available without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (d) is received from a third party without breach of any obligation owed to the Disclosing Party.

7.4. Public Records Acts. Peregrine acknowledges that Customer is a public entity and may be governed by applicable laws, rules, or regulations relating to public records (each a "**Public Records Act**"). Nothing in this Section 7 shall prevent Customer from disclosing Confidential Information for purposes of complying with an

applicable Public Records Act to the extent legally required. Peregrine shall follow the appropriate procedures under the Georgia Open Records Act as it relates to claiming and preventing the release of trade secrets.

7.5. Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Section 7, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that such unauthorized disclosure or use may cause irreparable harm to the Disclosing Party for which any other available remedies are inadequate.

8. Warranties & Disclaimers.

8.1. Warranties. Each party represents and warrants that it has the legal power and authority to enter into this Agreement. Peregrine represents and warrants that (i) it will provide the Service in a professional manner consistent with the standards observed by a competent practitioner of the profession in which Peregrine is engaged, and (ii) the Service will perform in accordance with and otherwise substantially conform to its associated documentation.

8.2. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1, PEREGRINE MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT TO THE SERVICE, THE PEREGRINE TECHNOLOGY, ANY THIRD PARTY DATA AND ANY OTHER PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT. PEREGRINE HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9. Indemnification.

9.1. Indemnification by Peregrine. Peregrine shall at its expense defend Customer and its officers, directors, officials, agents, volunteers and employees (“**Customer Indemnified Parties**”) against any claim made or brought against any Customer Indemnified Party by a third party alleging that the Service as provided to Customer and when used in accordance with this Agreement infringes any intellectual property rights of a third party (each, a “**Customer Claim**”), and shall indemnify and hold Customer Indemnified Parties harmless from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney’s fees, awarded by a court or agreed to by Peregrine in a settlement with respect to such Customer Claim; provided, that Customer (a) promptly gives written notice of the Customer Claim to Peregrine; (b) gives Peregrine sole control of the defense and settlement of the Customer Claim (provided that Peregrine may not agree to any settlement that imposes any liability or obligation on Customer without Customer’s prior written consent, such consent not to be unreasonably withheld, conditioned, or delayed); and (c) provides to Peregrine, at Peregrine’s cost, all reasonable assistance in the defense and settlement of the Customer Claim. Peregrine shall have no obligation under this Section 9.1 or otherwise regarding claims that arise from or relate to (i) Customer’s use of the Service other than as contemplated by this Agreement, (ii) any modifications to the Service made by any entity other than Peregrine (where the liability would not have arisen but for such modification), (iii) any combination of the Service with services or technologies not provided by Peregrine (where the liability would not have arisen but for such combination), (iv) Customer’s use of the Service or portion thereof after Peregrine has terminated this Agreement or such portion of the Service in accordance with this Section 9.1, or (v) Third Party Products. If in Peregrine’s opinion a Customer Claim is likely to be made, or if an existing Customer Claim may cause Peregrine liability, Peregrine may in its discretion (x) obtain a license to enable Customer to continue to use the potentially infringing portion of the Service, (y) modify the Service to avoid the potential infringement, or (z) if the foregoing cannot be achieved after using reasonable commercial efforts, terminate the Agreement or the license to the infringing portion of the Service and refund the amount of any pre-paid fees applicable to the portion of the terminated Services to be provided after the termination date.

9.2. Indemnification by Customer. To the extent permitted by applicable law, Customer shall at its expense defend Peregrine and its officers, directors, officials, agents, volunteers and employees (“**Peregrine Indemnified Parties**”) against any claim made or brought against any Peregrine Indemnified Party by a third party based on: (a) Customer’s or any User’s negligence, gross negligence, fraud, or willful misconduct; (b) Customer’s or any User’s use of the Service in a manner not authorized by this Agreement; or (c) Customer Data or Peregrine’s authorized use of such Customer Data (each, a “**Peregrine Claim**”), and shall indemnify and hold Peregrine

Indemnified Parties harmless from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, awarded by a court or agreed to by Customer in a settlement with respect to such Peregrine Claim; provided, that Peregrine (i) promptly gives written notice of the Peregrine Claim to Customer; (ii) gives Customer sole control of the defense and settlement of the Peregrine Claim (provided that Customer may not agree to any settlement that imposes any liability or obligation on Peregrine without Peregrine's prior written consent, such consent not to be unreasonably withheld, conditioned, or delayed); and (iii) provides to Customer, at Customer's cost, all reasonable assistance in the defense and settlement of the Peregrine Claim.

9.3. Sole Remedy. THIS SECTION 9 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PEREGRINE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS BY THIRD PARTIES RELATING TO THE SERVICE OR ITS USE.

10. Limitation of Liability.

10.1. Exclusion of Consequential and Related Damages. EXCEPT FOR A PARTY'S BREACH OF SECTION 7, A PARTY'S INDEMNIFICATION AND DEFENSE OBLIGATIONS, OR A PARTY'S GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, MULTIPLE, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

10.2. Liability Cap. IN NO EVENT SHALL PEREGRINE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EXCEED THE TOTAL AMOUNTS PAID TO PEREGRINE UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

11. Term & Termination.

11.1. Term of Agreement. This Agreement commences on the Effective Date and continues for the duration of the term set forth on the Order Form ("**Term**"), unless earlier terminated in accordance with the Order Form or Section 11.2

11.2. Termination for Cause. A party may terminate this Agreement for cause upon thirty (30) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to Peregrine prior to the effective date of termination.

11.3. Termination for Changes in City Council. Customer may terminate this Agreement within thirty (30) days of the swearing in of a new City Council upon written notice. Customer shall make all reasonable efforts to inform Peregrine in advance of any potential or intended termination. Termination shall not relieve Customer of the obligation to pay any fees accrued or payable to Peregrine prior to the effective date of termination.

11.4. Data. Upon expiration or termination of this Agreement, Peregrine shall have no obligation to maintain or provide any Customer Data or Third Party Data. Unless legally prohibited, Peregrine shall delete all Customer Data in its systems or otherwise in its possession or under its control. Notwithstanding the foregoing or any other provision of this Agreement, Peregrine may use in perpetuity any Aggregated Data.

11.5. Survival. The following provisions shall survive termination or expiration of this Agreement: Sections 4, 5, 6.1, 6.3, 7, 8, 9, 10, 11.3, 11.4, and 12.

12. General Provisions.

12.1. Insurance. Peregrine shall maintain the insurance coverages described on Appendix A: Insurance.

12.2. Relationship of the Parties. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Agreement. At all times during the term of this Agreement, Peregrine shall be an independent contractor

and shall not be an employee of Customer. Except as Customer may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of Customer in any capacity whatsoever as an agent. Peregrine shall have no authority, express or implied, pursuant to this Agreement to bind Customer to any obligation whatsoever.

12.3. Peregrine's Books and Records. To the extent required by applicable laws, rules, or regulations, Peregrine shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the Customer under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to Peregrine to this Agreement. All such records shall be maintained in accordance with generally accepted standards and shall be made available for inspection, audit, and/or copying during regular business hours, upon written request of the Customer.

12.4. Force Majeure. Neither party shall be liable by reason of any failure or delay in performance of its obligations under this Agreement (except for the payment of money) on account of events beyond the reasonable control of such party, which may include Internet denial-of-service attacks, strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, terrorism, governmental action, labor conditions, earthquakes, and material shortages (each, a "**Force Majeure Event**"). Upon the occurrence of a Force Majeure Event, the non-performing party will be excused from any further performance of its obligations affected by the Force Majeure Event for so long as the event continues and such party continues to use commercially reasonable efforts to resume performance.

12.5. Federal Government. Any use, copy or disclosure of the Service by the U.S. Government is subject to restrictions as set forth in this Agreement and as provided by DFARS 227.7202-1(a) and 227.7202-3(a)(1995), DFARS 252.227-7013(c)(1)(ii)(October 1998), FAR 12.212(a)(1995), FAR 52.227-19, or FAR 52.227(ALT III), as applicable.

12.6. Additional Government Terms. Peregrine acknowledges that Customer may be a public entity and, accordingly, certain additional laws, rules, and regulations may take precedence over the terms and conditions of this Agreement (the "**Additional Government Terms**"). The Additional Government Terms, if any, are attached hereto as **Error! Reference source not found.**, and will govern to the extent of any conflict with any other term of this Agreement.

12.7. Notices. All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (a) personal delivery; (b) the second business day after mailing; (c) the second business day after sending by confirmed facsimile; or (d) after confirmed receipt of an email. Notices to Peregrine shall be addressed to the attention of Nick Noone, CEO, Peregrine Technologies, nick@peregrine.io, with a copy to ben@peregrine.io. Notices to Customer are to be addressed to the individual identified in the Order Form.

12.8. Waiver; Cumulative Remedies Severability. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

12.9. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Notwithstanding the foregoing, Peregrine may assign this Agreement, together with all rights and obligations hereunder, without consent of Customer, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its stock or assets that relate to this Agreement. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

12.10. Governing Law. This Agreement shall be governed by the laws of Georgia. The state courts located in Bartow County, GA shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts provided that nothing in

this Section 12.10 prohibits either party from seeking or obtaining in any jurisdiction injunctive or similar relief in connection with the enforcement of this Agreement.

12.11. Construction. The division of this Agreement into Sections and the insertion of captions and headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The terms “this Agreement,” “hereof,” “hereunder” and any similar expressions refer to this Agreement and not to any particular Section or other portion hereof. The parties hereto agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of this Agreement. As used in this Agreement, the words “include” and “including,” and variations thereof, will be deemed to be followed by the words “without limitation” and “discretion” means sole discretion

12.12. Entire Agreement. This Agreement constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding the Order Form) shall be incorporated into or form any part of this Agreement, and all such terms or conditions are hereby rejected and shall be null and void.

Appendix A: Insurance

Peregrine, at its own cost and expense, shall procure the types and amounts of insurance specified herein and maintain that insurance throughout the term of the Agreement. The cost of such insurance shall be included in the Peregrine's bid or proposal. Peregrine shall be fully responsible for the acts and omissions of its subcontractors or other agents.

Workers' Compensation. Peregrine shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Peregrine in the amount required by applicable law. The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the Customer upon written verification that Peregrine is a sole proprietor and does not have any employees and will not have any employees during the term of this Agreement.

Commercial General and Automobile Liability Insurance

General requirements. Peregrine, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, combined single limit coverage for risks associated with the work contemplated by this Agreement.

Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) covering any auto (Code 1), or if Peregrine has no owned autos, hired (code 8) and non-owned autos (Code 9). No endorsement shall be attached limiting the coverage.

Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Commercial General and Automobile Liability Insurance shall cover on an occurrence basis.
- b. Customer, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds for liability arising out of work or operations on behalf of the Peregrine, including materials, parts, or equipment furnished in connection with such work or operations; or automobiles owned, leased, hired, or borrowed by the Peregrine. Coverage can be provided in the form of an endorsement to the Peregrine's insurance at least as broad as CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01.
- c. For any claims related to this Agreement or the work hereunder, the Peregrine's insurance covered shall be primary insurance as respects the Customer, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the Customer, its officers, officials, employees, agents or volunteers shall be excess of the Peregrine's insurance and non-contributing.
- d. The policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.
- e. Peregrine agrees to give at least 30 days prior written notice to Customer before coverage is canceled or modified as to scope or amount.

Professional Liability Insurance.

General requirements. Peregrine, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 per occurrence or claim covering the Peregrine's errors and omissions.

Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.

- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Peregrine must purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the Customer for review prior to the commencement of any work under this Agreement.

All Policies Requirements.

Submittal Requirements. Peregrine shall submit the following to Customer prior to beginning services:

Certificate of Liability Insurance in the amounts specified in this Agreement; and

Additional Insured Endorsement as required for the General Commercial and Automobile Liability Policies.

Acceptability of Insurers. All insurance required by this Agreement is to be placed with insurers with a Bests' rating of no less than A:VII.

Deductibles and Self-Insured Retentions. Insurance obtained by the Peregrine shall have a self-insured retention or deductible of no more than \$100,000.

Wasting Policies. No policy required herein shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

Waiver of Subrogation. Peregrine hereby agrees to waive subrogation which any insurer or contractor may require from Peregrine by virtue of the payment of any loss. Peregrine agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the Customer has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the Customer for all work performed by the Peregrine, its employees, agents, and subcontractors.

Subcontractors. Peregrine shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Peregrine shall ensure that Customer, its officers, officials, employees, agents, and volunteers are covered as additional insured on all coverages.

Excess Insurance. If Peregrine maintains higher insurance limits than the minimums specified herein, Customer shall be entitled to coverage for the higher limits maintained by the Peregrine.

Remedies. In addition to any other remedies Customer may have if Peregrine fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, Customer may, at its sole option, order Peregrine to stop work under this Agreement and withhold any payment that becomes due to Peregrine hereunder until Peregrine demonstrates compliance with the requirements hereof, or terminate this Agreement.



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Gas
AGENDA ITEM TITLE:	Hamilton Place Development Agreement
DEPARTMENT SUMMARY RECOMMENDATION:	This agreement between the City and Pulte Home Company, LLC states that the installation of the natural gas main infrastructure will be completed at no cost to the developer. In exchange, the developer has agreed to install natural gas to each home, 86 in total. The developer has also agreed to participate in our Gas Advantage program by installing a minimum of one gas furnace on the main level, one gas water heater, and one other gas appliance or gas stub for one other gas appliance. A significant amount of gas infrastructure will be required to serve this subdivision at an estimated material cost of approximately \$26,000.00, however, the City will receive a return on investment (ROI) of less than twelve (12) months following the completion of all of the homes.
LEGAL:	Approved by the City Attorney

AFTER RECORDING RETURN TO:
ARCHER & LOVELL PC
P.O. BOX 1024
CARTERSVILLE GEORGIA 30120

DEVELOPMENT AGREEMENT

This Development Agreement is made and entered into this 3rd day of July, 2024, by and between the **CITY OF CARTERSVILLE**, a municipal corporation of the State of Georgia (hereinafter the “**City**”) and **PULTE HOME COMPANY, LLC**, a Michigan limited liability company (hereinafter the “**Owner as Developer**”).

WITNESSETH:

WHEREAS, Developer is the owner of certain property being developed as **HAMILTON PLACE**, (the “**Property**”), which is more particularly described in Exhibit “A” attached hereto, and which is zoned as a R-1 (Conservation) under the zoning ordinance of Bartow County, Georgia, and currently planned to be an 86 residential lot development; and

WHEREAS, Owner as Developer, in consideration of the benefits and opportunities provided to it as hereinafter described, and the City, in consideration of the benefits and opportunities to be provided to it by serving the development, **HAMILTON PLACE** (the “**Project**”) with natural gas facilities, are desirous of entering into this agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:



1. Agreement and Assurances on the Part of Developer

The Owner as Developer has submitted a preliminary plat and/or approved construction plan attached hereto and incorporated herein as Exhibit “B” for the development of residential lots, which shall be reviewed by the County, and natural gas facilities shall be planned such that a natural gas system shall be installed in order to provide natural gas service to the residences. All plat submissions shall be by electronic CAD file in NAD 83, Georgia State Plane West Zone, U.S. Foot coordinates and two (2) sets of legible, “to-scale” printed plans.

In the future phases of the Project, if any; Developer shall furnish preliminary site plan layouts within 60 days of commencing proposed project planning of initial gas service. If such site plan(s) are not provided within this time frame, the initial natural gas system will be designed to provide natural gas service to only the residences shown on the provided plats. Any and all improvements of the initial natural gas facilities required to serve any additional residences will be at the expense of the Owner as Developer including but not limited to easements, right-of-ways and acquisition costs.

- (a) The Owner as Developer hereby agrees that the entire property shall be served with natural gas by the City of Cartersville and that any and all easements necessary for said service shall be conveyed to the City at no cost and must be provided, platted and deeded to the City within thirty (30) days of anticipated commencement of the construction of the initial natural gas facilities to know the location of easements for the proposed gas service. At a minimum, the Owner as Developer shall require that each property and building have the following:
 - (i) That each home must have a natural gas furnace for the main living area of the home, natural gas water heater and a third gas appliance installed or gas piping for a third appliance such as a cooking range, clothes dryer, fireplace logs, natural gas grill or natural gas light, either mantel or open flame type.
- (b) The Owner as Developer agrees to require all builders and/or contractors in the Project to participate in all incentive programs as described in the City of Cartersville’s Gas Advantage Home Program in effect at the time of home construction and for a builder or contractor who does not participate in the Gas Advantage Home Program in effect at the time of home construction or have natural gas service to any lot, the Owner as Developer shall pay to the City the prorata costs of the installation of all natural gas mains and associated infrastructure.

- (c) The Owner as Developer agrees to apply for natural gas service to each home at the City's Customer Service Department prior to the installation of each natural gas service. The Owner as Developer agrees to pay a tap fee for each home for the costs associated with the service line, meter and regulator installation and, once appliances have been installed and verified, the Owner as Developer or builder will receive all rebates in accordance with the Gas Advantage Home Program in effect at the time of home construction except as provided for in 1(b) above. It is the Owner as Developer's responsibility to pay said fee and apply for natural gas service to each home or in the alternative to assign its obligations to the builder of each individual home.
- (d) The Owner as Developer further acknowledges that failure to comply with (a) and (b) above or to install a dual fuel heating system(s), shall disqualify the home for any incentives from the Gas Advantage Home Program in effect at the time of home construction and requires the full tap fee costs plus the prorata costs of the installation of all natural gas mains and associated infrastructure associated with (b) above to be paid prior to the natural gas service line installation. It is the Owner as Developer's responsibility to pay said fee or in the alternative to assign its obligations to the builder of each individual home.
- (e) Owner as Developer shall be required to provide an easement plat suitable to the City Attorney's office and execute any easement documents for any easements as required in Exhibit "C" within twenty (20) days from notice by the City.
- (f) The Owner as Developer agrees to provided one copy of the Development's Erosion and Sediment Control Plan approved by the appropriate jurisdictional authority no later than 30 days prior to the anticipated commencement of the construction of the proposed gas service.
- (g) With the exception of Paragraph 2.(c), the Owner as Developer agrees to provide, install and maintain any and all erosion and sediment control measures necessary or required to comply with all local, State and Federal erosion and sediment control requirements which may be associated with the construction of the proposed gas facilities within the Development under this Agreement. The Owner as Developer further agrees to or cause to maintain or re-apply the erosion and sediment control measures called for in Paragraph 2.(c) as necessary or required to comply with all local, State and Federal erosion and sediment control requirements after initial application.

2. Agreement and Assurances on the part of the City

In consideration of the Developer agreeing to take the actions described above, the City agrees as follows:

- (a) The City agrees to provide and install all natural gas mains and appurtenances necessary to provide access to natural gas within the development. Natural gas service to each home must be applied for at the City's Customer Service Department by the developer or home builder. Natural gas services will be installed after receiving the tap fee payment by the Owner as Developer or home builder for the costs associated with the service line, meter and regulator installation and, once appliances have been installed and verified, the Owner as Developer or builder will receive all rebates in accordance with the current Gas Advantage Home Program except as provided for in 1(b) above.
- (b) The City agrees to allow builders and/or customers of the gas program to participate in all incentive programs as described in the City of Cartersville's Gas Advantage Home Program in effect at the time of home construction.
- (c) The City agrees to or cause to provide and apply straw or hay mulch to a depth of 6" over all areas disturbed specifically by the construction of the proposed natural gas facilities within the Development under this Agreement provided no further disturbance of such areas are planned within 7 days of initial disturbance.

3. Assignment

The Owner as Developer may assign its right and obligations under this agreement, subject to the prior approval of the City. Subject to this provision, this agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, successors and/or assigns.

4. Time is of the Essence

Time is of the essence with respect to all provisions of this agreement that specify a time for performance.

5. Miscellaneous

- (a) In the event of a difference in the interpretation of the Agreement and rates of the City's natural gas system, the City's interpretation will prevail.
- (b) Agreement. In case any one or more of the provisions of this Agreement shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Agreement, but this Agreement shall be construed and enforced as if such illegal or invalid provisions had not been contained therein.
- (c) This Agreement and covenant shall run with the land, and be binding on all successors and heirs of the Owner of the property described on Exhibit "A" and "B" referenced herein.

6. Notices:

If to the City: City Manager
 P.O. Box 1390
 Cartersville, Georgia 30120
 770.387.5686

If to the Owner as
 Developer: Pulte Home Company, LLC
 2475 Northwinds Parkway, Suite 600
 Alpharetta, Georgia 30009
 706.844.7182

IN WITNESS WHEREOF, the parties hereto set their hands and affix their seals this ____ day of _____, 20 ____.

SIGNATORIES NEXT PAGE



Signed, sealed, and delivered in the presence of:

Witness

Notary Public

(NOTARIAL SEAL)

CITY OF CARTERSVILLE, GEORGIA

By: _____ (SEAL)
Mathew Santini, Mayor

Attest: _____ (SEAL)
Julia Drake, City Clerk

Signed, sealed, and delivered in the presence of:

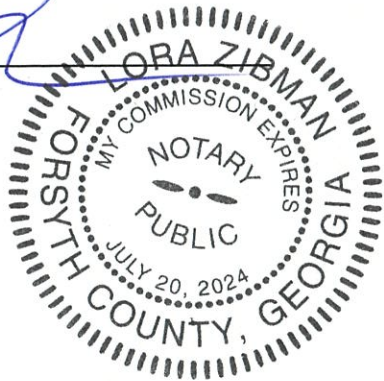
Jan Cochran

Witness

[Signature]

Notary Public

(NOTARIAL SEAL)



PULTE HOME COMPANY, LLC

By: *JG* _____ (SEAL)

Its: *Jason Garrett*
VP Land Development _____ (SEAL)



Prepared by and after Recording. Return to:

Hughes White Kralicek Short
2300 Windy Ridge Parkway
Suite 570 South
Atlanta, Georgia 30339
Attention: R. Matthew Short, Esq.

TAX MAP PARCEL NOS. 0059C-0002-001, 0059C-0002-002, 0059D-0001-007,
0059C-0001-001, 0059C-0001-002, 0059D-0001-015, 0059D-0001-016

GENERAL WARRANTY DEED

THIS INDENTURE is made as of the 29th day of December, 2023, by and between **C O BARTOW, LLC**, a Georgia limited liability company (the "Grantor"), and **PULTE HOME COMPANY, LLC**, a Michigan limited liability company, as party of the second part (the "Grantee") ("Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

W I T N E S S E T H:

FOR AND IN CONSIDERATION of the sum of TEN AND NO/100 DOLLARS (\$10.00) in hand paid and other good and valuable consideration delivered to Grantor by Grantee at and before the execution, sealing and delivery hereof, the receipt and sufficiency of which is hereby acknowledged, Grantor has and hereby does grant, bargain, sell and convey unto Grantee and the heirs, legal representatives, successors and assigns of Grantee all that tract or parcel of land lying and being in Land Lots 58 and 87 of the 5th District, Bartow County, Georgia, as more particularly described on **Exhibit "A"** attached hereto and incorporated by this reference (the "Property"). This conveyance is made subject to the permitted exceptions shown on **Exhibit "B"** attached hereto and incorporated by this reference (the "Permitted Exceptions").

TO HAVE AND TO HOLD the Property, together with all improvements thereon and any and all of the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining to, the only proper use, benefit and behoof of the Grantee and the heirs, legal representatives, successors and assigns of Grantee forever IN FEE SIMPLE.

GRANTOR SHALL WARRANT and forever defend the right and title to the Property unto the Grantee and the heirs, legal representatives, successors and assigns of Grantee against the claims of all persons whomsoever claiming by, through or under Grantor.

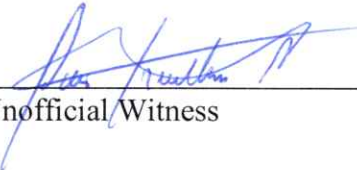
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Grantor has caused this deed to be executed under seal as of the day and year first above written.

Signed, sealed and delivered in the presence of:

GRANTOR:

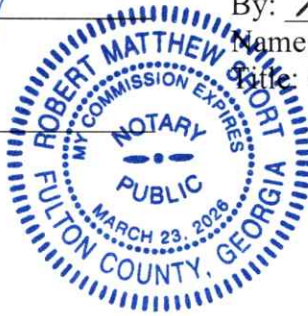

Unofficial Witness

C O BARTOW, LLC, a Georgia limited liability company


Notary Public

By: 
Name: Devaughn Pettit
Title: Co-Manager

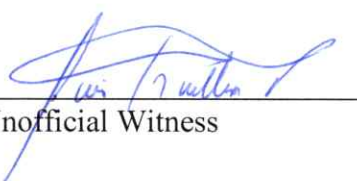
My Commission Expires: _____
[AFFIX NOTARIAL SEAL]




[COMPANY SEAL]

Signed, sealed and delivered in the presence of:

GRANTOR:


Unofficial Witness

C O BARTOW, LLC, a Georgia limited liability company


Notary Public

By: 
Name: Gerald E. Thompson
Title: Co-Manager

My Commission Expires: _____
[AFFIX NOTARIAL SEAL]



[COMPANY SEAL]

EXHIBIT "A"

LEGAL DESCRIPTION – PARCEL 1

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING SITUATED IN LAND LOTS 58 & 87, OF THE 5TH DISTRICT, 3RD SECTION IN BARTOW COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT AT THE INTERSECTION OF THE SOUTHERN RIGHT-OF-WAY (R/W) OF FIRE TOWER ROAD (VARIABLE PUBLIC R/W) AND THE WESTERN R/W OF U.S. HIGHWAY 41 (200' PUBLIC R/W); THENCE ALONG THE SOUTHERN R/W OF FIRE TOWER ROAD (VARIABLE PUBLIC R/W) WITH A BEARING OF N 88°47'52" W, A DISTANCE OF 732.75 FEET TO A POINT; THENCE WITH A BEARING OF N 88°47'52" W, A DISTANCE OF 187.14 FEET TO A POINT; THENCE WITH A BEARING OF N 86°21'14" W, A DISTANCE OF 346.30 FEET TO AN IRON PIN FOUND (#4 REBAR); THENCE WITH A BEARING OF N 86°22'31" W, A DISTANCE OF 20.57 FEET TO A POINT; THENCE IN A WESTERLY DIRECTION WITH A CURVE TURNING TO THE LEFT WITH A RADIUS OF 339.51 FEET, HAVING A CHORD BEARING OF S 70°23'21" W, A CHORD DISTANCE OF 268.10 FEET AND AN ARC LENGTH OF 275.61 FEET TO A POINT; THENCE WITH A BEARING OF S 47°08'01" W, A DISTANCE OF 50.11 FEET TO AN IRON PIN FOUND (#4 REBAR – BENT); THENCE WITH A BEARING OF S 47°47'44" W, A DISTANCE OF 37.86 FEET TO A POINT AND THE TRUE POINT OF BEGINNING.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED; THENCE LEAVING SAID R/W WITH A BEARING OF S 02°23'56" W, A DISTANCE OF 470.42 FEET TO A POINT; THENCE WITH A BEARING OF S 87°36'04" E, A DISTANCE OF 8.54 FEET TO A POINT; THENCE WITH A BEARING OF S 02°23'56" W, A DISTANCE OF 135.00 FEET TO A POINT; THENCE WITH A BEARING OF S 87°36'04" E, A DISTANCE OF 44.03 FEET TO A POINT; THENCE WITH A BEARING OF S 02°14'33" W, A DISTANCE OF 570.36 FEET TO A POINT; THENCE WITH A BEARING OF S 85°03'14" W, A DISTANCE OF 20.44 FEET TO A POINT; THENCE WITH A BEARING OF S 05°27'19" E, A DISTANCE OF 120.00 FEET TO A POINT; THENCE IN AN EASTERLY DIRECTION WITH A CURVE TURNING TO THE RIGHT WITH A RADIUS OF 1030.00 FEET, HAVING A CHORD BEARING OF N 85°42'28" E, A CHORD DISTANCE OF 41.82 FEET AND AN ARC LENGTH OF 41.82 FEET TO A POINT; THENCE WITH A BEARING OF S 03°07'45" E, A DISTANCE OF 185.00 FEET TO A POINT; THENCE IN AN EASTERLY DIRECTION WITH A CURVE TURNING TO THE RIGHT WITH A RADIUS OF 854.14 FEET, HAVING A CHORD BEARING OF S 85°54'45" E, A CHORD DISTANCE OF 212.30 FEET AND AN ARC LENGTH OF 212.85 FEET TO A POINT; THENCE WITH A BEARING OF S 78°46'24" E, A DISTANCE OF 380.69 FEET TO A POINT; THENCE WITH A BEARING OF S 86°27'27" W, A DISTANCE OF 360.30 FEET TO A POINT; THENCE WITH A BEARING OF S 86°28'09" W, A DISTANCE OF 886.40 FEET TO AN IRON PIN FOUND (#4 REBAR) ALONG THE EASTERN R/W OF HAMILTON CROSSING ROAD (50' PUBLIC R/W); THENCE ALONG SAID R/W WITH A BEARING OF N 03°20'49" E, A DISTANCE OF 25.01 FEET TO AN IRON PIN FOUND (#4 REBAR); THENCE WITH A BEARING OF N 11°46'37" E, A DISTANCE OF 561.84 FEET TO A POINT; THENCE WITH A BEARING OF S 87°15'51" W, A DISTANCE OF 29.21 FEET TO A POINT; THENCE IN A NORTHERLY DIRECTION WITH A CURVE TURNING TO THE LEFT WITH A RADIUS OF 1194.14 FEET, HAVING A CHORD BEARING OF

EXHIBIT "A"

N 07°47'19" W, A CHORD DISTANCE OF 112.84 FEET AND AN ARC LENGTH OF 112.88 FEET TO A POINT; THENCE WITH A BEARING OF N 10°37'36" W, A DISTANCE OF 333.38 FEET TO A POINT; THENCE WITH A BEARING OF N 10°37'31" W, A DISTANCE OF 41.09 FEET TO A POINT; THENCE IN A NORTHERLY DIRECTION WITH CURVE TURNING TO THE RIGHT WITH A RADIUS OF 75.00 FEET, HAVING A CHORD BEARING OF N 19°20'21" E, A CHORD DISTANCE OF 74.92 FEET AND AN ARC LENGTH OF 78.45 FEET TO A POINT AT THE INTERSECTION OF SAID R/W AND THE SOUTHEASTERN R/W OF FIRE TOWER ROAD (VARIABLE PUBLIC R/W); THENCE ALONG THE SOUTHEASTER R/W OF FIRE TOWER ROAD (VARIABLE PUBLIC R/W) WITH A BEARING OF N 49°18'18" E, A DISTANCE OF 221.09 FEET TO AN IRON PIN FOUND (#4 REBAR); THENCE WITH A BEARING OF N 47°47'44" E, A DISTANCE OF 562.14 FEET TO A POINT AND THE TRUE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 19.034 ACRES OF LAND.

EXHIBIT "B"**Permitted Exceptions**

1. Ad valorem real property taxes for the calendar year 2024, and all years subsequent thereto, and those taxes that become due or payable subsequent to Date of Policy, none of which are liens due or payable.
2. Rights of upper and lower riparian owners in and to the waters of creeks and branches crossing or adjoining subject property, free from diminution or pollution.
1. Easement from CH Pettit to Georgia Power Company, dated April 15, 1952, and recorded at Deed Book 97, page 360, Bartow County, Georgia Records.
2. Deleted.
3. Sanitary Sewer Easement from Henry DeVaughn Pettit to Bartow County Board of Education, dated August 26, 1986, and recorded at Deed Book 524, page 290, Bartow County, Georgia Records, (affects only Parcel 2).
4. Sanitary Sewer Easement from Mrs. Jane Cowan Wilson to Bartow County Board of Education, dated September 13, 1986, and recorded at Deed Book 524, page 291, Bartow County, Georgia Records.
5. Sanitary Sewer Easement from Clara B. Pettit to Bartow County Board of Education, dated August 28, 1986, and recorded at Deed Book 524, page 292, Bartow County, Georgia Records.
6. Sanitary Sewer Easement from Jane P. Cowan to Bartow County Board of Education, dated August 28, 1986, and recorded at Deed Book 524, page 293, Bartow County, Georgia Records.
7. Deleted.
8. Underground Easement from C O Bartow LLC to Georgia Power Company, dated April 8, 2021, and recorded at Deed Book 3324, page 859, Bartow County, Georgia Records, (affects only Parcel 2).
9. Underground Easement from C O Bartow LLC to Georgia Power Company, dated April 8, 2021, and recorded at Deed Book 3324, page 968, Bartow County, Georgia Records.
10. Underground Easement from C O Bartow LLC to Georgia Power Company, dated July 13, 2021, and recorded at Deed Book 3374, page 489, Bartow County, Georgia Records.
11. Underground Easement from C O Bartow LLC to Georgia Power Company, dated October 7, 2021, and recorded at Deed Book 3391, page 644, Bartow County, Georgia Records.
12. Underground Easement from C O Bartow LLC to Georgia Power Company, dated October 7, 2021, and recorded at Deed Book 3393, page 2, Bartow County, Georgia Records.
13. October 7, 2021, and recorded at Deed Book 3393, page 6, Bartow County, Georgia Records, (affects only Parcel 2).
14. Deleted.

EXHIBIT "B"

15. Underground Easement from C O Bartow LLC to Georgia Power Company, dated December 3, 2021, and recorded at Deed Book 3412, page 765, Bartow County, Georgia Records.
16. Underground Easement from C O Bartow LLC to Georgia Power Company, dated December 3, 2021, and recorded at Deed Book 3417, page 119, Bartow County, Georgia Records, (affects only Parcel 2).
17. Matters as shown on Plat Books 11, page 126, Bartow County, Georgia Records; Plat Book 50, page 206, Bartow County, Georgia Records; and Plat Book 56, page 115, Bartow County, Georgia Records, including the rights of others in and to that asphalt drive known as Pettit Circle crossing the easterly-most portions of subject property.
18. The following matters as shown on that ALTA/NSPS Land Title Survey for First American Title Insurance Company by Southland engineering, dated January 23, 2022, last revised ____, and identified as Job No. 21202-2:
19. Overhead power and water lines crossing the westerly and northerly boundary lines of subject property.
20. Underground Easement from C O Bartow, LLC to Georgia Power Company, dated December 3, 2021, and recorded at Deed Book 3417, page 119, Bartow County, Georgia Records (affects only Parcel 2).
21. Easement from C O Bartow, LLC to Georgia Power Company, dated December 3, 2021, and recorded at Deed Book 3424, page 879, Bartow County, Georgia Records (affects only Parcel 1).

21202
DATE: 8/22/23
REVISIONS:
1 10/19/23 COUNTY COMMENTS
2 11/29/23 WATER COMMENTS
3 2/9/24 GAS COMMENTS
4 4/29/24 GAS COMMENTS
5 6/11/24 POST PERMIT
6

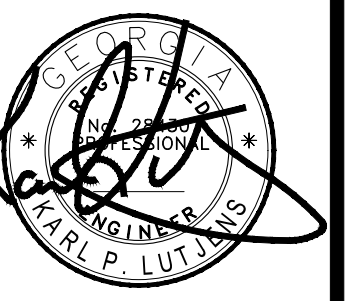
SOUTHLAND ENGINEERING

CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS

114 OLD MILL ROAD, CARTERSVILLE, GA 30120 PH: 770-387-0440 FAX: 770-607-5151

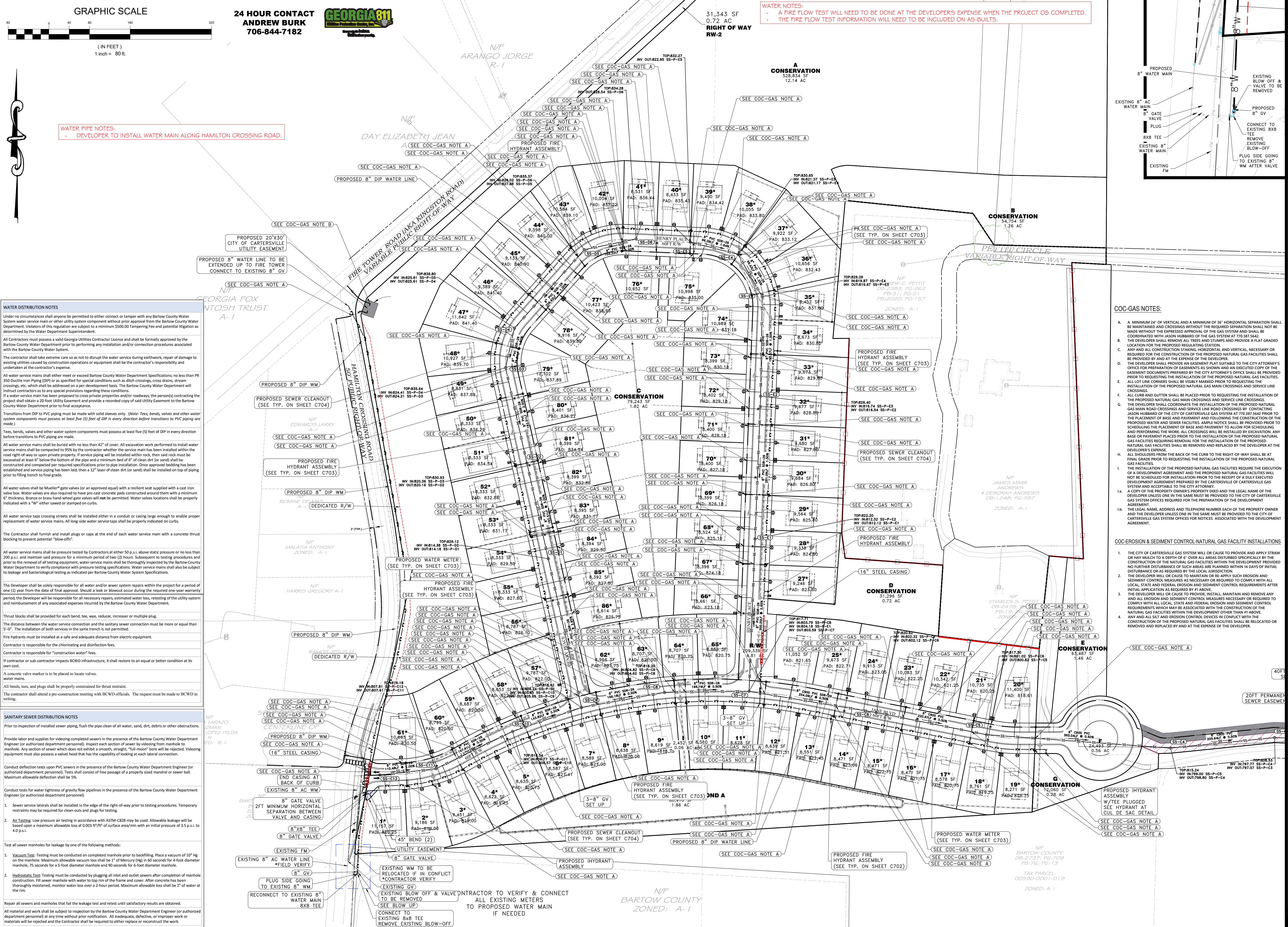
HAMILTON PLACE

LOCATED IN LAND LOTS 58 & 87
5TH DISTRICT, 3RD SECTION
BARTOW COUNTY, GEORGIA



SHEET TITLE:
UTILITY PLAN

SHEET NO.:
C301



WATER NOTES:
- A FIRE FLOW TEST WILL NEED TO BE DONE AT THE DEVELOPER'S EXPENSE WHEN THE PROJECT IS COMPLETED.
- THE FIRE FLOW TEST INFORMATION WILL NEED TO BE INCLUDED ON AS-BUILTS.

WATER PIPE NOTES:
- DEVELOPER TO INSTALL WATER MAIN ALONG HAMILTON CROSSING ROAD.

WATER DISTRIBUTION NOTES

Under no circumstances shall anyone be permitted to either connect or tamper with any Bartow County Water System water service main or other utility system component without prior approval from the Bartow County Water Department. Violations of this regulation are subject to a minimum \$500.00 Tampering Fee and potential litigation as determined by the Water Department Superintendent.

All Contractors must possess a valid Georgia Utilities Contractor License and shall be formally approved by the Bartow County Water Department prior to performing any installation and/or connection procedures associated with the Bartow County Water System.

The contractor shall take extreme care so as not to disrupt the water service during earthwork, repair of damage to existing utilities caused by construction operations or equipment shall be the contractor's responsibility and undertaken at the contractor's expense.

All water service mains shall either meet or exceed Bartow County Water Department Specifications; no less than PR 500 Ductile Iron Piping (DIP) or as specified for special conditions such as ditch crossings, cross drains, stream crossings, etc. which shall be addressed on a per-development basis. The Bartow County Water Department will instruct contractors as to any special provisions regarding these conditions.

If a water service main has been proposed to cross private properties and/or roadways, the person(s) contracting the project shall obtain a 20-foot Utility Easement and provide a recorded copy of said Utility Easement to the Bartow County Water Department prior to final acceptance.

Transitions from DIP to PVC piping must be made with solid sleeves only. (Note: Tees, bends, valves and other water system components must possess at least 15' feet of DIP in every direction before transitions to PVC piping are made.)

Tees, bends, valves and other water system components must possess at least five (5) feet of DIP in every direction before transitions to PVC piping are made.

All water service mains shall be buried with no less than 42" of cover. All excavation work performed to install water service mains shall be compacted to 95% by the contractor whether the service main has been installed within the road right-of-way or upon private property. If service piping will be installed within rock, then said rock must be excavated at least 6" below the bottom of the pipe and a minimum bed of 6" of clean dirt (or sand) shall be constructed and compacted per required specifications prior to pipe installation. Once approved bedding has been established and service piping has been laid, then a 3" layer of clean dirt (or sand) shall be installed on top of piping prior to filling trench to final grade.

All water valves shall be Mueller® gate valves (or an approved equal) with a resilient seat, supplied with a cast iron valve box. Water valves are also required to have pre-cast concrete pads constructed around them with a minimum 6" thickness. Bronze or brass hand-wheel gate valves will not be permitted. Water valves locations shall be properly indicated with a "W" either sawed or stamped on curbs.

All water service taps crossing streets shall be installed either in a conduit or casing large enough to enable proper replacement of water service mains. All long-side water service taps shall be properly indicated on curbs.

The Contractor shall furnish and install plugs or caps at the end of each water service main with a concrete thrust blocking to prevent potential "blow-outs".

All water service mains shall be pressure tested by Contractors at either 50 p.s.i. above static pressure or no less than 200 p.s.i. and maintain said pressure for a minimum period of two (2) hours. Subsequent to testing procedures and prior to the removal of all testing equipment, water service mains shall be thoroughly inspected by the Bartow County Water Department to verify compliance with pressure testing specifications. Water service mains shall also be subject to leakage and bacteriological testing as indicated per Bartow County Water System Specifications.

The Developer shall be solely responsible for all water and/or sewer system repairs within the project for a period of one (1) year from the date of final approval. Should a leak or blowout occur during the required one-year warranty period, the Developer will be responsible for all necessary repairs, estimated water loss, retesting of the utility system and reimbursement of any associated expenses incurred by the Bartow County Water Department.

Thrust blocks shall be provided for each bend, tee, wye, reducer, increaser or multiple plug.

The distance between the water service connection and the sanitary sewer connection must be more or equal than 5'-0". The installation of both services in the same trench is not permitted.

Fire hydrants must be installed at a safe and adequate distance from electric equipment.

Contractor is responsible for the chlorinating and disinfection fees.

Contractor is responsible for "construction water" fees.

If contractor or sub-contractor impacts BOWD infrastructure, it shall restore to an equal or better condition at its own cost.

A concrete valve marker is to be placed to locate valves, water mains.

All bends, tees, and plugs shall be properly constrained for thrust restraint.

The contractor shall attend a pre-construction meeting with BCWD officials. The request must be made to BCWD in writing.

SANITARY SEWER DISTRIBUTION NOTES

Prior to inspection of installed sewer piping, flush the pipe clean of all water, sand, dirt, debris or other obstructions.

Provide labor and supplies for videoing completed sewers in the presence of the Bartow County Water Department Engineer (or authorized department personnel). Inspect each section of sewer by videoing from manhole to manhole. Any section of sewer which does not exhibit a smooth, straight, "full-moon" bore will be rejected. Videoing equipment must also possess a swivel head that has the capability of looking at each lateral connection.

Conduct deflection tests upon PVC sewers in the presence of the Bartow County Water Department Engineer (or authorized department personnel). Tests shall consist of free passage of a properly sized mandrel or sewer ball. Maximum allowable deflection shall be 5%.

Conduct tests for water tightness of gravity flow pipelines in the presence of the Bartow County Water Department Engineer (or authorized department personnel).

- Sewer service laterals shall be installed to the edge of the right-of-way prior to testing procedures. Temporary restraints may be required for clean-outs and plugs for testing.
- Air Testing: Low pressure air testing in accordance with ASTM C828 may be used. Allowable leakage will be based upon a maximum allowable loss of 0.003 ft³/ft² of surface area/min with an initial pressure of 3.5 p.s.i. to 4.0 p.s.i.

Test all sewer manholes for leakage by one of the following methods:

- Vacuum Test:** Testing must be conducted on completed manhole prior to backfilling. Place a vacuum of 10" Hg on the manhole. Maximum allowable vacuum loss shall be 1" of Mercury (Hg) in 60 seconds for 4-foot diameter manhole, 75 seconds for a 5-foot diameter manhole and 90 seconds for 6-foot diameter manhole.
- Hydrostatic Test:** Testing must be conducted by plugging all inlet and outlet sewers after completion of manhole construction. Fill sewer manhole with water to top rim of the frame and cover. After concrete has been thoroughly moistened, monitor water loss over a 2-hour period. Maximum allowable loss shall be 2" of water at the rim.

Repair all sewers and manholes that fail the leakage test and retest until satisfactory results are obtained.

All material and work shall be subject to inspection by the Bartow County Water Department Engineer (or authorized department personnel) at any time without prior notification. All inadequate, defective, or improper work or materials will be rejected and the Contractor shall be required to either replace or reconstruct the work.

COC-GAS NOTES:

- A MINIMUM 24" OF VERTICAL AND A MINIMUM OF 36" HORIZONTAL SEPARATION SHALL BE MAINTAINED AND CROSSINGS WITHOUT THE REQUIRED SEPARATION SHALL NOT BE MADE WITHOUT THE EXPRESSED APPROVAL OF THE GAS SYSTEM AND SHALL BE COORDINATED WITH JASON HUBBARD OF THE GAS SYSTEM AT 770.387.5642.
- THE DEVELOPER SHALL REMOVE ALL TREES AND STUMPS AND PROVIDE A 4:1 GRADDED LOCATION FOR THE PROPOSED REGULATING STATION.
- ANY AND ALL CONSTRUCTION TRAILING, HORIZONTAL AND VERTICAL, NECESSARY OR REQUIRED FOR THE CONSTRUCTION OF THE PROPOSED NATURAL GAS FACILITIES SHALL BE PROVIDED BY AND AT THE EXPENSE OF THE DEVELOPER.
- THE DEVELOPER SHALL PROVIDE AN EASEMENT PLAT SUITABLE TO THE CITY ATTORNEY'S OFFICE FOR PREPARATION OF EASEMENTS AS SHOWN AND AN EXECUTED COPY OF THE EASEMENT DOCUMENTS PREPARED BY THE CITY ATTORNEY'S OFFICE SHALL BE PROVIDED PRIOR TO REQUESTING THE INSTALLATION OF THE PROPOSED NATURAL GAS FACILITIES.
- ALL LOT LINE CORNERS SHALL BE VISIBLY MARKED PRIOR TO REQUESTING THE INSTALLATION OF THE PROPOSED NATURAL GAS MAIN CROSSINGS AND SERVICE LINE CROSSINGS.
- ALL CURBS AND GUTTERS SHALL BE PLACED PRIOR TO REQUESTING THE INSTALLATION OF THE PROPOSED NATURAL GAS MAIN CROSSINGS AND SERVICE LINE CROSSINGS.
- THE DEVELOPER SHALL COORDINATE THE INSTALLATION OF THE PROPOSED NATURAL GAS MAIN ROAD CROSSINGS AND SERVICE LINE CROSSINGS BY CONTACTING JASON HUBBARD OF THE CITY OF CARTERSVILLE GAS SYSTEM AT 770.387.5642 PRIOR TO THE PLACEMENT OF BASE AND PAVEMENT AND FOLLOWING THE CONSTRUCTION OF THE PROPOSED WATER AND SEWER FACILITIES. AMPLE NOTICE SHALL BE PROVIDED PRIOR TO SCHEDULING THE PLACEMENT OF BASE AND PAVEMENT TO ALLOW FOR SCHEDULING AND PERFORMING THE WORK. ALL CROSSINGS WILL BE INSTALLED BY EXCAVATION. ANY BASE OR PAVEMENT PLACED PRIOR TO THE INSTALLATION OF THE PROPOSED NATURAL GAS FACILITIES SHALL BE REMOVED AND REPLACED BY THE DEVELOPER AT THE DEVELOPER'S EXPENSE.
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- A COPY OF THE PROPERTY OWNER'S PROPERTY DEED AND THE LEGAL NAME OF THE DEVELOPER UNLESS ONE IN THE SAME MUST BE PROVIDED TO THE CITY OF CARTERSVILLE GAS SYSTEM OFFICES REQUIRED FOR THE PREPARATION OF THE DEVELOPMENT AGREEMENT.
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COC-EROSION & SEDIMENT CONTROL-NATURAL GAS FACILITY INSTALLATIONS

- THE CITY OF CARTERSVILLE GAS SYSTEM WILL OR CAUSE TO PROVIDE AND APPLY STRAW OR HAY MULCH TO A DEPTH OF 6" OVER ALL AREAS DISTURBED SPECIFICALLY BY THE CONSTRUCTION OF THE NATURAL GAS FACILITIES WITHIN THE DEVELOPMENT PROVIDED NO FURTHER DISTURBANCE OF SUCH AREAS ARE PLANNED WITHIN 14 DAYS OF INITIAL DISTURBANCE OR AS REQUIRED BY THE LOCAL JURISDICTION.
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PROPOSED FIRE HYDRANT ASSEMBLY

PROPOSED FIRE HYDRANT ASSEMBLY (SEE TYP. ON SHEET C703)

PROPOSED FIRE HYDRANT ASSEMBLY (SEE TYP. ON SHEET C702)

PROPOSED WATER METER

PROPOSED WATER METER (SEE TYP. ON SHEET C703)

PROPOSED WATER METER (SEE TYP. ON SHEET C704)

PROPOSED SEWER CLEANOUT

PROPOSED SEWER CLEANOUT (SEE TYP. ON SHEET C704)

PROPOSED SEWER CLEANOUT (SEE TYP. ON SHEET C704)

PROPOSED 8" DIP WATER LINE

PROPOSED 8" DIP WATER LINE (SEE COC-GAS NOTE A)

PROPOSED 8" DIP WATER LINE (SEE COC-GAS NOTE A)

PROPOSED 8" DIP WATER LINE

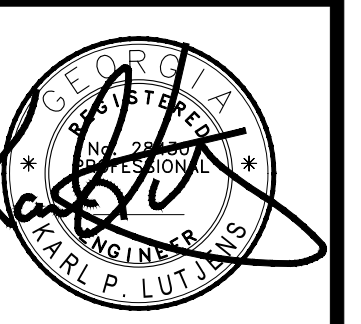
PROPOSED 8" DIP WATER LINE (SEE COC-GAS NOTE A)

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REVISIONS:	DATE	DESCRIPTION
1	10/19/23	COUNTY COMMENTS
2	11/17/23	WATER COMMENTS
3	2/9/24	WATER COMMENTS
4	4/29/24	COUNTY COMMENTS
5	6/11/24	POST PERMIT
6		POST PERMIT

SOUTHLAND ENGINEERING
 CIVIL ENGINEERS - LAND SURVEYORS - LAND PLANNERS
 114 OLD MILL ROAD, CARTERSVILLE, GA 30120 PH: 770.387.0440 FAX: 770.607.5151

HAMILTON PLACE
 LOCATED IN LAND LOTS 58 & 87
 5TH DISTRICT, 3RD SECTION
 BARTOW COUNTY, GEORGIA

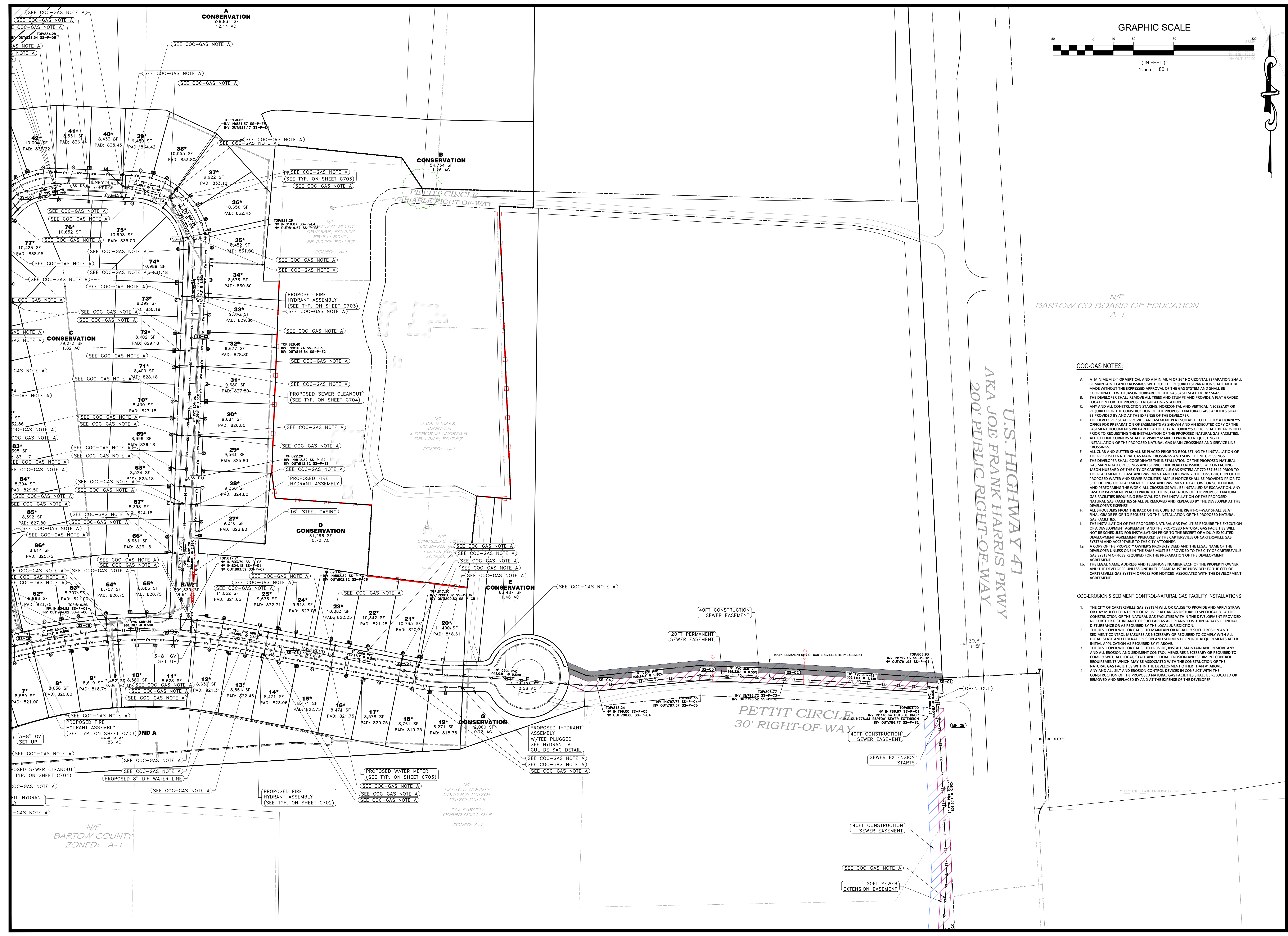
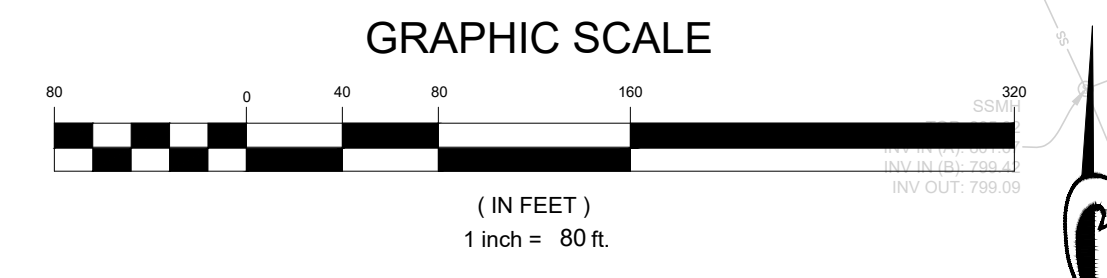


SHEET TITLE:

UTILITY PLAN

SHEET NO.:

C302



N/F
 BARTOW CO BOARD OF EDUCATION
 A-1

U.S. HIGHWAY 41
 AKA JOE FRANK HARRIS PKWY
 200' PUBLIC RIGHT-OF-WAY

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** L13 AND L14 INTENTIONALLY OMITTED **

ARCHER & LOVELL, PC
P. O. Box 1024
Cartersville, GA 30120
Title Examination Not Performed

EASEMENT

GEORGIA, BARTOW COUNTY

For and in consideration of the sum of TEN DOLLARS AND 00/100 (\$10.00), and other good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, the undersigned _____, does hereby grant and convey unto the City of Cartersville, a municipal corporation of the State of Georgia (hereinafter referred to as "City"), its successors and assigns, a permanent utility for the construction, and operation, maintenance and use of utilities on the following described property for use for utility infrastructure, related appurtenances across and upon the land owned by the undersigned which is described as follows:

All that tract or parcel of land lying and being Land Lots ### of the #TH District, #RD Section of Bartow County, Georgia being more particularly described on a sketch of a ##### square foot proposed easement dated Date, prepared for the City of Cartersville attached herewith as Exhibit "A" and incorporated herein by reference, being a ##' x ##' permanent utility easement as indicated on said sketch.

This Easement shall include the right of ingress and egress, at all times, for the purpose of installation, inspection, operation, repairs, renewal, maintenance, alteration, extension, removal and replacement of said utilities, together with the right to use and operate the same continuously and in perpetuity.

Grantor reserves the right to use the easement for purposes that will not interfere with Grantee's full enjoyment of the rights granted by this instrument. Grantor, however, must not erect or construct any building or other structure, or

drill or operate any well, locate any other utility infrastructure therein, construct any reservoir or other obstruction of the easement or diminish or substantially add to the ground cover in the easement.

Grantor shall not construct a drive or road over the easement area except crossings approved by Grantee. It is expressly understood by Grantor that such crossings approved by Grantee will not be replaced, repaved or restored in any manner by Grantee in the event such crossings are to be removed by Grantee to exercise the rights of this easement.

The City shall pay all damages to fences and crops which may be suffered by reason of installation, maintenance, or alteration of said public right of way and appurtenances thereto. If not mutually agreed upon, said damages are to be ascertained and determined by three disinterested persons, one thereof to be appointed by the owner of the premises, one by the City, and the third by the two so appointed as aforesaid, and the award of the two of such three persons shall be final and conclusive.

The granting of this easement shall not operate to vest in grantor(s) any title or interest in the equipment or installation made by the City and any property installed by the City shall remain the sole property of the City.

SPECIAL STIPULATIONS: NONE

TO HAVE AND TO HOLD all and singular the aforesaid rights, privileges, and easements hereinabove set out to the proper use and enjoyment by the City, its successors and assigns.

The said City shall not be liable for any statements, agreement, or understanding not herein expressed.

IN WITNESS WHEREOF, the said undersigned has hereunto set their hand and seal this ____ day of _____, 200__.

Signed, sealed and delivered
in the presence of: _____
NAME

Witness

Notary Public

My Commission Expires



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Administration
AGENDA ITEM TITLE:	EAP Plan for First Responders
DEPARTMENT SUMMARY RECOMMENDATION:	This EAP will provide first responder-centric counseling and training to our Fire Fighters and Officers and their families. The counseling will include six sessions per employee or family member to address traumatic on-the-job experiences and mandated counseling, when necessary. The EAP will also provide services to supervisors whereby they can call to get guidance on specific matters, as well as supervisor and peer-to-peer training. The annual cost for the EAP services is \$5,832.00.
LEGAL:	N/A

CONTRACTUAL AGREEMENT
Behavioral Health Assistance Program Contract

ONE SOURCE COUNSELING & EMPLOYEE ASSISTANCE SERVICES LLC

AND

CITY OF CARTERSVILLE

AGREEMENT made this day of _____ by and between ONE SOURCE COUNSELING & EMPLOYEE ASSISTANCE SERVICES, an LLC with a principal office located at 1203 Tahoe Place Canton Georgia 30114 (hereinafter referred to as “One Source”) and the City of Cartersville, a municipal corporation of the State of Georgia; and

WHEREAS, One Source is engaged in the business of providing Behavioral Health Assistance Program Services, hereinafter referred to as “One Source”; and the City Cartersville wishes to provide such services to its employees and their immediate family members,

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein made, and to be kept and performed by the parties, One Source and the City of Cartersville covenant and agree as follows:

Terms: The Terms of this Agreement shall be for twelve (12) months, commencing on July 1, 2024. Without notification by one of the parties (see Termination), this agreement will automatically renew for another 12-month term with a maximum of five (5) one-year renewals. The City of Cartersville retains One Source to perform counseling services in the manner and to the extent required by the Parties herein; and as may be hereafter amended or extended in writing by mutual agreement of the parties.

Services: One Source will provide the following services under this agreement:

The City of Cartersville will receive YTD Utilization Reports; other reports will be provided as needed depending on the case.

1. We recommend that we be contacted immediately in the following situations:
 - a. Critical incident involving public safety personnel (use of firearms, injury/death of police or fire personnel, suicide of police or fire personnel, unusual or aberrant behavior of public safety personnel, civilian mass casualty incident, or response call of unusual heinous nature). One Source collaborates with local Peer Support Teams and the Officer of Public Safety Peer Support for Critical Incident response.
 - b. Sudden on-the-job death of an employee, serious injury to an employee, threatening behavior of an employee, suicidal/homicidal ideation of an employee.

Our initial response time by phone for any emergency or crisis situation is within 1-2 hours. If further intervention is required, our response tie for Critical Incidents is within

24-72 hours of the incident for Public Safety personnel. All other incidents the situation, but most often will be responded to within 1-2 days of the incident.

2. Our phone number 770-683-1327 is the intake number. It is available 24/7/365. Counselors and/or treatment will be available for emergency incidents and typically are utilized when someone needs urgent contact or has a need to be assessed and/or admitted to a mental health/substance use facility.

Counselors are available to take calls for non-emergency situations. Dr. Wesselink is available to take calls during non-business hours and on holidays. Requests for initial appointments are taken between the hours of 8:00AM and 6:00PM Monday through Friday, including holidays.

3. Sessions are available for employees and/or family member(s) per issue. We are also able to authorize additional sessions on a case-by-case basis. For these “extra session” cases Dr. Wesselink will consult with the counselor to determine the best course of action.
4. Typically, 85% of cases are resolved within the EAP through short-term counseling, and 15% referred out. The majority of referrals are made to psychiatric physicians or to mental health/substance abuse facilities.
5. The counselors determine if a referral needs to be made, typically by the 3rd or 4th session and handled in this manner.

The client is informed that a referral is indicated and the counselor then works with the client to locate services within the client’s insurance program, or attempts to find services at nominal fees. We have made phone calls on behalf of the client to facilitate a referral, oftentimes having the client speak to the referred service while they are in session with the counselors.

6. Workplace referrals are typically made when clients are mandated to see the EAP counselor. Frequently this is when a policy has been broken. The client is informed by the employer that, based on policy, they are being sent to the counselor for assessment. The “Supervisor Referral Form” is filled out by the employer and signed by the mandated client. These clients are eligible for their EAP sessions, and the counselor is able to make the determination that a referral is or is not applicable depending upon the situation. The client is informed that confidentiality is negligible due to the circumstance. Releases are signed giving the counselor authority to communicate with the Point of Contact (POC) at the City. Compliance and treatment recommendations are clearly explained to the client and reported to the POC during the assessment period. Any referrals are also reported to the POC and releases are signed as well so that communication can continue during the case management process. One Source recommends that a “Return to Work Agreement” be discussed with the client who then signs it with the knowledge that all recommendations must be carried out as a condition of continued employment (according to policy).

7. Community Resources:

- a. AA, NA, AL-Anon
- b. Ridgeview Institute in Smyrna Georgia
- c. Peachford Hospital in Dunwoody Georgia
- d. Talbott Recovery in Forest Park Georgia
- e. IMA Group for Fitness for Duty examinations
- f. FHE-Shatterproof in Deerfield Beach Florida
- g. Harbor of Grace in Baltimore Maryland

8. Brochures, wallet cards and newsletters are included in the contract fee.

9. One Source has almost 25 years of facilitating required training to supervisors, managers, and employees. We ensure that the facilitators have expertise in the topic. We have a policy of communicating with our organizations prior to trainings in order to determine the exact type of information requested.

10. One Source offers the following Supervisor/Management training:

- a. Orientation to the EAP program
- b. Drug Free Workplace topics
- c. How to Identify and Confront Troubled Employees
- d. How and When to Make a Supervisory Referral/Types of Referrals
- e. Harassment/Diversity

Upon execution of this Agreement by all parties, One Source Counseling shall commence providing: Behavioral Health Assistance Program (BHS) services using a six (6) session model to City of Cartersville Fire and Police Department for up to 121 employees and eligible family members. Up to six counseling sessions will be provided by appointment, and for each City of Cartersville Fire and Police Department employee and/or the eligible family members of an employee during the term of this agreement. Routine appointments will be taken during normal business hours at 770-683-1327 (from 9am to 5pm M-F, excluding national holidays). Appointment no-shows will be considered a session. One Source will provide up to three (3) one-hour in-service training sessions per year by request of City of Cartersville Fire and Police Department, and up to four (4) one-hour orientation sessions in the first year. Unlimited Critical Incident Stress consulting is also included. Telephonic consultation with managers and/or supervisors is unlimited at no additional charge.

Non-disclosure: One Source acknowledges that the City of Cartersville may provide One Source with information, which may constitute material non-public information concerning the City of Cartersville. One Source agrees that it will maintain in confidence and will not disclose to any third party or use for its own benefit (other than for performance of services under this Agreement) any confidential or proprietary data, inventions or other information disclosed to One Source by the City of Cartersville. One Source further agrees to take all reasonable precautions to prevent any unauthorized disclosures of any such information.

One Source acknowledges that these obligations shall survive the termination of this agreement without regard to the reason for such termination.

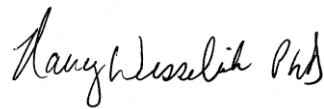
Termination: This agreement may be terminated with (90) ninety days written notice by either party. At termination, any monies due OneSource for services provided are payable within 30 days.

Compensation: As Compensation for EAP services rendered under this Agreement, One Source Counseling shall be entitled to a payment from the City of Cartersville in the amount of \$5832.00 per one year contract term. Contract may renew automatically for up to five (5) 1-year terms with agreement of both parties. Fee for each year (July 1, 2024 – June 1, 2025), will be reviewed at the end of each previous year to determine whether the fee for the current year will increase, decrease or remain the same based on utilization.

IN WITNESS HEREOF, the parties hereto have set their hands and seals.

City of Cartersville, Georgia

One Source Counseling and
Employee Assistance Services LLC



Matthew J. Santini, Mayor

Nancy Wesselink, Ph.D., LMSW CEAP
Director

Attested to by:

Date: _____

Julia Drake, City Clerk

Date: _____



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Public Works
AGENDA ITEM TITLE:	Grassdale Rd Improvement Project (GDOT PI No. 0016628) – Project Framework Agreement for Construction
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The Project Framework Agreement (PFA) for the Grassdale Road Improvement Project has been sent to the City of Cartersville from the Georgia Department of Transportation (GDOT) for Cartersville to approve. It is noted in the agreement there has been 80% of \$3,506,749.00 or \$2,805,399.20 approved for the construction and associated utility work through the Transportation Alternatives Program (TAP) grant. This grant is an 80/20 grant meaning the grant covers 80% of the total cost with there being a 20% local match between the City of Cartersville and Bartow County with each contributing \$350,674.90 or 10% of the overall construction costs which includes costs such as construction engineering, inspections, and project oversight by GDOT. The cost of the various project construction line items are non-budgeted costs that will be paid for by SPLOST and split evenly between Bartow County and the City of Cartersville.</p> <p>As previously mentioned, project oversight cost is included as part of the overall construction cost per the PFA. In the PFA it is noted that the estimated amount for the GDOT Construction Oversight of this project is \$10,000.00. According to the construction PFA for this project, the local contribution for GDOT Construction Oversight is \$2,000.00. This cost is a non-budgeted item that will be paid for by SPLOST and split evenly between Bartow County and the City of Cartersville.</p> <p>Public Works recommends approval of the PFA with the Georgia Department of Transportation to keep this project moving forward through construction. Once the PFA is fully executed, the project will be awarded, and a preconstruction meeting will be coordinated.</p>
LEGAL:	N/A



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

Meeting: July 18, 2024 Item8.

June 25, 2024

Honorable Matt Santini, Mayor
City of Cartersville
10 N Public Square
Cartersville, Georgia 30120-3326

ATTN: Mr. Wade Wilson, City Engineer

Subject: **Construction Agreement for Execution**
P.I. 0016628, Bartow County
Grassdale Road from SR 293 to SR 3/SR 20

Dear Mayor Santini,

The Department accepts the recommendation from the City of Cartersville to award Backbone Infrastructure, LLC the contract for construction services concerning the above referenced project. In addition, the Department is requesting that City of Cartersville submit payment for Construction Oversight activities that will be used to fund GDOT staff man-hours and any other associated expenses incurred by any GDOT employee. The estimated amount for the GDOT Construction Oversight is \$10,000.00 Eighty percent of that amount (\$8,000.00) will be paid through federal funding. The remaining 20% (\$2,000.00) is to be paid by the City of Cartersville. **Please send payment in the amount of \$2,000.00 made out to the Georgia Department of Transportation as follows and include the above P.I. No. on the transaction:**

For payments made by check:
Georgia Department of Transportation
P.O. Box 932764
Atlanta, GA 31193-2764

For payments made by ACH:
Bank Routing (ABA) # 121000248
Account # 29794840000000007

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

Should you have any questions or concerns, please contact the Department's Project Manager, Michael Lawing, at 678-728-9056.

Sincerely,

Kimberly W. Nesbitt
State Program Delivery Administrator

KWN:CAR:MSL:MSL
Attachments

Cc: General Accounting, ARBillings@dot.ga.gov
Albert V. Shelby III, Director of Program Delivery
Grant Waldrop, District 6 Engineer
Brian Whelchel, District 6 Construction Manager

CONSTRUCTION AGREEMENT
Between
GEORGIA DEPARTMENT OF TRANSPORTATION
and
CITY OF CARTERSVILLE

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

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

This Construction Agreement, made and entered into this _____ (the "Effective Date"), by and between the GEORGIA DEPARTMENT OF TRANSPORTATION, an agency of the State of Georgia, hereinafter called the "DEPARTMENT", and CITY OF CARTERSVILLE, GEORGIA, hereinafter called the "SPONSOR" (the "Agreement").

WHEREAS, the SPONSOR has been approved by the DEPARTMENT to carry out a Federal-aid Project which consists of the construction of Project P.I. 0016628, hereinafter referred to as the "PROJECT"; and

WHEREAS, the DEPARTMENT is authorized to receive federal funding for Projects for Georgia pursuant to provisions of 23 U.S.C. Section 133(b)(8); and

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

WHEREAS, the DEPARTMENT desires to participate with the SPONSOR in the implementation of the PROJECT; and

WHEREAS, the SPONSOR has represented to the DEPARTMENT that it has the authority to receive and expend federal funds for the purpose of this PROJECT and is qualified and experienced to provide such services necessary for the construction of the PROJECT and the DEPARTMENT has relied upon such representations; and

WHEREAS, under Section 32-2-2(a)(7) of the Official Code of Georgia Annotated ("O.C.G.A."), the DEPARTMENT is authorized to participate in such an undertaking:

NOW, THEREFORE, in consideration of the mutual promises and covenant contained herein, it is agreed by and between the DEPARTMENT and the SPONSOR THAT:

ARTICLE I
SCOPE AND PROCEDURE

The SCOPE AND PROCEDURE for this PROJECT shall be to provide pedestrian connectivity and improve driver operations along a narrow, rural section of Grassdale Road in a residential area of the City of Cartersville. Grassdale Road is a minor arterial traveling in the north-south direction for approximately 1.15 miles. Beginning along the northbound right turn auxiliary lane on Cassville Road/SR 293 and ends at Joe Frank Harris Parkway/US 41/SR 3/SR 20. The project will provide 2 ft curb & gutter, 2 ft grass strip, and 5 ft concrete sidewalk, as set forth in Exhibit A, the "WORK PLAN", which is further defined by the PROJECT estimate sheets ("PROJECT PLANS") on file with the DEPARTMENT and the SPONSOR and referenced as if attached hereto and incorporated as if fully set forth herein.

The SPONSOR shall be responsible for assuring that the PROJECT will be economically feasible and based upon sound engineering principles, meet American Association of State Highway and Transportation Officials ("AASHTO") Guidelines and will be sensitive to ecological, environmental, and archaeological issues.

The WORK PLAN sets out the scope of work for the PROJECT. It is understood and agreed that the DEPARTMENT shall participate only in the PROJECT as specified in Exhibit "A", WORK PLAN.

The SPONSOR shall work with the Georgia Department of Transportation District 6 to advise the SPONSOR on the WORK PLAN and provide guidance during implementation of the PROJECT.

During the development of the PROJECT the SPONSOR has taken into consideration, as applicable, the DEPARTMENT'S Standard Specifications for the Construction of Roads and Bridges, AASHTO guidelines; Federal Highway Administration ("FHWA") guidelines; compliance with the U.S. Secretary of the Interior "Standards and Guidelines, Archaeology and Historic Preservation"; compliance with Section 106 of the National Historic Preservation Act of 1966 and with Section 4(f) of the US DOT Act of 1966; compliance with the Archaeology and Historic Preservation Act of 1974; compliance with the Archaeological Resources Protection Act of 1979 and with the Native American Graves Protection and Repatriation Act, the Georgia Abandoned Cemeteries and Burial Grounds Act of 1991; compliance with the DEPARTMENT'S Scenic Byways Designation and Management Program, and with the American Society of Landscape Architect Guidelines; compliance with the Outdoor Advertising Requirements as outlined in the Official Code of Georgia Annotated, Section 32-6-70 et.seq. and other standards and guidelines as may be applicable to the PROJECT.

The SPONSOR has acquired rights of way, if required, and related services for the PROJECT in accordance with State and Federal Laws, DEPARTMENT's Right of Way Procedure Manual, Federal Regulations and particularly Title 23 and 49 of the Code of Federal Regulations ("CFR"), as amended. The SPONSOR further acknowledges that no acquisition of rights of way occurred until all applicable archaeological, environmental, and historical preservation clearances were approved.

The SPONSOR shall be solely responsible for construction of the PROJECT and the procurement of and execution of all applicable agreement(s) required to provide for any and all construction services required to construct the PROJECT. Construction shall be accomplished in accordance with the terms and conditions set forth in this Agreement, 23 CFR 1 (*specifically see also 23 CFR §1.9 (Limitation on Federal Participation) and §1.27 (Maintenance)*) and 23 CFR 645 (Utilities), as well as Section 101 of Title 23 of the United States Code ("USC" or "U.S.C.") (Definitions-Construction) and 23 USC 116 (Maintenance), the DEPARTMENT's Locally Administered Projects ("LAP") Manual, and all applicable design guidelines and policies of the DEPARTMENT in order to produce a cost effective PROJECT. Failure to follow all applicable guidelines and policies will jeopardize the reimbursement of federal funds in some or all categories outlined in this Agreement, and it shall be the responsibility of the SPONSOR for any loss of funding.

The SPONSOR shall ensure that all contracts as well as any subcontracts for the construction of the PROJECT shall comply with the Federal and State legal requirements imposed on the DEPARTMENT and any amendments thereto. The SPONSOR is required and does agree to abide by those provisions governing the DEPARTMENT's authority to contract, specifically, but not limited to Sections 32-2-60 through 32-2-77 of the Official Code of Georgia Annotated; the DEPARTMENT's Rules and Regulations governing the Prequalification of Prospective Bidders, Chapter 672-5; and the DEPARTMENT's "Standard Specifications", current edition; "Supplemental Specifications Book", current edition; and any Supplemental Specifications and Special Provisions as applicable for the PROJECT.

The SPONSOR further agrees to comply with and shall require the compliance and physical incorporation of Federal Form FHWA-1273 into all contracts or subcontracts for construction, as attached hereto and incorporated herein as Exhibit "B," REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS.

The SPONSOR shall be solely responsible for letting the PROJECT to construction, for the execution of all applicable agreements, and for securing and awarding the construction contract for the PROJECT.

The work shall be procured by the SPONSOR and subcontracted through the appropriate procurement process to a private contractor or government entity as may be appropriate. If the work is performed by a private contractor, the SPONSOR is responsible for preparing the bid contract documents and letting the work out for bid in accordance with the express limitations provided in this Agreement, the DEPARTMENT'S LAP Manual or any other applicable provisions of State law. Upon opening bids, the SPONSOR shall award the PROJECT to the lowest reliable bidder. The SPONSOR shall follow the requirements of the DEPARTMENT'S LAP Manual and remain LAP certified during the term of this Agreement.

Prior to award of the PROJECT, the SPONSOR shall submit to the DEPARTMENT a bid tabulation and the SPONSOR'S recommendation for awarding the PROJECT. The DEPARTMENT will review the information focusing on budget proposals and issue a written recommendation to award or reject the bids. If a recommendation to award is given by the DEPARTMENT, the DEPARTMENT shall issue a written Notice to Proceed to construction. No work shall begin until this Notice to Proceed has been issued to the SPONSOR.

The SPONSOR will be responsible for performing the construction, inspection, supervision, and documentation. At the discretion of the DEPARTMENT, spot inspection and material testing will be performed by the DEPARTMENT when deemed necessary by the DEPARTMENT and pursuant to the LAP Manual.

ARTICLE II COVENANTS AGAINST CONTINGENT FEES

The SPONSOR shall comply with all relevant requirements of Federal, State, and local laws including but not limited to those applicable requirements as outlined in Exhibit "B," REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS. The SPONSOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the SPONSOR, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the SPONSOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the DEPARTMENT shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price

or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE III
REVIEW OF WORK

Authorized representatives of the DEPARTMENT and the FHWA, may at all reasonable times review and inspect the activities and data collected under the terms of this Agreement and amendments thereto, including but not limited to, all reports, drawings, studies, specifications, estimates, maps, and computations, prepared by or for the SPONSOR. The DEPARTMENT reserves the right for reviews and acceptance on the part of effected public agencies, railroads, and utilities insofar as the interest of each is concerned.

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

ARTICLE IV
TIME OF PERFORMANCE

TIME IS OF THE ESSENCE IN THIS AGREEMENT. The SPONSOR shall perform its responsibilities for the PROJECT, commencing on receipt of written "Notice to Proceed" from the DEPARTMENT, shall complete the Project no later than 365 Calendar Days after receipt of the written "Notice to Proceed" (based on the construction time). The work shall be carried on in accordance with the schedule attached to this Agreement as Exhibit "C," WORK SCHEDULE, with that unforeseen events may make necessary some minor variations in that schedule.

The work shall be carried on expeditiously, it being understood, however, that this Agreement may be extended or continued in force by mutual consent of the parties and evidenced by a written amendment thereto.

ARTICLE V
RESPONSIBILITY FOR CLAIMS AND LIABILITY

The SPONSOR shall, to the extent permitted by law, be responsible for any and all damages to property or persons and shall save harmless the DEPARTMENT, its officers, agents and employees from all suits, claims, actions or damages of any nature whatsoever resulting from the

negligence of the SPONSOR in the performance of the work under this Agreement.

It is understood by the SPONSOR that claims, damages, losses, and expenses may include monetary claims made by the construction contractor for the PROJECT, and its related facilities, that are a result of the SPONSOR's negligence or improper representation in the plans.

The SPONSOR shall ensure that the provisions of this Article are included in all contracts and subcontracts.

These indemnities shall not be limited by reason of any insurance coverage held by the SPONSOR or the SPONSOR's contractors or subcontractors.

ARTICLE VI INSURANCE

The SPONSOR shall provide insurance under this Agreement as follows:
1. It is understood that the SPONSOR (complete the applicable statement):

shall, obtain coverage from SPONSOR's private insurance company or cause SPONSOR's consultant/contractor to obtain coverage

OR

is self-insured.

Prior to beginning work, the SPONSOR shall furnish to the DEPARTMENT, a copy of the certificates and the endorsement page for the minimum amounts of insurance indicated below in this Article VI (Insurance) of the Agreement.

The SPONSOR shall list the "State of Georgia, its officers, employees and agents, GDOT, 600 W Peachtree St NW, Atlanta, Georgia 30308" as the certificate holder and as an additional insured. The policy shall protect the SPONSOR and the Georgia Department of Transportation (as an additional insured) from any claims for bodily injury, property damage, or personal injury covered by the indemnification obligations set forth herein throughout the duration of the Agreement. The SPONSOR shall maintain the following insurance coverage during the term of the Agreement, in at least the minimum amounts set forth below, to cover all loss and liability for damages on account of bodily injury, including death therefrom, and injury to or destruction of property caused by or arising from any and all services carried on and any and all work performed by the SPONSOR pursuant to this Agreement:

a) Workers Compensation Insurance (Occurrence) in the amounts of the statutory limits established by the General Assembly of the State of Georgia (A self-insurer must submit a certificate from the Georgia Board of Workers Compensation stating that the SPONSOR qualifies to pay its own workers compensation claims.) In addition, the SPONSOR shall require all subcontractors occupying the premises or performing work under the Agreement to obtain an insurance certificate showing proof of Workers Compensation Coverage with the following minimum coverage:

- (1) Bodily injury by accident - per employee \$100,000;
- (2) Bodily injury by disease - per employee \$100,000;
- (3) Bodily injury by disease - policy limit \$500,000.

b) Commercial General Liability Policy with at least the following minimum coverage:

- (1) Each Occurrence Limit \$1,000,000
- (2) Personal & Advertising Injury Limit \$1,000,000
- (3) General Aggregate Limit \$3,000,000
- (4) Products/Completed Ops. Aggregate Limit \$2,000,000

c) Automobile Liability with at least the minimum coverage:

- (1) Combined Single Limit \$1,000,000 to cover vehicles, owned, leased or rented by the SPONSOR.

B. Insurance Certificates and General Requirements: Certificates must reference the contract number. No contract performance shall occur unless and until the required insurance certificates are provided. The insurance certificate must document that the liability coverage purchased by the SPONSOR includes contractual liability coverage to insure the indemnity agreement as stated in herein. In addition, the insurance certificate must provide the following information:

1. Name, address, signature and telephone number of authorized agents.
2. Name and address of insured.
3. Name of Insurance Company.
4. Description of coverage in standard terminology.
5. Policy number, policy period and limits of liability.
6. Name and address of State Agency as certificate holder.
7. Thirty (30) day written notice of cancellation.
8. Details of any special policy exclusions.

C. Excess Liability Coverage: To achieve the appropriate coverage levels, a combination of a specific policy written with an umbrella policy covering liabilities above stated limits is acceptable.

D. The foregoing policies shall contain a provision that coverage afforded under the policies will not be canceled, or not renewed or allowed to lapse for any reason until at least thirty (30) days prior

written notice has been given to the DEPARTMENT. Certificates of Insurance showing such coverage to be in force shall be filed with GDOT prior to commencement of any work under the Agreement. The foregoing policies shall be obtained from insurance companies licensed to do business in Georgia and shall be with companies acceptable to GDOT, which must have a minimum A.M. Best rating of A-. All such coverage shall remain in full force and effect during the term and any renewal or extension thereof.

E. No Waiver of Subrogation: There is no waiver of subrogation rights by either party with respect to insurance. If and to the extent such damage or loss (including costs and expenses) as covered by the indemnification set forth herein is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds established and maintained by the State of Georgia Department of Administrative Services Risk Management Division or any successor agency (all such funds hereinafter collectively referred to as the "Funds"), in satisfaction of any liability, whether established by judgment or settlement, the SPONSOR agrees to reimburse the Funds for such monies paid out by the Funds.

ARTICLE VII COMPENSATION AND PAYMENT

It is agreed that the compensation hereinafter specified includes both direct and indirect costs chargeable to the PROJECT under generally accepted accounting principles and as allowed in the Federal Acquisition Regulations ("FAR") Subpart 31.6 and not prohibited by the Laws of the State of Georgia.

It is understood and agreed that the total estimated construction cost of the PROJECT as outlined in this Article and as shown in Exhibit "D," BUDGET ESTIMATE, attached hereto and incorporated as if fully set out herein, is three million, five hundred six thousand, seven hundred forty-nine dollars and zero cents (\$3,506,749.00). The total estimated cost of the PROJECT to be financed using Federal/State programmed funds through the Georgia Department of Transportation is two million, eight hundred five thousand, three hundred ninety-nine dollars and twenty cents (\$2,805,399.20), which is the total Federal contribution to the PROJECT and is the maximum amount of the DEPARTMENT's obligation. The approved PROJECT budget shall include any claims by the SPONSOR for all costs incurred by the SPONSOR in the conduct of the entire scope of work for the PROJECT.

The SPONSOR shall be solely responsible for any and all amounts in excess of the federal/state contribution. In no event shall the Federal/State contribution of the project exceed two million, eight hundred five thousand, three hundred and ninety-nine dollars and twenty cents (\$2,805,399.20), which is the DEPARTMENT'S maximum obligation.

It is understood and agreed that nothing in the foregoing shall prevent an adjustment of the estimate of the PROJECT costs, provided that the DEPARTMENT'S maximum obligation under this Agreement is not exceeded and that the original intent of the PROJECT is not substantially altered from the approved PROJECT. In order to adjust said budget estimate, it is also understood that the SPONSOR shall request any and all budget changes in writing and that the DEPARTMENT shall approve or disapprove the requested budget estimate change in writing.

The SPONSOR shall submit to the DEPARTMENT monthly reports of the PROJECT'S progress to include a report on what was accomplished during the month, anticipated work to be done during the next month and any problems encountered or anticipated. Payment on account of the above fee will be made monthly on the basis of calendar months, in proportion to the percentage of the work completed for each phase of work. Payments shall be made after approval of a certified voucher from the SPONSOR. Upon the basis of its review of such vouchers, the DEPARTMENT shall, at the request of the SPONSOR, make payment to the SPONSOR as the work progresses, but not more often than once a month. Should the work for the PROJECT begin within any one month, the first voucher shall cover the partial period from the beginning date of the work through the last date of the month in which it began. The vouchers shall be numbered consecutively and subsequent vouchers submitted each month until the work is completed. Payment will be made in the amount of sums earned less previous partial payments. The final invoice shall reflect the actual cost of work accomplished by the SPONSOR under the terms of this Agreement, and shall be the basis for final payment.

No expense for travel shall be an allowable expense for the SPONSOR under this Agreement unless such travel is listed in the approved PROJECT budget submitted by the SPONSOR to the DEPARTMENT. In addition, budgeted costs for travel shall be limited to the amount included in the approved PROJECT budget, unless prior DEPARTMENT approval is obtained for increasing such amount.

Should the work under this Agreement be terminated by the DEPARTMENT, pursuant to the provisions of ARTICLE XIV, the SPONSOR shall be paid based upon the percentage of work completed at the point of termination, notwithstanding any just claims by the SPONSOR.

ARTICLE VIII
FINAL PAYMENT

IT IS FURTHER AGREED that upon completion of the work by the SPONSOR and acceptance by the DEPARTMENT of the work, including the receipt of any final written submission by the SPONSOR and a final statement of costs, the DEPARTMENT shall pay to the SPONSOR a sum equal to one hundred percent (100%) of the total compensation as set forth in all approved invoices, less the total of all previous partial payments, paid or in the process of payment.

The SPONSOR agrees that acceptance of this final payment shall be in full and final settlement of all claims arising against the DEPARTMENT for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the DEPARTMENT from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with the same.

The SPONSOR will allow examination and verification of costs by the DEPARTMENT's representatives before final payment is made, in accordance with the provisions of Article XII, herein. If the DEPARTMENT'S examination of the contract cost records, as provided for in Article XII, results in unallowable expenses, the SPONSOR shall immediately be responsible for reimbursing the DEPARTMENT the full amount of such disallowed expenses.

ARTICLE IX
CONTINGENT INTEREST

The DEPARTMENT shall retain a contingent interest in the PROJECT for as long as there continues a Federal interest in the PROJECT as determined by the DEPARTMENT's calculation of the economic life of the PROJECT. Based on the scope of work, as set forth in Exhibit "A," WORK PLAN, the DEPARTMENT has determined the economic life of the PROJECT to be five years from the date of the PROJECT Final Acceptance.

ARTICLE X
RIGHT OF FIRST REFUSAL

A determination by the SPONSOR to sell or dispose of the PROJECT shall entitle the DEPARTMENT to the right of first refusal to purchase or lease the PROJECT at net liquidation value. Such right of first refusal shall be retained for as long as the DEPARTMENT holds a

contingent interest in the PROJECT pursuant to Article IX of this Agreement.

Should the DEPARTMENT elect to purchase or lease the PROJECT at any time after completion of the PROJECT no compensation shall be provided for the value added as a result of the PROJECT.

ARTICLE XI SUBSTANTIAL CHANGES

No material changes in the scope, character, complexity, or duration of the PROJECT from those required under the Agreement shall be allowed without the execution of a Supplemental Agreement between the DEPARTMENT and SPONSOR.

Minor changes in the work which do not involve increased compensation, extensions of time, or changes in the goals and objectives of the PROJECT, may be made by written notification of such change by either party with written approval by the other party.

ARTICLE XII MAINTENANCE OF CONTRACT COST RECORDS

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

An Audit of the Agreement shall be provided by the SPONSOR. The audit shall be conducted by an independent accountant or accounting firm in accordance with audit requirements, 49 CFR 18.26 and OMB Circular 128 or any revision or supplement thereto. PROJECT costs shall be documented within the OMB Circular 128 audit. An audit shall be submitted to the DEPARTMENT in a timely manner in each of the SPONSOR's fiscal years for the period of the Agreement.

ARTICLE XIII SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Agreement that the work of the SPONSOR is considered personal by the DEPARTMENT. The SPONSOR agrees not to assign, sublet, or transfer any or all of its interest in this Agreement without prior written approval of the DEPARTMENT.

The DEPARTMENT reserves the right to review all subcontracts prepared in connection with the Agreement, and the SPONSOR agrees that it shall submit to the DEPARTMENT proposed subcontract documents together with sub-contractor cost estimates for the DEPARTMENT's review and written concurrence in advance of their execution.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Agreement.

ARTICLE XIV TERMINATION

The DEPARTMENT reserves the right to terminate this Agreement at any time for just cause, or for any cause upon 30 days written notice to the SPONSOR, notwithstanding any just claims by the SPONSOR for payment of services rendered prior to the date of termination.

It is understood by the parties hereto that should the DEPARTMENT terminate this Agreement prior to the completion of an element of work the SPONSOR shall be reimbursed for such work element based upon the percentage of work completed up to and including the date of termination set forth in the notice.

Failure to meet the time set for completion of an approved work authorization, may be considered just cause for termination of the Agreement.

ARTICLE XV OWNERSHIP OF DOCUMENTS

The SPONSOR agrees that all reports, drawings, studies, specifications, survey notes, estimates, maps, computations, computer files and other data, prepared by or for it under the terms of this Agreement shall remain the property of the SPONSOR upon termination or completion of the work. The DEPARTMENT shall have the right to use the same without restriction or limitation and without additional compensation to the SPONSOR other than that provided for in this Agreement.

ARTICLE XVI

CONTRACT DISPUTES

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

ARTICLE XVII
COMPLIANCE WITH APPLICABLE LAWS

- A. The undersigned certify that the provisions of Section 45-10-20 through 45-10-28 of the Official Code of Georgia Annotated relating to Conflict of Interest and State employees and officials trading with the State have been complied with in full.
- B. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with the regulations for COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, as amended, and 23 CFR 200, as stated in Exhibit "E" of this Agreement.
- C. IT IS FURTHER CERTIFIED that the provisions of Section 50- 24-1 through 50-24-6 of the Official Code of Georgia Annotated relating to the "Drug-Free Workplace Act" have been complied with in full, as stated in Exhibit "F" of this Agreement.
- D. The SPONSOR acknowledges and agrees that failure to complete appropriate certifications or the submission of a false certification shall result in the termination of this Agreement pursuant to the provisions of Article XIV.
- E. IT IS FURTHER AGREED that the SPONSOR shall subcontract a minimum of twelve percent (12%) of the total amount of PROJECT funds to Disadvantaged Business Enterprise (DBE) as defined and provided for under the Federal Rules and Regulations 49 CFR parts 23 and 26. The SPONSOR shall ensure that DBE firms are certified with the DEPARTMENT's Equal Employment Opportunity Office. The SPONSOR shall submit to the DEPARTMENT for its review and concurrence, a copy of the proposed subcontract including the name of the DBE subcontractor.
- F. IT IS FURTHER AGREED that the SPONSOR shall comply and shall require its subcontractors to comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et. seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 791; and regulations and amendments thereto.

- G. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with all applicable requirements of the Davis-Bacon Act of 1931, 40 U.S.C. 276(a); as prescribed by 23 U.S.C. 113, for Federal-aid highway projects, except roadways classified as local roads or rural minor collectors.
- H. IT IS FURTHER AGREED that the SPONSOR shall, and shall require its contractors and subcontractors to, comply with Title 25, Section 9 of the Official Code of Georgia Annotated, Georgia Utility Facility Protection Act, CALL BEFORE YOU DIG 1-800-282-7411.
- I. IT IS FURTHER AGREED that SPONSOR shall, and shall require its contractors and subcontractors to, comply with the "Certification of Compliance with the State of Georgia's Sexual Harassment Prevention Policy," as stated in Exhibit H of this Agreement.
- J. IT IS FURTHER AGREED that by signing and submitting this Agreement and pursuant to Section 50-5-85 of the Official Code of Georgia Annotated, SPONSOR hereby certifies that is not currently engaged in, and agrees that for the duration of this contract, it will not engage in a boycott of Israel.

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.

ARTICLE XVIII
MISCELLANEOUS

- A. NOTICE. Notices given pursuant to this Agreement shall be in writing and shall be delivered to the DEPARTMENT or SPONSOR by delivering them in person, via email, or by depositing it in the U.S. mail postage prepaid, addressed to the appropriate Party.
- B. ASSIGNMENT. Except as herein provided, the parties hereto will not transfer or assign all or any of their rights, titles or interests hereunder or delegate any of their duties or obligations hereunder without the prior written consent of the other party, which consent will not be unreasonably withheld.
- C. NONWAIVER. No failure of either party to exercise any right or power given to such party under this Agreement, or to insist upon strict compliance by the other party with the provisions of this

Agreement, and no custom or practice of either party at variance with the terms and conditions of this Agreement, will constitute a waiver of either party's right to demand exact and strict compliance by the other party with the terms and conditions of this Agreement.

- D. NO THIRD PARTY BENEFICIARIES. Nothing contained herein shall be construed as conferring upon or giving to any person, other than the Parties hereto, any rights or benefits under or by reason of this Agreement. This Agreement is made and entered into for the sole protection and benefit of the DEPARTMENT, and their respective successors, executors, administrators, and assigns. No other persons, firms, entities, or parties shall have any rights, or standing to assert any rights, under this Agreement in any manner.
- E. SOVEREIGN IMMUNITY. Notwithstanding any other provision of this Agreement to the contrary, no term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions under the Georgia Constitution.
- F. CONTINUITY. Each of the provisions of this Agreement will be binding upon and inure to the benefit and detriment of the parties and the successors and assigns of the parties.
- G. WHEREAS CLAUSE AND EXHIBITS. The Whereas Clauses and Exhibits hereto are a part of this Agreement and are incorporated herein by reference.
- H. SEVERABILITY. If any one or more of the provisions contained herein are for any reason held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- I. INTERPRETATION. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

- J. EXECUTION. Each of the individuals executing this Agreement represents that they are authorized to execute this Agreement on behalf of their respective entities.
- K. COUNTERPARTS. This Agreement may be executed and delivered in counterparts, and if so executed, shall become effective when a counterpart has been executed and delivered by all Parties hereto. All counterparts taken together shall constitute one and the same Agreement and shall be fully enforceable as such. Delivery of counterparts via facsimile transmission or via email with scanned attachment shall be effective as if originals thereof were delivered.
- L. ENTIRE AGREEMENT. This Agreement supersedes all prior negotiations, discussion, statements and agreements between the Parties and constitutes the full, complete and entire agreement between the Parties with respect hereto; no member, officer, employee or agent of either party has authority to make, or has made, any statement, agreement, representation or contemporaneous agreement, oral or written, in connection herewith, amending, supplementing, modifying, adding to, deleting from, or changing the terms and conditions of this Agreement. No modification of or amendment to this Agreement will be binding on either party hereto unless such modification or amendment will be properly authorized, in writing, properly signed by both parties and incorporated in and by reference made a part hereof.
- M. ON-THE-JOB TRAINING (OJT) REQUIREMENTS. This PROJECT may contain an OJT requirement. As such, the SPONSOR shall comply, and require its contractors and subcontractors to comply, with all requirements of 23 CFR 230.111, the DEPARTMENT's OJT Policy and On-the-Job Training Program Manual, and all related amendments thereto. This PROJECT has a specified OJT goal of zero.

IN WITNESS WHEREOF, said parties have hereunto set their hands and affixed their seals the day and year above first written.

Georgia Department of Transportation City of Cartersville, Georgia

By: _____ (Seal)
Commissioner

By: _____ (Seal)
Mayor

Name: Matt Santini

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

Attest:

Treasurer

Witness

Name: Wade Wilson

Title: Public Works Director

Notary Public (Notary Seal)

Name: Ashley Peters

Title: Deputy City Clerk

This Agreement, approved by
Cartersville, the _____

Attest:

Jullia Drake, City Clerk

58-6000534
Federal Employer Identification
Number

EXHIBITS

- Exhibit A Work Plan
- Exhibit B Required Contract Provisions
Federal-Aid Construction Contracts
- Exhibit C Work Schedule
- Exhibit D Budget Estimate
- Exhibit E Civil Rights Compliance Certification
- Exhibit F Certification of Drug-Free Workplace
- Exhibit G Federal Award Identification Worksheet
- Exhibit H Sexual Harassment Prevention Policy
Compliance

EXHIBIT A

WORK PLAN

City of Cartersville

P.I. No. 0016628

GENERAL DESCRIPTION OF WORK TO BE PERFORMED

The proposed project provides pedestrian connectivity and improves driver operations along a narrow, rural section of Grassdale Road in a residential area of the City of Cartersville. Grassdale Road is a minor arterial traveling in the north-south direction for approximately 1.15 miles. Beginning along the northbound right turn auxiliary lane on Cassville Road/SR 293 and ends at Joe Frank Harris Parkway/US 41/SR 3/SR 20. The project will provide 2 ft curb & gutter, 2 ft grass strip, and 5 ft concrete sidewalk.

1. Traffic Control
2. Demo existing concrete and asphalt
3. Install drainage
4. Install new sidewalk and curb and gutter
5. Erosion Control

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

- I. General
- II. Nondiscrimination
- III. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:
(1) Withholding monthly progress payments;
(2) Assessing sanctions;
(3) Liquidated damages; and/or
(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.* 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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 [29 CFR part 3](#); and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access (1) Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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. 23 CFR 230.111(e)(2). 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 journeyworkers 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 as provided in 29 CFR 5.5.

6. Subcontracts. The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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 as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, 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 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), 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 watchpersons 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. 29 CFR 5.5.

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 and interest from the date of the underpayment. 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 watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901](#)–3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

- a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
- b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
- c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
- d. Informing any other person about their rights under CWHSSA or this part.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

- (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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

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. 2 CFR 180.220 and 1200.220.

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. 2 CFR 180.320.
- 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. 2 CFR 180.325.
- 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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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 CFR 180.325.

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 CFR 180.335;

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor 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. 46 CFR 381.7.

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 Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)

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.

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

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 - 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.

EXHIBIT C

WORK SCHEDULE

City of Cartersville

P.I. No. 0016628

Project work to begin within six months of receiving the approved signed contract and Notice to Proceed. Sponsor is required to adhere to Section 6 of the LAP Manual regarding the start of work and invoice timing.

Construction will be completed by date stated in Article IV, Time of Performance of the Agreement.

Award contract	7/16/24
Construction NTP	9/16/24
Corrective List	7/29/25
Final inspection	8/29/25

CITY OF CARTERSVILLE, GA

PI# 0016628

Roadway Items				BACKBONE	
Pay Item	Description	Unit	Quantity	Unit Cost	Total Cost
150-1000	TRAFFIC CONTROL -- 0016628	LS	LS	\$217,200.00	\$217,200.00
156-0100	GPS DATA COLLECTION AND SUBMITTAL	LS	LS	\$2,500.00	\$2,500.00
210-0100	GRADING COMPLETE -- 0016628	LS	LS	\$1,016,888.50	\$1,016,888.50
446-1100	PVMT REINF FABRIC STRIPS, TP 2, 18 INCH WIDTH	LF	635	\$3.50	\$2,222.50
610-0300	REM FENCE -- 3 FT SINGLE CHAIN	LF	85	\$5.00	\$425.00
611-4890	RESET FENCE -- 3 FT SINGLE CHAIN	LF	85	\$5.00	\$425.00
634-1200	RIGHT OF WAY MARKERS	EA	10	\$160.00	\$1,600.00
643-1132	CH LK FENCE, ZC COAT, 4FT, 9 GA	LF	5	\$41.00	\$205.00
643-8200	BARRIER FENCE (ORANGE), 4 FT	LF	690	\$1.90	\$1,311.00
643-8210	WOOD FENCE -- 4 FT	LF	10	\$70.00	\$700.00
643-8210	WOOD FENCE -- 6 FT	LF	215	\$35.00	\$7,525.00
					\$1,251,002.00

Pavement Items					
310-1101	GR AGGR BASE CRS, INCL MATL	TN	1737	\$34.00	\$59,058.00
318-3000	AGGR SURF CRS	TN	500	\$32.00	\$16,000.00
402-3130	RECYCLED ASPH CONC 12.5 MM SUPERPAVE, GP 2 ONLY, INCL BITUM MATL & H LIME	TN	88	\$150.00	\$13,200.00
402-3190	RECYCLED ASPH CONC 19 MM SUPERPAVE, GP 1 OR 2, INCL BITUM MATL & H LIME	TN	10	\$150.00	\$1,500.00
413-0750	TACK COAT	GL	11	\$8.00	\$88.00
441-0016	DRIVEWAY CONCRETE, 6 IN TK	SY	1144	\$60.00	\$68,640.00
441-0018	DRIVEWAY CONCRETE, 8 IN TK	SY	100	\$72.00	\$7,200.00
441-0104	CONC SIDEWALK, 4 IN	SY	2473	\$43.00	\$106,339.00
441-0108	CONC SIDEWALK, 8 IN	SY	136	\$68.00	\$9,248.00
441-0303	CON SPILLWAY, TP 3	EA	1	\$4,500.00	\$4,500.00
441-0748	CONCRETE MEDIAN, 6 IN	SY	40	\$150.00	\$6,000.00
441-4020	CONC VALLEY GUTTER, 6 IN	SY	1728	\$60.00	\$103,680.00
441-4030	CONC VALLEY GUTTER, 8 IN	SY	198	\$70.00	\$13,860.00
441-5002	CONCRETE HEADER CURB, 6 IN, TP 2	LF	165	\$16.00	\$2,640.00
441-6216	CONC CURB & GUTTER, 8 IN X 24 IN, TP 2	LF	10930	\$22.00	\$240,460.00
441-6222	CONC CURB & GUTTER, 8 IN X 30 IN, TP2	LF	360	\$25.00	\$9,000.00
500-9999	CLASS B CONC, BASE OR PVMT WIENDING	CY	10	\$260.00	\$2,600.00
					\$664,013.00

Drainage Items					
550-3524	SAFETY END SECTION 24 IN, STORM DRAIN, 6:1 SLOPE	EA	1	\$1,200.00	\$1,200.00
550-4218	FLARED END SECTION 18 IN, STORM DRAIN	EA	3	\$1,100.00	\$3,300.00
550-4236	FLARED END SECTION 36 IN, STORM DRAIN	EA	1	\$2,500.00	\$2,500.00
550-5180	STORM DRAIN PIPE, 18 IN, CLASS III	LF	7194	\$65.00	\$467,610.00
550-5183	STORM DRAIN PIPE, 18 IN, CLASS V	LF	32	\$75.00	\$2,400.00

550-5240	STORM DRAIN PIPE, 24 IN, CLASS III	LF	457	\$94.00	\$42,958.00
550-5243	STORM DRAIN PIPE, 24 IN, CLASS V	LF	143	\$98.00	\$14,014.00
550-5300	STORM DRAIN PIPE, 30 IN, CLASS III	LF	73	\$115.00	\$8,395.00
550-5360	STORM DRAIN PIPE, 30 IN, CLASS V	LF	133	\$129.00	\$17,157.00
550-9000	VIDEO INSPECTION	LF	1572	\$3.00	\$4,716.00
600-0001	FLOWABLE FILL	CY	50	\$200.00	\$10,000.00
603-2181	STN DUMPED RIP RAP, TP 3, 18 IN	SY	90	\$80.00	\$7,200.00
603-7000	PLASTIC FILTER FABRIC	SY	90	\$5.00	\$450.00
611-3010	RECONSTR DROP INLET, GROUP 1	EA	1	\$4,000.00	\$4,000.00
611-8040	ADJUST DROP INLET TO GRADE	EA	1	\$1,600.00	\$1,600.00
611-8050	ADJUST MANHOLE TO GRADE	EA	1	\$1,600.00	\$1,600.00
668-1100	CATCH BASIN, GP 1	EA	49	\$5,500.00	\$269,500.00
668-1110	CATCH BASIN, GP 1, ADDL DEPTH	LF	7	\$350.00	\$2,450.00
668-2100	DROP INLET, GP 1	EA	26	\$5,000.00	\$130,000.00
668-2105	DROP INLET, GP 1, SPCL DES	EA	3	\$9,500.00	\$28,500.00
668-4300	STORM SEWER MANHOLE, TP 1	EA	2	\$5,000.00	\$10,000.00
668-4311	STORM SEWER MANHOLE, TP 1, ADDL DEPTH, CL 1	LF	1	\$350.00	\$350.00
668-5000	JUNCTION BOX	EA	1	\$5,000.00	\$5,000.00
					\$1,034,900.00

Temporary Erosion Control Items

163-0232	TEMPORARY GRASSING	AC	1	\$500.00	\$500.00
163-0240	MULCH	TN	66	\$250.00	\$16,500.00
163-0301	CONSTRUCT AND REMOVE CONSTRUCTION EXITS	EA	1	\$1,150.00	\$1,150.00
163-0503	CONSTRUCT AND REMOVE SILT CONTROL GATE, TP 3	EA	10	\$300.00	\$3,000.00
163-0550	CONSTRUCT AND REMOVE INLET SEDIMENT TRAP	EA	89	\$300.00	\$26,700.00
165-0030	MAINTENANCE OF TEMPORARY SILT FENCE, TP C	LF	5625	\$0.50	\$2,812.50
165-0087	MAINTENANCE OF SILT CONTROL GATE, TP 3	EA	10	\$50.00	\$500.00
165-0101	MAINTENANCE OF CONSTRUCTION EXIT	EA	1	\$200.00	\$200.00
165-0105	MAINTENANCE OF INLET SEDIMENT TRAP	EA	89	\$50.00	\$4,450.00
165-0310	MAINTENANCE OF CONSTRUCTION EXIT TIRE WASH AREA (PER EACH)	EA	1	\$50.00	\$50.00
167-1000	WATER QUALITY MONITORING AND SAMPLING	EA	3	\$300.00	\$900.00
167-1500	WATER QUALITY INSPECTIONS	MO	12	\$350.00	\$4,200.00
171-0030	TEMPORARY SILT FENCE, TYPE C	LF	11250	\$3.50	\$39,375.00
					\$100,337.50

Permanent Erosion Control Items

700-6910	PERMANENT GRASSING	AC	2	\$1,500.00	\$3,000.00
700-7000	AGRICULTURAL LIME	TN	6	\$150.00	\$900.00
700-8000	FERTILIZER MIXED GRADE	TN	1	\$550.00	\$550.00
700-8100	FERTILIZER NITROGEN CONTENT	LB	150	\$2.00	\$300.00
700-9300	SOD	SY	4440	\$9.00	\$39,960.00
716-2000	EROSION CONTROL MATS, SLOPES	SY	235	\$1.30	\$305.50

\$45,015.50

Signing Items					
610-9001	REM SIGN	EA	4	\$100.00	\$400.00
611-5551	RESET SIGN	EA	4	\$100.00	\$400.00
636-1033	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 9	SF	84	\$22.00	\$1,848.00
636-1036	HIGHWAY SIGNS, TP 1 MATL, REFL SHEETING, TP 11	SF	113	\$22.00	\$2,486.00
636-2070	GALV STEEL POSTS, TP 7	LF	291	\$15.00	\$4,365.00
					\$9,499.00

Pavement Marking Items					
653-1501	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, WHITE	LF	11060	\$0.85	\$9,401.00
653-1502	THERMOPLASTIC SOLID TRAF STRIPE, 5 IN, YELLOW	LF	1058	\$1.00	\$1,058.00
653-1704	THERMOPLASTIC SOLID TRAF STRIPE, 24 IN, WHITE	LF	147	\$6.00	\$882.00
653-1804	THERMOPLASTIC SOLID TRAF STRIPE, 8 IN, WHITE	LF	1888	\$2.75	\$5,192.00
653-6004	THERMOPLASTIC TRAF STRIPING, WHITE	SY	56	\$6.00	\$336.00
					\$16,869.00

Roadway Items	\$1,251,002.00
Pavement Items	\$664,013.00
Drainage Items	\$1,034,900.00
Temporary Erosion Control Items	\$100,337.50
Permanent Erosion Control Items	\$45,015.50
Signing Items	\$9,499.00
Pavement Marking Items	\$16,869.00
TOTAL	\$3,121,636.00

EXHIBIT E

NOTICE TO CONTRACTORS
COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

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

1. Compliance with Regulations: The Contractor 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 Contractor, 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 Contractor 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 Contractor will not participate either directly or indirectly in the discrimination prohibited by 23 CFR 710.405(b).
3. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding or negotiations made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor'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 Contractor 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 a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor 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 the information.

5. Sanctions for Noncompliance: In the event of the Contractor'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 Contractor under the contract until the Contractor complies, and/or

b. cancellation, termination or suspension of this contract, in whole or in part.

6. Incorporation of Provisions: The Contractor will include the provision 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 Contractor 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 a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT F

CERTIFICATION OF SPONSOR

DRUG-FREE WORKPLACE

I hereby certify that I am a principle and duly authorized representative of the City of Cartersville whose address is 10 N Public Square, Cartersville, GA 30120-3326 and it is also that:

- 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 _____, _____ 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 undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

Date

Signature
Name: Matt Santini
Title: Mayor

EXHIBIT G

FEDERAL AID IDENTIFICATION WORKSHEET

(Completed by the DEPARTMENT before Routing in CATS
 Instructions on following page)

Subrecipient's name (must match registered name in DUNS)	
Subrecipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS))	
Federal Award Identification Number (FAIN)	
Federal award date (see § 200.39 Federal Award Date)	
Subaward Period of Performance Start and End Date	
Amount of Federal Funds Obligated by this action	
Total Amount of Federal Funds Obligated to the subrecipient	
Total Amount of the Federal Award	
Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA)	
Name of Federal awarding agency, pass-through entity, and contact information for awarding official	
CFDA Number and Name (the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement)	
Identification of whether award is R&D	
Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs)	

This project must comply with all aspects of 2 CFR Part 200.

EXHIBIT H
SEXUAL HARASSMENT PREVENTION POLICY COMPLIANCE

The State of Georgia promotes respect and dignity and does not tolerate sexual harassment in the workplace. The State is committed to providing a workplace and environment free from sexual harassment for its employees and for all persons who interact with state government. All State of Georgia employees are expected and required to interact with all persons including other employees, contractors, and customers in a professional manner that contributes to a respectful work environment free from sexual harassment. Furthermore, the State of Georgia maintains an expectation that its contractors and their employees and subcontractors will interact with entities of the State of Georgia, their customers, and other contractors of the State in a professional manner that contributes to a respectful work environment free from sexual harassment.

Pursuant to the State of Georgia's Statewide Sexual Harassment Prevention Policy (the "Policy"), all contractors who are regularly on State premises or who regularly interact with State personnel must complete sexual harassment prevention training on an annual basis.

A contractor, including its employees and subcontractors, who have violated the Policy, including but not limited to engaging in sexual harassment and/or retaliation may be subject to appropriate corrective action. Such action may include, but is not limited to, notification to the employer, removal from State premises, restricted access to State premises and/or personnel, termination of contract, and/or other corrective action(s) deemed necessary by the State.

A. If Contractor is an individual who is regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

1. Contractor has received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resourcesadministration/board-rules-policy-and-compliance/jointly-issued-statewide-policies/sexualharassment-prevention-policy>;
2. Contractor has completed sexual harassment prevention training in the last year; or will complete the Georgia Department of Administrative Services' sexual harassment prevention training located at <http://doas.ga.gov/human-resources-administration/sexual-harassment-prevention/hrprofessionals/employee-training> (scroll down to section for entities without a LMS section) or this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and,
3. Upon request by the State, Contractor will provide documentation substantiating the completion of sexual harassment training.

B. If Contractor has employees and subcontractors that are regularly on State premises or who will regularly interact with State personnel, Contractor certifies that:

1. Contractor will ensure that such employees and subcontractors have received, reviewed, and agreed to comply with the State of Georgia's Statewide Sexual Harassment Prevention Policy located at <http://doas.ga.gov/human-resources-administration/board-rules-policy-and-compliance/jointly-issuedstatewide-policies/sexual-harassment-prevention-policy>

2. Contractor has provided sexual harassment prevention training in the last year to such employees and subcontractors and will continue to do so on an annual basis; or Contractor will ensure that such employees and subcontractors complete the Georgia Department of Administrative Services' sexual harassment prevention training located at <http://doas.ga.gov/human-resources-administration/sexualharassment-prevention/hr-professionals/employee-training> (scroll down to section for entities without a LMS section) or this direct link <https://www.youtube.com/embed/NjVt0DDnc2s?rel=0> prior to accessing State premises and prior to interacting with State employees; and on an annual basis thereafter; and

C. Upon request of the State of the Georgia Department of Transportation, Contractor will provide documentation substantiating such employees and subcontractors' acknowledgment of the State of Georgia's Statewide Sexual Harassment Prevention Policy and annual completion of sexual harassment prevention training.

APPENDICES

- Appendix A City of Cartersville Certification regarding Debarment, Suspension, and other Responsibility Matters

- Appendix B Certification of Compliance with State Audit Requirement

- Appendix C Certification of the Georgia Department of Transportation

- Appendix D Certification of SPONSOR

- Appendix E Georgia Security and Immigration Compliance Act Affidavit (E-Verify)

- Appendix F Insurance Certificate

APPENDIX A

CITY OF CARTERSVILLE
CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND
OTHER RESPONSIBILITY MATTERS

I hereby certify that I am the Mayor and duly authorized representative of the city of Cartersville, whose address is 10 N Public Square, Cartersville, GA 30120-3326, and I certify that I have read and understand the attached instructions and that to the best of my knowledge and belief the firm and its representatives:

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;

- 1) Have not within a three year period preceding this Agreement been convicted of or had a civil judgment 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;
- 2) 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; and,
- 3) Have not within a three year period preceding this Agreement had one or more public transaction (Federal, State or Local) terminated for cause or default.
- 4) 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-Aid Highway Funds, and is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

(Seal)

Name: Matt Santini

Title: Mayor

Instructions for Appendix A 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 Appendix A.
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, Appendix A, 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 any 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 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.

APPENDIX B
CERTIFICATION OF
COMPLIANCE WITH STATE AUDIT REQUIREMENT

I hereby certify that I am the duly authorized representative of the City of Cartersville whose address is 10 N Public Square, Cartersville, GA 30120-3326, and it is also certified that:

I. PROCUREMENT REQUIREMENTS

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

- (a) Provisions of Section Chapters 2 and Chapters 4 of the Title 32 of the Official Code of Georgia Annotated. Specifically as to the County the provisions of O.C.G.A. § 32-4-40 et seq. and as to the Municipality the provisions of O.C.G.A. § 32-4-92 et seq.

II. STATE AUDIT REQUIREMENT

The provisions of Section 36-81-7 of the Official Code of Georgia Annotated, relating to the "Requirement of Audits" shall be complied with throughout the contract period in full, including but not limited to the following provisions:

- (a) Each unit of local government having a population in excess of 1,500 persons or expenditures of \$550,000.00 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 \$550,000.00 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.

III. SERVICE DELIVERY STRATEGY REQUIREMENT

The provisions of Section 36-70-20 et seq. of the Official Code of Georgia, relating to the "Coordinated And Comprehensive Planning And Service Delivery By Counties And Municipalities", as amended, has been complied with throughout the contract period.

Date

Signature

Name: Matt Santini
Title: Mayor

APPENDIX C
CERTIFICATION OF
THE GEORGIA DEPARTMENT OF TRANSPORTATION

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 his 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-aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Date

Commissioner

APPENDIX D

CERTIFICATION OF CITY OF CARTERSVILLE

STATE OF GEORGIA

I hereby certify that I am the Mayor of City of Cartersville in the State of Georgia, and that the above consulting firm or their 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 - aid Highway Funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Date

City of Cartersville
Name: Matt Santini
Title: Mayor

APPENDIX E



GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT

P.I.# and Project Description:	0016628; Grassdale Road from SR 293 to SR 3/SR 20
Sponsor's Name:	City of Cartersville
Sponsor's Address:	10 N Public Square, Cartersville, Georgia 30120-3326

SPONSOR AFFIDAVIT

By executing this affidavit, the undersigned person or entity 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 person or entity will continue to use the federal work authorization program throughout the contract period and the undersigned person or entity 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). The undersigned person or entity hereby attests that its federal work authorization user identification number and date of authorization are as follows:

109605
Federal Work Authorization User Identification Number
authorization (EEV/E-Verify Company Identification Number)

4/21/2008
Date of

City of Cartersville
Name of Sponsor

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

Matt Santini
Printed Name (of Authorized Officer or Agent)

Mayor
Title (of Authorized Officer or Agent)

Signature (of Authorized Officer or Agent)

Date

Signed SUBSCRIBED AND SWORN BEFORE ME ON THIS THE

____ DAY OF _____, 20____

[NOTARY SEAL]

Notary Public – Ashley Peters

My Commission Expires: 11/29/26



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Public Works
AGENDA ITEM TITLE:	Quiet Zone Maintenance Agreements
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The City of Cartersville has maintenance agreements from CSX Transportation, Inc. to provide labor, materials, and expertise necessary from CSX Transportation, Inc. to maintain a quiet zone at Carter St., Cherokee Ave., Main St., Leake St., and West Ave. crossings.</p> <p>The total of the agreement from CSX Transportation in the future will vary from year to year and by crossing. This will be a budgeted item that will be paid for by an annual line item for maintenance of the Quiet Zone. No amount is required until the quiet zone is established for one year at which the first maintenance payment of \$26,768.00 will be required to be paid in arrears. Maintenance costs will be charged by CSX Transportation annually and increased year to year according to the consumer price index as well as periodic adjustments by CSX according to their review. CSX Transportation states in the agreement that they will provide notice of any increases because of such review and adjustment in advance of the due date.</p> <p>Public Works recommends approval of this agreement for the maintenance of the proposed Quiet Zone.</p>
LEGAL:	N/A

GRADE CROSSING MAINTENANCE AGREEMENT

THIS GRADE CROSSING MAINTENANCE AGREEMENT (this “Agreement”), effective as of _____ (the “Effective Date”), is between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business located at 500 Water St., Jacksonville, FL 32202, hereinafter called “CSXT,” and the CITY OF CARTERSVILLE, a municipal of the State of Georgia, hereinafter called “AGENCY”.

WITNESSETH:

WHEREAS, AGENCY desires the continued use and maintenance of a certain existing road crossing which includes an at-grade public road roadway known as East Main Street across and over the tracks, right-of-way and property of CSXT, at CSXT’s Milepost OWA 47.55, DOT No. 340441K, hereinafter referred to as the “CROSSING” and the warning devices at the CROSSING, including the fixed signs, flashing lights, bells and gates (collectively the “WARNING DEVICES”); and

WHEREAS, by that certain Construction Agreement entered into between the AGENCY and CSXT, dated _____, hereinafter referred to as the “Construction Agreement”, AGENCY will construct or cause to be constructed the Project (as defined in the Construction Agreement) which includes improvements at the CROSSING; and

WHEREAS, upon completion of the Project, the AGENCY will use, maintain, repair, renew, replace and ultimately remove the CROSSING and WARNING DEVICES under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1) The CROSSING includes but is not limited to, the track structure, grade crossing surface, any railroad crossing warning signs, and automatic grade crossing warning devices which are, or might be, located within or adjacent to the above-described location. Upon completion of the Project, the CROSSING shall be thereafter maintained as provided herein at the sole cost and expense of the AGENCY.

- a) Agency shall maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans, consisting of roadway pavement up to the outer ends of the railroad cross ties, sidewalks, guardrails, and curbs, in good and safe condition to CSXT's satisfaction. In the event Agency fails to do so after reasonable notice from CSXT (unless an emergency condition exists or is imminent in the opinion of CSXT that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense.
- b) CSXT shall maintain and repair the crossing surface between the ends of its cross ties and its signal facilities at the CROSSING, at Agency's sole cost and expense.
- c) Agency shall not undertake any alteration, modification or expansion of the CROSSING, without the prior written approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. CSXT may undertake alterations and/or maintenance of its property, track or facilities and shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such alteration and/or maintenance.

2) Notwithstanding any rights granted to the AGENCY herein, CSXT reserves the right to perform all work required on CSXT's property and right-of-way at the

CROSSING including construction, drainage, lighting and vegetation management, in which event AGENCY shall pay CSXT the entire cost and expense of labor, materials and equipment furnished by CSXT in performing such work.

3) The CROSSING shall be used for public at-grade road crossing purposes only and no utility (including telecommunications facilities, pipes, wires, cables) or other line or structure, materials, vegetation or other improvements shall be placed in, on or over the CROSSING without the previous consent in writing of CSXT and the execution of such additional agreements as CSXT deems necessary.

4) RESERVED.

5) The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING, and in the event the AGENCY shall fail to comply with any of the covenants and conditions, then, at the option of CSXT, this Agreement shall be terminated with full legal rights and remedies retained by CSXT, including but not limited to the right to reenter, repossess, and remove the CROSSING at the expense of the AGENCY if CSXT shall elect to do so.

6) Unless otherwise specified in this Agreement or the Construction Agreement, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING, including but not limited to the track structure, any railroad crossing warning signs, crossing surfaces and automatic crossing warning devices, whether performed by the AGENCY or CSXT, shall be the sole responsibility of the AGENCY.

7) Pursuant to the Construction Agreement, CSXT will install WARNING DEVICES at the CROSSING. On each anniversary of the in-service date until termination

of this Agreement, AGENCY shall pay an annual fee in arrears to CSXT in the amount of SIX THOUSAND EIGHT HUNDRED FIFTY-SEVEN DOLLARS (\$6,857.00), towards the ongoing maintenance of the WARNING DEVICES (the “Annual Warning Device Fee”). The Annual Warning Device Fee shall be increased each year in accordance with Section 9. The WARNING DEVICES shall remain at the CROSSING SITE until the Georgia Department of Transportation (“DOT”) decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

8) The existing crossing surface at the CROSSING is sixty feet (60’) wide (the “SURFACE”). On each anniversary of the Effective Date until termination of this Agreement, AGENCY shall pay an annual fee to CSXT in the amount of FOUR THOUSAND ONE HUNDRED SIXTY DOLLARS (\$4,160.00), towards the ongoing maintenance of the SURFACE (the “Annual Surface Fee”). The Annual Surface Fee shall be increased each year in accordance with Section 9.

9) The Annual Warning Device Fee and Annual Surface Fee (“Annual Fees”) shall be adjusted as follows:

a) The Annual Fees shall be subject to periodic review and adjustment by CSXT. CSXT will provide notice of any increase as a result of such review and adjustment in advance of the due date.

b) In addition to the periodic review and adjustment referred to in the Section above, the Fees shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor

Statistics Department of Labor" ("CPI"). In no event, however, shall the adjusted Fee be less than the previous year's Fee.

The Fee shall be increased in accordance with the following:

Current Price Index*

----- X Fees = Adjusted Fees

Base Price Index**

* Effective CPI in the fourth month prior to the anniversary date of the Agreement.

** Effective CPI at the time of the effective date of the Agreement.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Licensor.

10) When CSXT determines that the replacement of the SURFACE is more economical than its continued maintenance, CSXT shall have the exclusive option to replace the SURFACE with its standard timber and asphalt surface. In the event AGENCY requests that CSXT install a different type of grade crossing surface and CSXT agrees to do so, the difference in cost between the then current estimated replacement cost of CSXT's standard timber and asphalt surface and the AGENCY's requested surface type shall be the sole responsibility of the AGENCY.

11) The AGENCY shall, at its sole expense, maintain and replace the remainder of the road on either side of the SURFACE within CSXT's right-of-way at the CROSSING,

plus any paving which may be located between the ends of the ties. AGENCY shall perform such work in accordance with the time and operational requirements of CSXT. The AGENCY will give prior notice to CSXT of all work to be performed by it at or near the CROSSING and no such work shall be performed by AGENCY without the prior approval of CSXT and the execution of such additional agreements as CSXT deems necessary. All work performed by the AGENCY shall be conducted at such times and in such manner as to not interfere or impede the operations of CSXT. CSXT shall provide a construction watchman or other protective services at the CROSSING while work is being performed by the AGENCY under the provisions of this Agreement, at the sole expense of the AGENCY.

12) The AGENCY agrees, acknowledges and understands that CSXT reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING. CSXT shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such changes or alterations. The AGENCY agrees to promptly relocate any AGENCY facilities to accommodate any CSXT changes within thirty (30) days of a request by CSXT to do so, at AGENCY's sole cost and expense.

13) The AGENCY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING. Such facilities must first be approved by the CSXT and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the CSXT, depending

upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities.

14) Lighting facilities adequate to comply with the requirements of the laws of the State of Georgia covering illumination of the road crossing shall be installed, maintained and replaced at or near this CROSSING by and at the sole cost of AGENCY.

15) Facilities at or near the CROSSING that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by AGENCY at or near the CROSSING without the prior written approval of CSXT, which approval is in CSXT's sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of AGENCY.

16) If at any time CSXT, at AGENCY's request, performs work required to be performed by AGENCY hereunder, the cost for such work shall be the sole responsibility of AGENCY.

17) The AGENCY further covenants to pay CSXT, within thirty (30) days after presentation of the same, all invoices submitted by CSXT under this Agreement. Failure to promptly pay to CSXT amounts billed as due under this Agreement shall constitute default by the AGENCY. In the event AGENCY fails to comply with any of the other terms and conditions of this Agreement, then, at the option of CSXT, CSXT may elect, by delivery of notice to AGENCY, not to perform CSXT's obligations under this Agreement, up to and including closing the crossing, until the AGENCY cures any such default to CSXT's satisfaction.

18) At the termination of this Agreement as provided above, all rights of the

AGENCY shall terminate and the AGENCY shall remove, under CSXT's supervision and direction, at AGENCY's entire cost and expense, said road and all non-CSXT-owned improvements placed upon the CSXT's right-of-way and restore the ground to its original condition.

19) To the fullest extent permitted by state law, the AGENCY shall indemnify, defend and hold harmless CSXT for assessments or other charges of any kind whatsoever against the CSXT at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING arising out of the existence of the CROSSING.

20) The AGENCY shall not in any way, or at any time, interfere with or obstruct CSXT's right-of-way, the movement of CSXT's trains and other railroad operations, or interfere with the CSXT's use thereof, or the use thereof by CSXT's assigns, invitees, lessees or licensees.

21) To the fullest extent permitted by state law, the AGENCY shall, and shall require its contractor to, indemnify, defend and hold harmless CSXT, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorney's fees) incurred by or asserted against CSXT whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of any future maintenance or replacement of the CROSSING and/or WARNING DEVICES by CSXT, the performance of work by CSXT required to be performed by AGENCY hereunder, or the use of the CROSSING or AGENCY facilities, including but not limited to pedestrian walkways, at or near the CROSSING and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of CSXT.** Notwithstanding

the foregoing, the AGENCY shall have no indemnification obligation for the intentional, wrongful acts of CSXT.

22) At least thirty (30) days prior to AGENCY's performance of any work in connection with the CROSSING, AGENCY or its contractor shall notify CSXT of its authorized representative. CSXT shall review AGENCY's request for approval and/or authorization to proceed. Such approval and/or authorization to proceed shall include (if applicable) the execution of such additional agreement(s) as CSXT deems necessary and CSXT's requirement to furnish protective services including but not limited to flagmen, construction watchmen, field construction inspectors, etc. ("Protective Services") for the protection of CSXT's employees, property and train operations with respect to AGENCY's work activity. Any such Protective Services shall be furnished at AGENCY's sole cost and expense. AGENCY shall abide by all instructions of CSXT's Regional Engineer, or his or her authorized representative, in the performance of any work at the CROSSING.

In addition to, but not in limitation of any of the foregoing provisions, if at any time CSXT should deem it necessary to place Protective Services for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING, CSXT shall have the right to place such Protective Services, or other persons at the sole cost and expense of the AGENCY. The furnishing or failure to furnish Protective Services, or other persons by the CSXT under this paragraph, however, shall not release AGENCY from any and all other liabilities assumed by AGENCY under the terms of this Agreement, including its obligations under Paragraph 20 hereof.

23) Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING shall be

the sole responsibility and cost of the AGENCY, and at its sole expense.

24) The AGENCY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

25) If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26) This Agreement will be governed by the laws of the State of Georgia, with the parties agreeing to venue and jurisdiction for all issues arising from this Agreement being in the Bartow County Superior Court. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

27) This Agreement supersedes any existing agreement(s) between CSXT, or its predecessor in title, and AGENCY, or its predecessor in title, covering the CROSSING and WARNING DEVICES described herein, which agreement(s) is/are terminated and superseded by the execution hereof.

28) Upon completion of the Project and except as otherwise provided in this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provision in any of the Construction Agreement, the provision contained in this Agreement shall govern and control.

IN WITNESS WHEREOF, the CSXT and the AGENCY have caused this instrument to be executed in their corporate names in duplicate the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

CITY OF CARTERSVILLE

CSX TRANSPORTATION, INC.

By: _____

By: _____

Name: Matthew J. Santini

Name: _____

Title: Mayor

Title: _____

Attested to by:

Julia Drake, City Clerk

[AFFIX SEAL]

GRADE CROSSING MAINTENANCE AGREEMENT

THIS GRADE CROSSING MAINTENANCE AGREEMENT (this “Agreement”), effective as of _____ (the “Effective Date”), is between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business located at 500 Water St., Jacksonville, FL 32202, hereinafter called “CSXT,” and the CITY OF CARTERSVILLE, a municipal of the State of Georgia, hereinafter called “AGENCY”.

WITNESSETH:

WHEREAS, AGENCY desires the continued use and maintenance of a certain existing road crossing which includes an at-grade public road roadway known as West Avenue across and over the tracks, right-of-way and property of CSXT, at CSXT’s Milepost 0WA 47.32, DOT No. 340439J, hereinafter referred to as the “CROSSING” and the warning devices at the CROSSING, including the fixed signs, flashing lights, bells and gates (collectively the “WARNING DEVICES”); and

WHEREAS, by that certain Construction Agreement entered into between the AGENCY and CSXT, dated _____, hereinafter referred to as the “Construction Agreement”, AGENCY will construct or cause to be constructed the Project (as defined in the Construction Agreement) which includes improvements at the CROSSING; and

WHEREAS, upon completion of the Project, the AGENCY will use, maintain, repair, renew, replace and ultimately remove the CROSSING and WARNING DEVICES under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1) The CROSSING includes but is not limited to, the track structure, grade crossing surface, any railroad crossing warning signs, and automatic grade crossing warning devices which are, or might be, located within or adjacent to the above-described location. Upon completion of the Project, the CROSSING shall be thereafter maintained as provided herein at the sole cost and expense of the AGENCY.

- a) Agency shall maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans, consisting of roadway pavement up to the outer ends of the railroad cross ties, sidewalks, guardrails, and curbs, in good and safe condition to CSXT's satisfaction. In the event Agency fails to do so after reasonable notice from CSXT (unless an emergency condition exists or is imminent in the opinion of CSXT that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense.
- b) CSXT shall maintain and repair the crossing surface between the ends of its cross ties and its signal facilities at the CROSSING, at Agency's sole cost and expense.
- c) Agency shall not undertake any alteration, modification or expansion of the CROSSING, without the prior written approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. CSXT may undertake alterations and/or maintenance of its property, track or facilities and shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such alteration and/or maintenance.

2) Notwithstanding any rights granted to the AGENCY herein, CSXT reserves the right to perform all work required on CSXT's property and right-of-way at the

CROSSING including construction, drainage, lighting and vegetation management, in which event AGENCY shall pay CSXT the entire cost and expense of labor, materials and equipment furnished by CSXT in performing such work.

3) The CROSSING shall be used for public at-grade road crossing purposes only and no utility (including telecommunications facilities, pipes, wires, cables) or other line or structure, materials, vegetation or other improvements shall be placed in, on or over the CROSSING without the previous consent in writing of CSXT and the execution of such additional agreements as CSXT deems necessary.

4) RESERVED.

5) The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING, and in the event the AGENCY shall fail to comply with any of the covenants and conditions, then, at the option of CSXT, this Agreement shall be terminated with full legal rights and remedies retained by CSXT, including but not limited to the right to reenter, repossess, and remove the CROSSING at the expense of the AGENCY if CSXT shall elect to do so.

6) Unless otherwise specified in this Agreement or the Construction Agreement, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING, including but not limited to the track structure, any railroad crossing warning signs, crossing surfaces and automatic crossing warning devices, whether performed by the AGENCY or CSXT, shall be the sole responsibility of the AGENCY.

7) Pursuant to the Construction Agreement, CSXT will install WARNING DEVICES at the CROSSING. On each anniversary of the in-service date until termination

of this Agreement, AGENCY shall pay an annual fee in arrears to CSXT in the amount of SIX THOUSAND THREE HUNDRED THIRTY DOLLARS (\$6,330.00), towards the ongoing maintenance of the WARNING DEVICES (the “Annual Warning Device Fee”). The Annual Warning Device Fee shall be increased each year in accordance with Section 9. The WARNING DEVICES shall remain at the CROSSING SITE until the Georgia Department of Transportation (“DOT”) decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

8) The existing crossing surface at the CROSSING is thirty-four feet (34’) wide (the “SURFACE”). On each anniversary of the Effective Date until termination of this Agreement, AGENCY shall pay an annual fee to CSXT in the amount of THREE THOUSAND THREE HUNDRED TWENTY-THREE DOLLARS (\$3,323.00), towards the ongoing maintenance of the SURFACE (the “Annual Surface Fee”). The Annual Surface Fee shall be increased each year in accordance with Section 9.

9) The Annual Warning Device Fee and Annual Surface Fee (“Annual Fees”) shall be adjusted as follows:

a) The Annual Fees shall be subject to periodic review and adjustment by CSXT. CSXT will provide notice of any increase as a result of such review and adjustment in advance of the due date.

b) In addition to the periodic review and adjustment referred to in the Section above, the Fees shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor

Statistics Department of Labor" ("CPI"). In no event, however, shall the adjusted Fee be less than the previous year's Fee.

The Fee shall be increased in accordance with the following:

Current Price Index*

----- X Fees = Adjusted Fees

Base Price Index**

* Effective CPI in the fourth month prior to the anniversary date of the Agreement.

** Effective CPI at the time of the effective date of the Agreement.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Licensor.

10) When CSXT determines that the replacement of the SURFACE is more economical than its continued maintenance, CSXT shall have the exclusive option to replace the SURFACE with its standard timber and asphalt surface. In the event AGENCY requests that CSXT install a different type of grade crossing surface and CSXT agrees to do so, the difference in cost between the then current estimated replacement cost of CSXT's standard timber and asphalt surface and the AGENCY's requested surface type shall be the sole responsibility of the AGENCY.

11) The AGENCY shall, at its sole expense, maintain and replace the remainder of the road on either side of the SURFACE within CSXT's right-of-way at the CROSSING,

plus any paving which may be located between the ends of the ties. AGENCY shall perform such work in accordance with the time and operational requirements of CSXT. The AGENCY will give prior notice to CSXT of all work to be performed by it at or near the CROSSING and no such work shall be performed by AGENCY without the prior approval of CSXT and the execution of such additional agreements as CSXT deems necessary. All work performed by the AGENCY shall be conducted at such times and in such manner as to not interfere or impede the operations of CSXT. CSXT shall provide a construction watchman or other protective services at the CROSSING while work is being performed by the AGENCY under the provisions of this Agreement, at the sole expense of the AGENCY.

12) The AGENCY agrees, acknowledges and understands that CSXT reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING. CSXT shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such changes or alterations. The AGENCY agrees to promptly relocate any AGENCY facilities to accommodate any CSXT changes within thirty (30) days of a request by CSXT to do so, at AGENCY's sole cost and expense.

13) The AGENCY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING. Such facilities must first be approved by the CSXT and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the CSXT, depending

upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities.

14) Lighting facilities adequate to comply with the requirements of the laws of the State of Georgia covering illumination of the road crossing shall be installed, maintained and replaced at or near this CROSSING by and at the sole cost of AGENCY.

15) Facilities at or near the CROSSING that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by AGENCY at or near the CROSSING without the prior written approval of CSXT, which approval is in CSXT's sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of AGENCY.

16) If at any time CSXT, at AGENCY's request, performs work required to be performed by AGENCY hereunder, the cost for such work shall be the sole responsibility of AGENCY.

17) The AGENCY further covenants to pay CSXT, within thirty (30) days after presentation of the same, all invoices submitted by CSXT under this Agreement. Failure to promptly pay to CSXT amounts billed as due under this Agreement shall constitute default by the AGENCY. In the event AGENCY fails to comply with any of the other terms and conditions of this Agreement, then, at the option of CSXT, CSXT may elect, by delivery of notice to AGENCY, not to perform CSXT's obligations under this Agreement, up to and including closing the crossing, until the AGENCY cures any such default to CSXT's satisfaction.

18) At the termination of this Agreement as provided above, all rights of the

AGENCY shall terminate and the AGENCY shall remove, under CSXT's supervision and direction, at AGENCY's entire cost and expense, said road and all non-CSXT-owned improvements placed upon the CSXT's right-of-way and restore the ground to its original condition.

19) To the fullest extent permitted by state law, the AGENCY shall indemnify, defend and hold harmless CSXT for assessments or other charges of any kind whatsoever against the CSXT at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING arising out of the existence of the CROSSING.

20) The AGENCY shall not in any way, or at any time, interfere with or obstruct CSXT's right-of-way, the movement of CSXT's trains and other railroad operations, or interfere with the CSXT's use thereof, or the use thereof by CSXT's assigns, invitees, lessees or licensees.

21) To the fullest extent permitted by state law, the AGENCY shall, and shall require its contractor to, indemnify, defend and hold harmless CSXT, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorney's fees) incurred by or asserted against CSXT whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of any future maintenance or replacement of the CROSSING and/or WARNING DEVICES by CSXT, the performance of work by CSXT required to be performed by AGENCY hereunder, or the use of the CROSSING or AGENCY facilities, including but not limited to pedestrian walkways, at or near the CROSSING and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of CSXT.** Notwithstanding

the foregoing, the AGENCY shall have no indemnification obligation for the intentional, wrongful acts of CSXT.

22) At least thirty (30) days prior to AGENCY's performance of any work in connection with the CROSSING, AGENCY or its contractor shall notify CSXT of its authorized representative. CSXT shall review AGENCY's request for approval and/or authorization to proceed. Such approval and/or authorization to proceed shall include (if applicable) the execution of such additional agreement(s) as CSXT deems necessary and CSXT's requirement to furnish protective services including but not limited to flagmen, construction watchmen, field construction inspectors, etc. ("Protective Services") for the protection of CSXT's employees, property and train operations with respect to AGENCY's work activity. Any such Protective Services shall be furnished at AGENCY's sole cost and expense. AGENCY shall abide by all instructions of CSXT's Regional Engineer, or his or her authorized representative, in the performance of any work at the CROSSING.

In addition to, but not in limitation of any of the foregoing provisions, if at any time CSXT should deem it necessary to place Protective Services for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING, CSXT shall have the right to place such Protective Services, or other persons at the sole cost and expense of the AGENCY. The furnishing or failure to furnish Protective Services, or other persons by the CSXT under this paragraph, however, shall not release AGENCY from any and all other liabilities assumed by AGENCY under the terms of this Agreement, including its obligations under Paragraph 20 hereof.

23) Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING shall be

the sole responsibility and cost of the AGENCY, and at its sole expense.

24) The AGENCY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

25) If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26) This Agreement will be governed by the laws of the State of Georgia, with the parties agreeing to venue and jurisdiction for all issues arising from this Agreement being in the Bartow County Superior Court. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

27) This Agreement supersedes any existing agreement(s) between CSXT, or its predecessor in title, and AGENCY, or its predecessor in title, covering the CROSSING and WARNING DEVICES described herein, which agreement(s) is/are terminated and superseded by the execution hereof.

28) Upon completion of the Project and except as otherwise provided in this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provision in any of the Construction Agreement, the provision contained in this Agreement shall govern and control.

IN WITNESS WHEREOF, the CSXT and the AGENCY have caused this instrument to be executed in their corporate names in duplicate the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

CITY OF CARTERSVILLE

CSX TRANSPORTATION, INC.

By: _____

By: _____

Name: Matthew J. Santini

Name: _____

Title: Mayor

Title: _____

Attested to by:

Julia Drake, City Clerk

[AFFIX SEAL]

GRADE CROSSING MAINTENANCE AGREEMENT

THIS GRADE CROSSING MAINTENANCE AGREEMENT (this “Agreement”), effective as of _____ (the “Effective Date”), is between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business located at 500 Water St., Jacksonville, FL 32202, hereinafter called “CSXT,” and the CITY OF CARTERSVILLE, a municipal of the State of Georgia, hereinafter called “AGENCY”.

WITNESSETH:

WHEREAS, AGENCY desires the continued use and maintenance of a certain existing road crossing which includes an at-grade public road roadway known as Leake Street across and over the tracks, right-of-way and property of CSXT, at CSXT’s Milepost 0WA 47.45, DOT No. 340440D, hereinafter referred to as the “CROSSING” and the warning devices at the CROSSING, including the fixed signs, flashing lights, bells and gates (collectively the “WARNING DEVICES”); and

WHEREAS, by that certain Construction Agreement entered into between the AGENCY and CSXT, dated _____, hereinafter referred to as the “Construction Agreement”, AGENCY will construct or cause to be constructed the Project (as defined in the Construction Agreement) which includes improvements at the CROSSING; and

WHEREAS, upon completion of the Project, the AGENCY will use, maintain, repair, renew, replace and ultimately remove the CROSSING and WARNING DEVICES under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1) The CROSSING includes but is not limited to, the track structure, grade crossing surface, any railroad crossing warning signs, and automatic grade crossing warning devices which are, or might be, located within or adjacent to the above-described location. Upon completion of the Project, the CROSSING shall be thereafter maintained as provided herein at the sole cost and expense of the AGENCY.

- a) Agency shall maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans, consisting of roadway pavement up to the outer ends of the railroad cross ties, sidewalks, guardrails, and curbs, in good and safe condition to CSXT's satisfaction. In the event Agency fails to do so after reasonable notice from CSXT (unless an emergency condition exists or is imminent in the opinion of CSXT that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense.
- b) CSXT shall maintain and repair the crossing surface between the ends of its cross ties and its signal facilities at the CROSSING, at Agency's sole cost and expense.
- c) Agency shall not undertake any alteration, modification or expansion of the CROSSING, without the prior written approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. CSXT may undertake alterations and/or maintenance of its property, track or facilities and shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such alteration and/or maintenance.

2) Notwithstanding any rights granted to the AGENCY herein, CSXT reserves the right to perform all work required on CSXT's property and right-of-way at the

CROSSING including construction, drainage, lighting and vegetation management, in which event AGENCY shall pay CSXT the entire cost and expense of labor, materials and equipment furnished by CSXT in performing such work.

3) The CROSSING shall be used for public at-grade road crossing purposes only and no utility (including telecommunications facilities, pipes, wires, cables) or other line or structure, materials, vegetation or other improvements shall be placed in, on or over the CROSSING without the previous consent in writing of CSXT and the execution of such additional agreements as CSXT deems necessary.

4) RESERVED.

5) The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING, and in the event the AGENCY shall fail to comply with any of the covenants and conditions, then, at the option of CSXT, this Agreement shall be terminated with full legal rights and remedies retained by CSXT, including but not limited to the right to reenter, repossess, and remove the CROSSING at the expense of the AGENCY if CSXT shall elect to do so.

6) Unless otherwise specified in this Agreement or the Construction Agreement, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING, including but not limited to the track structure, any railroad crossing warning signs, crossing surfaces and automatic crossing warning devices, whether performed by the AGENCY or CSXT, shall be the sole responsibility of the AGENCY.

7) Pursuant to the Construction Agreement, CSXT will install WARNING DEVICES at the CROSSING. On each anniversary of the in-service date until termination

of this Agreement, AGENCY shall pay an annual fee in arrears to CSXT in the amount of SIX THOUSAND THREE HUNDRED THIRTY DOLLARS (\$6,330.00), towards the ongoing maintenance of the WARNING DEVICES (the “Annual Warning Device Fee”). The Annual Warning Device Fee shall be increased each year in accordance with Section 9. The WARNING DEVICES shall remain at the CROSSING SITE until the Georgia Department of Transportation (“DOT”) decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

8) The existing crossing surface at the CROSSING is thirty-five feet (35’) wide (the “SURFACE”). On each anniversary of the Effective Date until termination of this Agreement, AGENCY shall pay an annual fee to CSXT in the amount of THREE THOUSAND THREE HUNDRED TWENTY-THREE DOLLARS (\$3,323.00), towards the ongoing maintenance of the SURFACE (the “Annual Surface Fee”). The Annual Surface Fee shall be increased each year in accordance with Section 9.

9) The Annual Warning Device Fee and Annual Surface Fee (“Annual Fees”) shall be adjusted as follows:

a) The Annual Fees shall be subject to periodic review and adjustment by CSXT. CSXT will provide notice of any increase as a result of such review and adjustment in advance of the due date.

b) In addition to the periodic review and adjustment referred to in the Section above, the Fees shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor

Statistics Department of Labor" ("CPI"). In no event, however, shall the adjusted Fee be less than the previous year's Fee.

The Fee shall be increased in accordance with the following:

Current Price Index*

----- X Fees = Adjusted Fees

Base Price Index**

* Effective CPI in the fourth month prior to the anniversary date of the Agreement.

** Effective CPI at the time of the effective date of the Agreement.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Licensor.

10) When CSXT determines that the replacement of the SURFACE is more economical than its continued maintenance, CSXT shall have the exclusive option to replace the SURFACE with its standard timber and asphalt surface. In the event AGENCY requests that CSXT install a different type of grade crossing surface and CSXT agrees to do so, the difference in cost between the then current estimated replacement cost of CSXT's standard timber and asphalt surface and the AGENCY's requested surface type shall be the sole responsibility of the AGENCY.

11) The AGENCY shall, at its sole expense, maintain and replace the remainder of the road on either side of the SURFACE within CSXT's right-of-way at the CROSSING,

plus any paving which may be located between the ends of the ties. AGENCY shall perform such work in accordance with the time and operational requirements of CSXT. The AGENCY will give prior notice to CSXT of all work to be performed by it at or near the CROSSING and no such work shall be performed by AGENCY without the prior approval of CSXT and the execution of such additional agreements as CSXT deems necessary. All work performed by the AGENCY shall be conducted at such times and in such manner as to not interfere or impede the operations of CSXT. CSXT shall provide a construction watchman or other protective services at the CROSSING while work is being performed by the AGENCY under the provisions of this Agreement, at the sole expense of the AGENCY.

12) The AGENCY agrees, acknowledges and understands that CSXT reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING. CSXT shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such changes or alterations. The AGENCY agrees to promptly relocate any AGENCY facilities to accommodate any CSXT changes within thirty (30) days of a request by CSXT to do so, at AGENCY's sole cost and expense.

13) The AGENCY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING. Such facilities must first be approved by the CSXT and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the CSXT, depending

upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities.

14) Lighting facilities adequate to comply with the requirements of the laws of the State of Georgia covering illumination of the road crossing shall be installed, maintained and replaced at or near this CROSSING by and at the sole cost of AGENCY.

15) Facilities at or near the CROSSING that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by AGENCY at or near the CROSSING without the prior written approval of CSXT, which approval is in CSXT's sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of AGENCY.

16) If at any time CSXT, at AGENCY's request, performs work required to be performed by AGENCY hereunder, the cost for such work shall be the sole responsibility of AGENCY.

17) The AGENCY further covenants to pay CSXT, within thirty (30) days after presentation of the same, all invoices submitted by CSXT under this Agreement. Failure to promptly pay to CSXT amounts billed as due under this Agreement shall constitute default by the AGENCY. In the event AGENCY fails to comply with any of the other terms and conditions of this Agreement, then, at the option of CSXT, CSXT may elect, by delivery of notice to AGENCY, not to perform CSXT's obligations under this Agreement, up to and including closing the crossing, until the AGENCY cures any such default to CSXT's satisfaction.

18) At the termination of this Agreement as provided above, all rights of the

AGENCY shall terminate and the AGENCY shall remove, under CSXT's supervision and direction, at AGENCY's entire cost and expense, said road and all non-CSXT-owned improvements placed upon the CSXT's right-of-way and restore the ground to its original condition.

19) To the fullest extent permitted by state law, the AGENCY shall indemnify, defend and hold harmless CSXT for assessments or other charges of any kind whatsoever against the CSXT at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING arising out of the existence of the CROSSING.

20) The AGENCY shall not in any way, or at any time, interfere with or obstruct CSXT's right-of-way, the movement of CSXT's trains and other railroad operations, or interfere with the CSXT's use thereof, or the use thereof by CSXT's assigns, invitees, lessees or licensees.

21) To the fullest extent permitted by state law, the AGENCY shall, and shall require its contractor to, indemnify, defend and hold harmless CSXT, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorney's fees) incurred by or asserted against CSXT whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of any future maintenance or replacement of the CROSSING and/or WARNING DEVICES by CSXT, the performance of work by CSXT required to be performed by AGENCY hereunder, or the use of the CROSSING or AGENCY facilities, including but not limited to pedestrian walkways, at or near the CROSSING and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of CSXT.** Notwithstanding

the foregoing, the AGENCY shall have no indemnification obligation for the intentional, wrongful acts of CSXT.

22) At least thirty (30) days prior to AGENCY's performance of any work in connection with the CROSSING, AGENCY or its contractor shall notify CSXT of its authorized representative. CSXT shall review AGENCY's request for approval and/or authorization to proceed. Such approval and/or authorization to proceed shall include (if applicable) the execution of such additional agreement(s) as CSXT deems necessary and CSXT's requirement to furnish protective services including but not limited to flagmen, construction watchmen, field construction inspectors, etc. ("Protective Services") for the protection of CSXT's employees, property and train operations with respect to AGENCY's work activity. Any such Protective Services shall be furnished at AGENCY's sole cost and expense. AGENCY shall abide by all instructions of CSXT's Regional Engineer, or his or her authorized representative, in the performance of any work at the CROSSING.

In addition to, but not in limitation of any of the foregoing provisions, if at any time CSXT should deem it necessary to place Protective Services for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING, CSXT shall have the right to place such Protective Services, or other persons at the sole cost and expense of the AGENCY. The furnishing or failure to furnish Protective Services, or other persons by the CSXT under this paragraph, however, shall not release AGENCY from any and all other liabilities assumed by AGENCY under the terms of this Agreement, including its obligations under Paragraph 20 hereof.

23) Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING shall be

the sole responsibility and cost of the AGENCY, and at its sole expense.

24) The AGENCY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

25) If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26) This Agreement will be governed by the laws of the State of Georgia, with the parties agreeing to venue and jurisdiction for all issues arising from this Agreement being in the Bartow County Superior Court. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

27) This Agreement supersedes any existing agreement(s) between CSXT, or its predecessor in title, and AGENCY, or its predecessor in title, covering the CROSSING and WARNING DEVICES described herein, which agreement(s) is/are terminated and superseded by the execution hereof.

28) Upon completion of the Project and except as otherwise provided in this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provision in any of the Construction Agreement, the provision contained in this Agreement shall govern and control.

IN WITNESS WHEREOF, the CSXT and the AGENCY have caused this instrument to be executed in their corporate names in duplicate the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

CITY OF CARTERSVILLE

CSX TRANSPORTATION, INC.

By: _____

By: _____

Name: Matthew J. Santini

Name: _____

Title: Mayor

Title: _____

Attested to by:

Julia Drake, City Clerk

[AFFIX SEAL]

GRADE CROSSING MAINTENANCE AGREEMENT

THIS GRADE CROSSING MAINTENANCE AGREEMENT (this “Agreement”), effective as of _____ (the “Effective Date”), is between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business located at 500 Water St., Jacksonville, FL 32202, hereinafter called “CSXT,” and the CITY OF CARTERSVILLE, a municipal of the State of Georgia, hereinafter called “AGENCY”.

WITNESSETH:

WHEREAS, AGENCY desires the continued use and maintenance of a certain existing road crossing which includes an at-grade public road roadway known as Cherokee Avenue across and over the tracks, right-of-way and property of CSXT, at CSXT’s Milepost 0WA 47.62, DOT No. 340442S, hereinafter referred to as the “CROSSING” and the warning devices at the CROSSING, including the fixed signs, flashing lights, bells and gates (collectively the “WARNING DEVICES”); and

WHEREAS, by that certain Construction Agreement entered into between the AGENCY and CSXT, dated _____, hereinafter referred to as the “Construction Agreement”, AGENCY will construct or cause to be constructed the Project (as defined in the Construction Agreement) which includes improvements at the CROSSING; and

WHEREAS, upon completion of the Project, the AGENCY will use, maintain, repair, renew, replace and ultimately remove the CROSSING and WARNING DEVICES under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1) The CROSSING includes but is not limited to, the track structure, grade crossing surface, any railroad crossing warning signs, and automatic grade crossing warning devices which are, or might be, located within or adjacent to the above-described location. Upon completion of the Project, the CROSSING shall be thereafter maintained as provided herein at the sole cost and expense of the AGENCY.

- a) Agency shall maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans, consisting of roadway pavement up to the outer ends of the railroad cross ties, sidewalks, guardrails, and curbs, in good and safe condition to CSXT's satisfaction. In the event Agency fails to do so after reasonable notice from CSXT (unless an emergency condition exists or is imminent in the opinion of CSXT that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense.
- b) CSXT shall maintain and repair the crossing surface between the ends of its cross ties and its signal facilities at the CROSSING, at Agency's sole cost and expense.
- c) Agency shall not undertake any alteration, modification or expansion of the CROSSING, without the prior written approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. CSXT may undertake alterations and/or maintenance of its property, track or facilities and shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such alteration and/or maintenance.

2) Notwithstanding any rights granted to the AGENCY herein, CSXT reserves the right to perform all work required on CSXT's property and right-of-way at the

CROSSING including construction, drainage, lighting and vegetation management, in which event AGENCY shall pay CSXT the entire cost and expense of labor, materials and equipment furnished by CSXT in performing such work.

3) The CROSSING shall be used for public at-grade road crossing purposes only and no utility (including telecommunications facilities, pipes, wires, cables) or other line or structure, materials, vegetation or other improvements shall be placed in, on or over the CROSSING without the previous consent in writing of CSXT and the execution of such additional agreements as CSXT deems necessary.

4) RESERVED.

5) The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING, and in the event the AGENCY shall fail to comply with any of the covenants and conditions, then, at the option of CSXT, this Agreement shall be terminated with full legal rights and remedies retained by CSXT, including but not limited to the right to reenter, repossess, and remove the CROSSING at the expense of the AGENCY if CSXT shall elect to do so.

6) Unless otherwise specified in this Agreement or the Construction Agreement, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING, including but not limited to the track structure, any railroad crossing warning signs, crossing surfaces and automatic crossing warning devices, whether performed by the AGENCY or CSXT, shall be the sole responsibility of the AGENCY.

7) Pursuant to the Construction Agreement, CSXT will install WARNING DEVICES at the CROSSING. On each anniversary of the in-service date until termination

of this Agreement, AGENCY shall pay an annual fee in arrears to CSXT in the amount of SIX THOUSAND THREE HUNDRED THIRTY DOLLARS (\$6,330.00), towards the ongoing maintenance of the WARNING DEVICES (the “Annual Warning Device Fee”). The Annual Warning Device Fee shall be increased each year in accordance with Section 9. The WARNING DEVICES shall remain at the CROSSING SITE until the Georgia Department of Transportation (“DOT”) decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

8) The existing crossing surface at the CROSSING is forty-five feet (45’) wide (the “SURFACE”). On each anniversary of the Effective Date until termination of this Agreement, AGENCY shall pay an annual fee to CSXT in the amount of THREE THOUSAND SIX HUNDRED TWELVE DOLLARS (\$3,612.00), towards the ongoing maintenance of the SURFACE (the “Annual Surface Fee”). The Annual Surface Fee shall be increased each year in accordance with Section 9.

9) The Annual Warning Device Fee and Annual Surface Fee (“Annual Fees”) shall be adjusted as follows:

a) The Annual Fees shall be subject to periodic review and adjustment by CSXT. CSXT will provide notice of any increase as a result of such review and adjustment in advance of the due date.

b) In addition to the periodic review and adjustment referred to in the Section above, the Fees shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor

Statistics Department of Labor" ("CPI"). In no event, however, shall the adjusted Fee be less than the previous year's Fee.

The Fee shall be increased in accordance with the following:

Current Price Index*

----- X Fees = Adjusted Fees

Base Price Index**

* Effective CPI in the fourth month prior to the anniversary date of the Agreement.

** Effective CPI at the time of the effective date of the Agreement.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Licensor.

10) When CSXT determines that the replacement of the SURFACE is more economical than its continued maintenance, CSXT shall have the exclusive option to replace the SURFACE with its standard timber and asphalt surface. In the event AGENCY requests that CSXT install a different type of grade crossing surface and CSXT agrees to do so, the difference in cost between the then current estimated replacement cost of CSXT's standard timber and asphalt surface and the AGENCY's requested surface type shall be the sole responsibility of the AGENCY.

11) The AGENCY shall, at its sole expense, maintain and replace the remainder of the road on either side of the SURFACE within CSXT's right-of-way at the CROSSING,

plus any paving which may be located between the ends of the ties. AGENCY shall perform such work in accordance with the time and operational requirements of CSXT. The AGENCY will give prior notice to CSXT of all work to be performed by it at or near the CROSSING and no such work shall be performed by AGENCY without the prior approval of CSXT and the execution of such additional agreements as CSXT deems necessary. All work performed by the AGENCY shall be conducted at such times and in such manner as to not interfere or impede the operations of CSXT. CSXT shall provide a construction watchman or other protective services at the CROSSING while work is being performed by the AGENCY under the provisions of this Agreement, at the sole expense of the AGENCY.

12) The AGENCY agrees, acknowledges and understands that CSXT reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING. CSXT shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such changes or alterations. The AGENCY agrees to promptly relocate any AGENCY facilities to accommodate any CSXT changes within thirty (30) days of a request by CSXT to do so, at AGENCY's sole cost and expense.

13) The AGENCY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING. Such facilities must first be approved by the CSXT and any governing bodies having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the CSXT, depending

upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities.

14) Lighting facilities adequate to comply with the requirements of the laws of the State of Georgia covering illumination of the road crossing shall be installed, maintained and replaced at or near this CROSSING by and at the sole cost of AGENCY.

15) Facilities at or near the CROSSING that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by AGENCY at or near the CROSSING without the prior written approval of CSXT, which approval is in CSXT's sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of AGENCY.

16) If at any time CSXT, at AGENCY's request, performs work required to be performed by AGENCY hereunder, the cost for such work shall be the sole responsibility of AGENCY.

17) The AGENCY further covenants to pay CSXT, within thirty (30) days after presentation of the same, all invoices submitted by CSXT under this Agreement. Failure to promptly pay to CSXT amounts billed as due under this Agreement shall constitute default by the AGENCY. In the event AGENCY fails to comply with any of the other terms and conditions of this Agreement, then, at the option of CSXT, CSXT may elect, by delivery of notice to AGENCY, not to perform CSXT's obligations under this Agreement, up to and including closing the crossing, until the AGENCY cures any such default to CSXT's satisfaction.

18) At the termination of this Agreement as provided above, all rights of the

AGENCY shall terminate and the AGENCY shall remove, under CSXT's supervision and direction, at AGENCY's entire cost and expense, said road and all non-CSXT-owned improvements placed upon the CSXT's right-of-way and restore the ground to its original condition.

19) To the fullest extent permitted by state law, the AGENCY shall indemnify, defend and hold harmless CSXT for assessments or other charges of any kind whatsoever against the CSXT at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING arising out of the existence of the CROSSING.

20) The AGENCY shall not in any way, or at any time, interfere with or obstruct CSXT's right-of-way, the movement of CSXT's trains and other railroad operations, or interfere with the CSXT's use thereof, or the use thereof by CSXT's assigns, invitees, lessees or licensees.

21) To the fullest extent permitted by state law, the AGENCY shall, and shall require its contractor to, indemnify, defend and hold harmless CSXT, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorney's fees) incurred by or asserted against CSXT whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of any future maintenance or replacement of the CROSSING and/or WARNING DEVICES by CSXT, the performance of work by CSXT required to be performed by AGENCY hereunder, or the use of the CROSSING or AGENCY facilities, including but not limited to pedestrian walkways, at or near the CROSSING and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of CSXT.** Notwithstanding

the foregoing, the AGENCY shall have no indemnification obligation for the intentional, wrongful acts of CSXT.

22) At least thirty (30) days prior to AGENCY's performance of any work in connection with the CROSSING, AGENCY or its contractor shall notify CSXT of its authorized representative. CSXT shall review AGENCY's request for approval and/or authorization to proceed. Such approval and/or authorization to proceed shall include (if applicable) the execution of such additional agreement(s) as CSXT deems necessary and CSXT's requirement to furnish protective services including but not limited to flagmen, construction watchmen, field construction inspectors, etc. ("Protective Services") for the protection of CSXT's employees, property and train operations with respect to AGENCY's work activity. Any such Protective Services shall be furnished at AGENCY's sole cost and expense. AGENCY shall abide by all instructions of CSXT's Regional Engineer, or his or her authorized representative, in the performance of any work at the CROSSING.

In addition to, but not in limitation of any of the foregoing provisions, if at any time CSXT should deem it necessary to place Protective Services for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING, CSXT shall have the right to place such Protective Services, or other persons at the sole cost and expense of the AGENCY. The furnishing or failure to furnish Protective Services, or other persons by the CSXT under this paragraph, however, shall not release AGENCY from any and all other liabilities assumed by AGENCY under the terms of this Agreement, including its obligations under Paragraph 20 hereof.

23) Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING shall be

the sole responsibility and cost of the AGENCY, and at its sole expense.

24) The AGENCY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

25) If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26) This Agreement will be governed by the laws of the State of Georgia, with the parties agreeing to venue and jurisdiction for all issues arising from this Agreement being in the Bartow County Superior Court. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

27) This Agreement supersedes any existing agreement(s) between CSXT, or its predecessor in title, and AGENCY, or its predecessor in title, covering the CROSSING and WARNING DEVICES described herein, which agreement(s) is/are terminated and superseded by the execution hereof.

28) Upon completion of the Project and except as otherwise provided in this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provision in any of the Construction Agreement, the provision contained in this Agreement shall govern and control.

IN WITNESS WHEREOF, the CSXT and the AGENCY have caused this instrument to be executed in their corporate names in duplicate the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

CITY OF CARTERSVILLE

CSX TRANSPORTATION, INC.

By: _____

By: _____

Name: Matthew J. Santini

Name: _____

Title: Mayor

Title: _____

Attested to by:

Julia Drake, City Clerk

[AFFIX SEAL]

GRADE CROSSING MAINTENANCE AGREEMENT

THIS GRADE CROSSING MAINTENANCE AGREEMENT (this “Agreement”), effective as of _____ (the “Effective Date”), is between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business located at 500 Water St., Jacksonville, FL 32202, hereinafter called “CSXT,” and the CITY OF CARTERSVILLE, a municipal of the State of Georgia, hereinafter called “AGENCY”.

WITNESSETH:

WHEREAS, AGENCY desires the continued use and maintenance of a certain existing road crossing which includes an at-grade public road roadway known as Carter Street across and over the tracks, right-of-way and property of CSXT, at CSXT’s Milepost 0WA 47.94, DOT No. 340445M, hereinafter referred to as the “CROSSING” and the warning devices at the CROSSING, including the fixed signs, flashing lights, bells and gates (collectively the “WARNING DEVICES”); and

WHEREAS, by that certain Construction Agreement entered into between the AGENCY and CSXT, dated _____, hereinafter referred to as the “Construction Agreement”, AGENCY will construct or cause to be constructed the Project (as defined in the Construction Agreement) which includes improvements at the CROSSING; and

WHEREAS, upon completion of the Project, the AGENCY will use, maintain, repair, renew, replace and ultimately remove the CROSSING and WARNING DEVICES under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties agree as follows:

1) The CROSSING includes but is not limited to, the track structure, grade crossing surface, any railroad crossing warning signs, and automatic grade crossing warning devices which are, or might be, located within or adjacent to the above-described location. Upon completion of the Project, the CROSSING shall be thereafter maintained as provided herein at the sole cost and expense of the AGENCY.

- a) Agency shall maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans, consisting of roadway pavement up to the outer ends of the railroad cross ties, sidewalks, guardrails, and curbs, in good and safe condition to CSXT's satisfaction. In the event Agency fails to do so after reasonable notice from CSXT (unless an emergency condition exists or is imminent in the opinion of CSXT that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense.
- b) CSXT shall maintain and repair the crossing surface between the ends of its cross ties and its signal facilities at the CROSSING, at Agency's sole cost and expense.
- c) Agency shall not undertake any alteration, modification or expansion of the CROSSING, without the prior written approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require. CSXT may undertake alterations and/or maintenance of its property, track or facilities and shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such alteration and/or maintenance.

2) Notwithstanding any rights granted to the AGENCY herein, CSXT reserves the right to perform all work required on CSXT's property and right-of-way at the

CROSSING including construction, drainage, lighting and vegetation management, in which event AGENCY shall pay CSXT the entire cost and expense of labor, materials and equipment furnished by CSXT in performing such work.

3) The CROSSING shall be used for public at-grade road crossing purposes only and no utility (including telecommunications facilities, pipes, wires, cables) or other line or structure, materials, vegetation or other improvements shall be placed in, on or over the CROSSING without the previous consent in writing of CSXT and the execution of such additional agreements as CSXT deems necessary.

4) RESERVED.

5) The provisions and stipulations of this Agreement are a part of the consideration of the licensing of the CROSSING, and in the event the AGENCY shall fail to comply with any of the covenants and conditions, then, at the option of CSXT, this Agreement shall be terminated with full legal rights and remedies retained by CSXT, including but not limited to the right to reenter, repossess, and remove the CROSSING at the expense of the AGENCY if CSXT shall elect to do so.

6) Unless otherwise specified in this Agreement or the Construction Agreement, the cost of and liability for installation, construction, maintenance, replacement and removal of all facilities at the CROSSING, including but not limited to the track structure, any railroad crossing warning signs, crossing surfaces and automatic crossing warning devices, whether performed by the AGENCY or CSXT, shall be the sole responsibility of the AGENCY.

7) Pursuant to the Construction Agreement, CSXT will install WARNING DEVICES at the CROSSING. On each anniversary of the in-service date until termination

of this Agreement, AGENCY shall pay an annual fee in arrears to CSXT in the amount of EIGHT THOUSAND EIGHTY-EIGHT DOLLARS (\$8,088.00), towards the ongoing maintenance of the WARNING DEVICES (the "Annual Warning Device Fee"). The Annual Warning Device Fee shall be increased each year in accordance with Section 9. The WARNING DEVICES shall remain at the CROSSING SITE until the Georgia Department of Transportation ("DOT") decides that they are no longer needed or should be replaced, or until other legal requirements are imposed which shall eliminate or substantially change their operations.

8) The existing crossing surface extends across two tracks at the CROSSING each surface being forty feet (40') wide (separately or collectively the "SURFACE"). On each anniversary of the Effective Date until termination of this Agreement, AGENCY shall pay an annual fee to CSXT in the amount of SIX HOUSAND SIX HUNDRED FORTY-SIX DOLLARS (\$6,646.00), towards the ongoing maintenance of the SURFACE (the "Annual Surface Fee"). The Annual Surface Fee shall be increased each year in accordance with Section 9.

9) The Annual Warning Device Fee and Annual Surface Fee ("Annual Fees") shall be adjusted as follows:

a) The Annual Fees shall be subject to periodic review and adjustment by CSXT. CSXT will provide notice of any increase as a result of such review and adjustment in advance of the due date.

b) In addition to the periodic review and adjustment referred to in the Section above, the Fees shall be adjusted on an annual basis by the same percentage of increase as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-

W) (1982-84=100) specified for All Items - United States compiled by the Bureau of Labor Statistics Department of Labor" ("CPI"). In no event, however, shall the adjusted Fee be less than the previous year's Fee.

The Fee shall be increased in accordance with the following:

Current Price Index*

----- X Fees = Adjusted Fees

Base Price Index**

* Effective CPI in the fourth month prior to the anniversary date of the Agreement.

** Effective CPI at the time of the effective date of the Agreement.

In the event the CPI is converted to a different standard reference base or otherwise revised or changed, the calculation of the percentage increase or decrease shall be made with the use of such conversion factor, formula or table for converting the CPI as may be published by the Bureau of Labor Statistics or, if said Bureau shall not publish the same, then as reasonably determined by Licensor.

10) When CSXT determines that the replacement of the SURFACE is more economical than its continued maintenance, CSXT shall have the exclusive option to replace the SURFACE with its standard timber and asphalt surface. In the event AGENCY requests that CSXT install a different type of grade crossing surface and CSXT agrees to do so, the difference in cost between the then current estimated replacement cost of CSXT's standard timber and asphalt surface and the AGENCY's requested surface type shall be the sole responsibility of the AGENCY.

11) The AGENCY shall, at its sole expense, maintain and replace the remainder of the road on either side of the SURFACE within CSXT's right-of-way at the CROSSING, plus any paving which may be located between the ends of the ties. AGENCY shall perform such work in accordance with the time and operational requirements of CSXT. The AGENCY will give prior notice to CSXT of all work to be performed by it at or near the CROSSING and no such work shall be performed by AGENCY without the prior approval of CSXT and the execution of such additional agreements as CSXT deems necessary. All work performed by the AGENCY shall be conducted at such times and in such manner as to not interfere or impede the operations of CSXT. CSXT shall provide a construction watchman or other protective services at the CROSSING while work is being performed by the AGENCY under the provisions of this Agreement, at the sole expense of the AGENCY.

12) The AGENCY agrees, acknowledges and understands that CSXT reserves the right to make any changes at any future time in its existing tracks or other facilities, including the installation, maintenance and operation of any additional track or tracks or other facilities on its right-of-way at the CROSSING. CSXT shall be reimbursed by Agency for the expenses incurred by CSXT with respect to the removal and restoration of the crossing in connections with such changes or alterations. The AGENCY agrees to promptly relocate any AGENCY facilities to accommodate any CSXT changes within thirty (30) days of a request by CSXT to do so, at AGENCY's sole cost and expense.

13) The AGENCY agrees that it will install, maintain and replace all necessary drainage facilities to prevent the accumulation of surface water due to the existence of the CROSSING. Such facilities must first be approved by the CSXT and any governing bodies

having jurisdiction thereof and operation of the facilities shall also be subject at all time to their approval. An additional license agreement may be required by the CSXT, depending upon the location of such drainage facilities and type, size, depth and other specifications of the proposed facilities.

14) Lighting facilities adequate to comply with the requirements of the laws of the State of Georgia covering illumination of the road crossing shall be installed, maintained and replaced at or near this CROSSING by and at the sole cost of AGENCY.

15) Facilities at or near the CROSSING that are not specifically covered by this Agreement, including but not limited to pedestrian walkways, may not be constructed by AGENCY at or near the CROSSING without the prior written approval of CSXT, which approval is in CSXT's sole discretion. The cost and liability for such facilities, including but not limited to claims for personal injury or death or damage to property of any person or persons whomsoever, shall be the sole responsibility of AGENCY.

16) If at any time CSXT, at AGENCY's request, performs work required to be performed by AGENCY hereunder, the cost for such work shall be the sole responsibility of AGENCY.

17) The AGENCY further covenants to pay CSXT, within thirty (30) days after presentation of the same, all invoices submitted by CSXT under this Agreement. Failure to promptly pay to CSXT amounts billed as due under this Agreement shall constitute default by the AGENCY. In the event AGENCY fails to comply with any of the other terms and conditions of this Agreement, then, at the option of CSXT, CSXT may elect, by delivery of notice to AGENCY, not to perform CSXT's obligations under this Agreement, up to and including closing the crossing, until the AGENCY cures any such default to

CSXT's satisfaction.

18) At the termination of this Agreement as provided above, all rights of the AGENCY shall terminate and the AGENCY shall remove, under CSXT's supervision and direction, at AGENCY's entire cost and expense, said road and all non-CSXT-owned improvements placed upon the CSXT's right-of-way and restore the ground to its original condition.

19) To the fullest extent permitted by state law, the AGENCY shall indemnify, defend and hold harmless CSXT for assessments or other charges of any kind whatsoever against the CSXT at any time for any portion of public improvements installed on or within two hundred (200) feet of the CROSSING arising out of the existence of the CROSSING.

20) The AGENCY shall not in any way, or at any time, interfere with or obstruct CSXT's right-of-way, the movement of CSXT's trains and other railroad operations, or interfere with the CSXT's use thereof, or the use thereof by CSXT's assigns, invitees, lessees or licensees.

21) To the fullest extent permitted by state law, the AGENCY shall, and shall require its contractor to, indemnify, defend and hold harmless CSXT, its affiliates, officers, directors and employees from any and all suits, claims, liability, losses, damages, expenses and costs (including reasonable attorney's fees) incurred by or asserted against CSXT whether for personal injury or death or damage to property of any person or persons whomsoever, relating to, resulting from or arising out of any future maintenance or replacement of the CROSSING and/or WARNING DEVICES by CSXT, the performance of work by CSXT required to be performed by AGENCY hereunder, or the use of the CROSSING or AGENCY facilities, including but not limited to pedestrian walkways, at

or near the CROSSING and **regardless of whether such injury or damage is caused or alleged to be caused, in whole or in part, by the negligence of CSXT.** Notwithstanding the foregoing, the AGENCY shall have no indemnification obligation for the intentional, wrongful acts of CSXT.

22) At least thirty (30) days prior to AGENCY's performance of any work in connection with the CROSSING, AGENCY or its contractor shall notify CSXT of its authorized representative. CSXT shall review AGENCY's request for approval and/or authorization to proceed. Such approval and/or authorization to proceed shall include (if applicable) the execution of such additional agreement(s) as CSXT deems necessary and CSXT's requirement to furnish protective services including but not limited to flagmen, construction watchmen, field construction inspectors, etc. ("Protective Services") for the protection of CSXT's employees, property and train operations with respect to AGENCY's work activity. Any such Protective Services shall be furnished at AGENCY's sole cost and expense. AGENCY shall abide by all instructions of CSXT's Regional Engineer, or his or her authorized representative, in the performance of any work at the CROSSING.

In addition to, but not in limitation of any of the foregoing provisions, if at any time CSXT should deem it necessary to place Protective Services for the protection of any person or property, during the construction, maintenance, repair, alteration, renewal, or removal at the CROSSING, CSXT shall have the right to place such Protective Services, or other persons at the sole cost and expense of the AGENCY. The furnishing or failure to furnish Protective Services, or other persons by the CSXT under this paragraph, however, shall not release AGENCY from any and all other liabilities assumed by AGENCY under the terms of this Agreement, including its obligations under Paragraph 20 hereof.

23) Installation, maintenance and replacement of any and all railroad advance warning signs and pavement markings on any road approaching the CROSSING shall be the sole responsibility and cost of the AGENCY, and at its sole expense.

24) The AGENCY hereby acknowledges that it has been notified that its personnel will or may be working in an area containing active fiber-optic transmission cable as well as other cables and other facilities.

25) If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

26) This Agreement will be governed by the laws of the State of Georgia, with the parties agreeing to venue and jurisdiction for all issues arising from this Agreement being in the Bartow County Superior Court. It constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all proposals, oral or written, and all other communications between the parties related to the subject matter of this Agreement. Any future change or modification of this Agreement must be in writing and signed by both parties.

27) This Agreement supersedes any existing agreement(s) between CSXT, or its predecessor in title, and AGENCY, or its predecessor in title, covering the CROSSING and WARNING DEVICES described herein, which agreement(s) is/are terminated and superseded by the execution hereof.

28) Upon completion of the Project and except as otherwise provided in this Agreement, if any provision contained in this Agreement is in conflict with, or inconsistent with, any provision in any of the Construction Agreement, the provision contained in this

Agreement shall govern and control.

IN WITNESS WHEREOF, the CSXT and the AGENCY have caused this instrument to be executed in their corporate names in duplicate the day first hereinafter written by their undersigned officials thereunto lawfully authorized.

CITY OF CARTERSVILLE

CSX TRANSPORTATION, INC.

By: _____

By: _____

Name: Matthew J. Santini

Name: _____

Title: Mayor

Title: _____

Attested to by:

Julia Drake, City Clerk

[AFFIX SEAL]



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Engineering Services
DEPARTMENT NAME:	Public Works
AGENDA ITEM TITLE:	Architectural and Engineering Services for Public Works Remodel
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The Public Works Office Building, located at 330 S. Erwin Street, is in need of a remodel to update its appearance from its original construction in 1983 to a more modern look. Public Works aims for a minor redesign and would like to continue operations in the building during the renovation, focusing on cosmetic improvements and better use of the existing office space. Therefore, we expect minimal structural changes and more emphasis on interior work and finishes.</p> <p>Seven Hills Architecture and Consulting provided a proposal to perform services in the schematic design phase and construction documents that we can utilize for the remodel.</p> <p>We are enthusiastic about moving forward with this design and recommend approving the agreement with Seven Hills for a fee of \$18,500.00, which is within the budget.</p>
LEGAL:	N/A



PROPOSAL FOR ARCHITECTURAL AND ENGINEERING SERVICES

7.2.24

To: Mr. Wade Wilson
Cartersville Public Works
330 S. Erwin St.
Cartersville, GA 30120

**Re: Proposal for Architectural and Engineering Services
Cartersville Public Works
330 South Erwin St.
Cartersville, GA 30120**

Dear Wade:

I am pleased to submit this proposal to provide architecture services for the abovementioned project. I appreciate this opportunity and look forward to working with you to accomplish this new project.

The following are the Project Description, Scope of Services, Services Specifically Excluded, Owner-Provided Information, Additional Services, Professional Fees, Payment Terms and Conditions, Reimbursable Expenses, and Approval for this project.

PROJECT DESCRIPTION

The project is located at 330 S Erwin St. in Cartersville, GA. It involves new finishes and minor renovations to the existing 3,717 s.f. office building. New finishes will be selected for all of the spaces on the main and upper levels. The main level renovation will open the wall between the break room and the administration office. Also, the Lobby size will decrease to allow more space for other functions, and 2 partitions will be added to the existing map room. New light fixtures will be designed for each room. New water closets and sinks will be provided in the existing restrooms.

If the project description changes substantially from the description above, this proposal will be modified to reflect such changes.

SCOPE OF SERVICES TO BE PROVIDED

Design services will be divided into five phases: Schematic Design, Design Development, Construction Documents, Bid/Negotiation Services, and Construction Administration.

Schematic Design Phase

The Architect shall review the program and other information provided by the Owner. The Schematic Design Documents shall consist of preliminary building plans, a preliminary structural review of walls to be demolished or moved, a preliminary electrical review of existing panel size and lighting layout, and interior finishes.

Design Development

NA

Construction Documents

The Construction Documents shall illustrate and describe the further development of the approved Schematic Design Documents. They shall consist of drawings and specifications detailing the quality levels of materials and systems and other requirements for the construction of the work.

Design services that will be performed for this phase are as follows:

1. Architecture – interior modifications only.
2. Interior Design – interior finishes only.
3. Structural Engineering—If structural modifications are required, a proposal will be provided for the owner's approval before any work begins.
4. Electrical plan showing new light layout and any other electrical changes that would be required due to new lighting design.

Pricing Services

NA

Construction Administration

NA

SERVICES SPECIFICALLY EXCLUDED

1. Exterior building architectural design
2. Civil Engineering
3. Furniture Selection
4. Mechanical and Plumbing Engineering
5. Pricing Services
6. Construction Administration
7. Landscape Design
8. Environmental Services
9. Geotechnical Services
10. Hydrology Study
11. Boundary and Topographic Survey
12. Record Drawings(As-builts)
13. The issue of the Special Inspections Schedule is included in the design scope. Managing special inspections is not included in this proposal. The Special Inspector/Testing Firm will manage and provide reports to the Owner, Contractor, Architect, and local authority. The "Final Report of Special Inspections Acceptance" to the Building Official, verifying completed inspections and compliance with design, is included in this proposal.
14. Project Graphics and Signage design, documentation, and permitting
15. Rendering and Presentation Materials
16. Low voltage electrical systems, including voice, data, security system, CATV, and card access/CCTV
17. Security system Design
18. Exterior signage design/selection
19. Site lighting
20. Construction cost estimates and project budgeting services

OWNER PROVIDED INFORMATION

1. Existing building floor plans
2. Data sheets describing any specialized equipment to be used in the project

ADDITIONAL SERVICES

Services requested but not previously agreed upon will be considered additional services, which shall be billed hourly. No extra fees will be charged without your prior written approval. The following hourly rates will be used:

Architectural

Architect \$175/hr
CAD Draftsman \$90/hr
Consulting Engineers 1.15 x cost

Engineering

Professional Engineer \$175 /hr
CAD Draftsman \$ 90 /hr

PROFESSIONAL FEES

7 hills architecture + consulting will provide the Scope of Services described above for a lump sum fee of \$18,500.00.

PAYMENT TERMS AND CONDITIONS

Progress billings will be sent monthly based on the amount of work completed. Invoices are due upon receipt.

REIMBURSABLE EXPENSES:

Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect or Architect’s consultants directly related to the project. The following are reimbursable expenses:

- 1. Printing, reproductions, plots, standard form documents.
- 2. Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner.

For Reimbursable Expenses, the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus fifteen percent (15%) of the costs incurred.

Thank you for the opportunity to submit this proposal. I look forward to working with you to accomplish this project. If this proposal is acceptable, I recommend using The AIA Document B105-2007 Standard Form of Agreement Between Owner and Architect for a Residential or Small Commercial Project for the final contract.

If you have any questions, please do not hesitate to call. I can be reached at 770.500.8727 or bruce@7hillsarchitecture.com.

Thank you again for your consideration.

Sincerely,



Bruce Mitchell, Principal

APPROVAL

Accepted by (Client) _____ Date: _____



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Engineering Services
DEPARTMENT NAME:	Water
AGENDA ITEM TITLE:	High Pressure System Construction Management Services
DEPARTMENT SUMMARY RECOMMENDATION:	<p>Prime Engineering has completed the design and permitting services for the modifications to the high-pressure zone of the water system. Prime has submitted the attached proposal for construction Management services for the project in the amount of \$123,906.18.</p> <p>This is a budgeted expense and is recommended for your approval.</p>
LEGAL:	N/A



June 20, 2024

Mr. Michael DeLeon, PE
Water System Engineer
Cartersville Water Department
301 Douthit Ferry Road
Cartersville, GA 30120

Re: Bid & Award and Construction Administration Services
Consultant Professional Services Proposal for
High Pressure Zone Modifications Project

Dear Mr. DeLeon:

Prime Engineering is pleased to submit this proposal to provide Bid and Award, and Construction Administration support services for the High Pressure Modifications project consisting of approximately 2,150 LF of proposed 8-inch/12-inch DIP water main, 3,150 LF of proposed 16-inch DIP water main, abandoning portions of lines and converting lines from one pressure zone to another.

INTRODUCTION AND PROJECT GOALS:

Prime Engineering has performed the design and obtained necessary permits from the various jurisdictional authorities to allow Cartersville Water Department (CWD) to construct the project. Prime Engineering will assist CWD with Bidding the project with general contractors, evaluating the Bids, making recommendation to select a general contractor, and providing part-time, periodic site inspections during construction.

SCOPE OF SERVICES:

Task 4- Bid & Award Phase:

Working closely with Cartersville Water Department Representative(s) throughout the bidding process, services to be provided during the bidding cycle include the following:

- Obtaining SUE 'A' Utility Locates to assist Bidders with complete Contract Documents;
- Participating in Review Meeting with CWD to review the Contract Documents to make sure that they are complete. (Contract front-end documents, Technical Specifications, etc.);
- Printing and distributing bid documents to CWD;
- Printing and distributing bid documents to prospective bidders, and maintaining plan holders list;
- Participating in Pre-Bid meeting;
- Assisting CWD in responding to bid questions and issuing Addenda;
- Assist CWD with bid opening, bid evaluation and written recommendation for bid award to qualified, responsible and responsive low bidder.
- QA/QC of all deliverables.

Proposal – High Pressure Zone Modifications – Bid & Award and CA Services
June 20, 2024
Page 2

- ✓ Deliverables:
 - Electronic and hard copies of the Bid Documents to CWD;
 - Maintain Plan holders list - with weekly updates to CWD;
 - Prime Engineering will sell copies to prospective bidders to cover cost of document production;
 - Participate in Pre-Bid meeting;
 - Assist CWD in answering bidder questions;
 - Prepare Addenda for submittal to CWD for distribution to Bidders;
 - Provide a written recommendation to GCDWR for bid award to qualified, responsible, and responsive bidder.

- ✓ Assumptions:
 - Construction shall be completed under a single contract;

Task 5 – Construction Administration:

Assist CWD during construction with technical guidance and review, periodic part-time inspection, and prepare project Record Drawings upon completion of construction. Construction duration is based on 9 months to Substantial Completion and 1 month to Final Completion. Services will include:

- Preparing a Notice of Intent (NOI) and Notice of Termination (NOT) for submittal to EPD;
 - Preparing the Conformed Contract Documents;
 - Participating in Pre-Construction meeting;
 - Reviewing and responding to contractor RFIs (Assume 2 RFI's);
 - Reviewing and responding to Submittals (Assume 6 Submittals);
 - Providing Change Order Request review and recommend action (Assume 2 C.O.);
 - Performing initial 7-day BMP inspection as required by erosion and sediment control permitting and prepare summary of findings with noted deficiencies;
 - Performing periodic site inspections to monitor contractor progress, identify deficiencies and/or areas of concern, and evaluate maintenance of BMPs (Scheduled -6 site visits by PM; Unscheduled - 2 site visit by PM for special issues); Scheduled – part-time inspection by Engineer III or Field Inspector up to a maximum of 12 hours per week during construction;
 - Preparing Record Drawings following the completion of construction based on contractor's field markups and survey data;
 - Providing Substantial Completion walk-through and Punchlist;
 - Providing Final Completion walk-through;
 - Providing Contract closeout assistance, including any Fixed Asset reporting;
 - Performing ongoing QA/QC review;
 - Reviewing Contractor Pay Application (assume 6), *if requested by CWD Project Manager*
-
- ✓ Deliverables:
 - Make Site Visits as scheduled and/or unscheduled, as required and provide documentation/minutes/summaries of visits;
 - NOI and NOT for signature and submittal to EPD;

Proposal – High Pressure Zone Modifications – Bid & Award and CA Services
 June 20, 2024
 Page 3

- Conformed Documents (electronic and hard copy), - Confirm number of sets and sizes of sets with CWD Project Manager prior to printing;
 - 7-day ES&PCP BMP inspection letter;
 - Provide RFI responses (assumes 2);
 - Provide Submittal responses (assumes 6)
 - Provide Change Order review and recommendation (Assumes 2);
 - Punchlist(s) from site Substantial Completion walk-through;
 - Project Record Drawings signed and sealed by a Professional Engineer licensed to practice in the State of Georgia (hard copy and electronic files), to CWD Standards. Provide GIS data (such as manholes, inverts at sewer manholes, pipeline locations, valves, etc.), to CWD Standards in both horizontal and vertical location.
- ✓ Assumptions:
- Construction and Material Testing services are excluded from this proposal, and will be performed under separate Contract with CWD;
 - An estimated construction contract duration of 10 months is assumed for budgetary and scheduling purposes.
 - Assumes one (1) Construction Contract.

SCHEDULE:

Based on the Scope of Services identified in this proposal, and an estimated Notice to Proceed date of **July 1, 2024**, the enclosed proposed schedule has been developed:

NTP to Consultant	07/2024
Bidding	07/2024
Bid Opening	08/2024
City Council Approval	09/2024
Construction Begins	10/2024
Construction Complete	05/2025
Project Closeout	06/2025

PROJECT BUDGET:

The project will be invoiced monthly according to the actual hours spent. Not-to-Exceed fees are based on the Scope of Services listed in this proposal.

Task 1 – Project Management	\$13,445.40
Task 4 – Bid & Award	\$22,267.08
Task 5 – Construction Administration	\$88,193.70

Total Not-to-Exceed Amount **\$123,906.18***

*Costs include: 1. Badger SUE A from Design Phase (\$15,607.08)
 2. An escalation in hourly rates of 3% per year for 2025.

Proposal – High Pressure Zone Modifications – Bid & Award and CA Services
June 20, 2024
Page 4

ADDITIONAL SERVICES:

Any additional services beyond that scoped above can be handled under a separate proposal and issuance of a Supplemental Work Authorization by CWD.

Please contact Paul Boyer should you have any questions regarding this proposal. We appreciate the opportunity to work with you on this project.

Sincerely,



Paul S. Boyer, P.E.
Department Head – Civil/Utilities
Prime Engineering, Inc.

Enclosures Project Budget
 Cashflow Projections
 Schedule

Project Name: Cartersville Water Department High Pressure Zone Modifications Bid, Award, Construction Admin **Date:** 6/20/2024
PRIME Project Number 2035-0002.001

Task Number		Lead - Prime Engineering , Inc.								
Task Number:	Project Role / Personnel:	Project Manager II Paul Boyer, PE	Engineer III Jessica Lewert, EIT	Engineer II Mike Kuhlman, EIT	Const Inspector III Robert Parks	Surveyor IV Josh Emery	1 Person Surveyor Crew Thomas Moore	Surveyor II Casey (Todd) Atkins	SUE 'A' Badger	TOTAL

2024 Costs	Hourly Billing Rates	\$240.00	\$155.00	\$140.00	\$135.00	\$155.00	\$135.00	\$115.00	\$15,607.08	HOURS	BUDGET
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Task Description											
1.0	Project & Construction Management										
	Monthly Construction Progress Meetings and Minutes	8	8							16	\$3,160.00
	Monthly Invoices and Status/Billing Reports		12							12	\$1,860.00
	Task 1 - Subtotal	8	20	0	0	0	0	0	0	28	\$5,020.00
4.0	Bid & Award										
	SUE 'A'								1	1	\$15,607.08
	Distribute Bid Documents		4	16						20	\$2,860.00
	Pre-Bid Meeting	2	2							4	\$790.00
	Prepare Addenda	2	2	8						12	\$1,910.00
	Prepare Bid Award Recommendation	2	4							6	\$1,100.00
	Task 4 - Subtotal	6	12	24	0	0	0	0	0	42	\$22,267.08
5.0	Construction Phase										
	Prepare Conformed Documents	2	4							6	\$1,100.00
	Pre-Construction Meeting	2	2							4	\$790.00
	Perform 7-Day BMP Inspection	1		4						5	\$800.00
	Scheduled Site Visits (3)	12	12							24	\$4,740.00
	Unscheduled Site Visits (1)	4	4							8	\$1,580.00
	Review Submittals - (10 - Total Project)		10	20						30	\$4,350.00
	Review and Issue RFI Responses - (1)	4	4							8	\$1,580.00
	Review and Recommend Change Order Requests - (1)	2	2							4	\$790.00
	Review Contractor Pay Applications (3)	4	6							10	\$1,890.00
	Part-Time Inspections (12 Hrs/Week)				120					120	\$16,200.00
	Task 5 - Subtotal	31	44	24	120	0	0	0	0	219	\$33,820.00
2024 LABOR TOTAL		45	76	48	120	0	0	0	0	289	\$61,107.08

Project Name:

Cartersville Water Department
 High Pressure Zone Modifications Bid, Award, Construction Admin

Meeting: July 18, 2024 Item 11.

PRIME Project Number 2035-0002.001

Task Number		Lead - Prime Engineering , Inc.								
Task Number:	Project Role / Personnel:	Project Manager II Paul Boyer, PE	Engineer III Jessica Lewert, EIT	Engineer II Mike Kuhlman, EIT	Const Inspector III Robert Parks	Surveyor IV Josh Emery	1 Person Survey Crew Thomas Moore	Surveyor II Casey (Todd) Atkins	SUE 'A' Badger	TOTAL

2025 Costs	Hourly Billing Rates*	\$247.20	\$159.65	\$144.20	\$139.05	\$159.65	\$139.05	\$118.45		HOURS	BUDGET
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* 2025 Rates based on an increase of 3% over 2024 Rates

Task Description											
1.0	Project & Construction Management										
	Monthly Construction Progress Meetings and Minutes	16	16							32	\$6,509.60
	Monthly Invoices and Status/Billing Reports		12							12	\$1,915.80
	Task 1 - Subtotal	16	28	0	0	0	0	0	0	44	\$8,425.40
5.0	Construction Phase										
	Scheduled Site Visits (3)	12	12							24	\$4,882.20
	Unscheduled Site Visits (1)	4	4							8	\$1,627.40
	Review and Issue RFI Responses - (1)	4	4							8	\$1,627.40
	Review and Recommend Change Order Requests - (1)	2	2							4	\$813.70
	Review Contractor Pay Applications (4)	4	8							12	\$2,266.00
	Part-Time Inspections (12 Hrs/Week)				240					240	\$33,372.00
	Prepare Record Drawings	1	2	8		2	16		4	33	\$4,264.20
	Substantial Completion Walk-Through	4	4							8	\$1,627.40
	Develop Punchlist	2	4							6	\$1,133.00
	Final Completion Walk-Through / Certification	4	4							8	\$1,627.40
	Contract Closeout	2	4							6	\$1,133.00
	Task 5 - Subtotal	39	48	8	240	2	16	0	4	357	\$54,373.70
	2025 TOTAL	55	76	8	240	2	16	0	4	401	\$62,799.10
	PROJECT TOTAL	100	152	56	360	2	16	0	4	690	\$123,906.18

2024 Project Cash Flow

June 20, 2024



Project Name: High Pressure Zone Mods - Bid & CA Services

CWD Project Manager: Michael DeLeon, PE

<u>Month</u>	<u>Beginning Balance</u>	<u>Anticipated Costs</u>	<u>Ending Balance</u>
July, 2024	\$0.00	\$15,917.08	\$15,917.08
August, 2024	\$15,917.08	\$3,640.00	\$19,557.08
September, 2024	\$19,557.08	\$3,640.00	\$23,197.08
October, 2024	\$23,197.08	\$14,425.00	\$37,622.08
November, 2024	\$37,622.08	\$11,735.00	\$49,357.08
December, 2024	\$49,357.08	\$11,750.00	\$61,107.08
2024 Total		\$61,107.08	
Beginning PO Balance		\$123,906.18	
Remaining PO Balance		\$62,799.10	

2025 Project Cash Flow

June 20, 2024



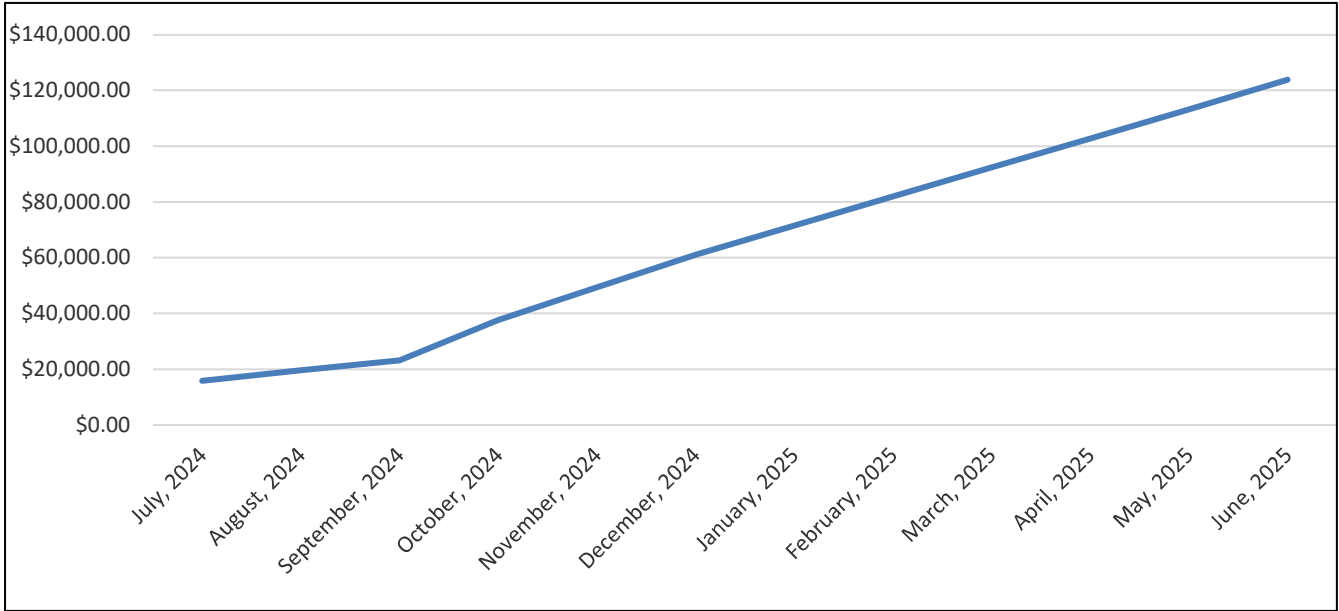
Project Name: High Pressure Zone Mods - Bid & CA Services

CWD Project Manager: Michael DeLeon, PE

<u>Month</u>	<u>Beginning Balance</u>	<u>Anticipated Costs</u>	<u>Ending Balance</u>
January, 2025	\$61,107.08	\$10,425.40	\$71,532.48
February, 2025	\$71,532.48	\$10,400.00	\$81,932.48
March, 2025	\$81,932.48	\$10,400.00	\$92,332.48
April, 2025	\$92,332.48	\$10,400.00	\$102,732.48
May, 2025	\$102,732.48	\$10,400.00	\$113,132.48
June, 2025	\$113,132.48	\$10,773.70	\$123,906.18
2025 Total		\$62,799.10	
Beginning PO Balance		\$62,799.10	
Remaining PO Balance		\$0.00	

Project Cash Flow

June 20, 2024

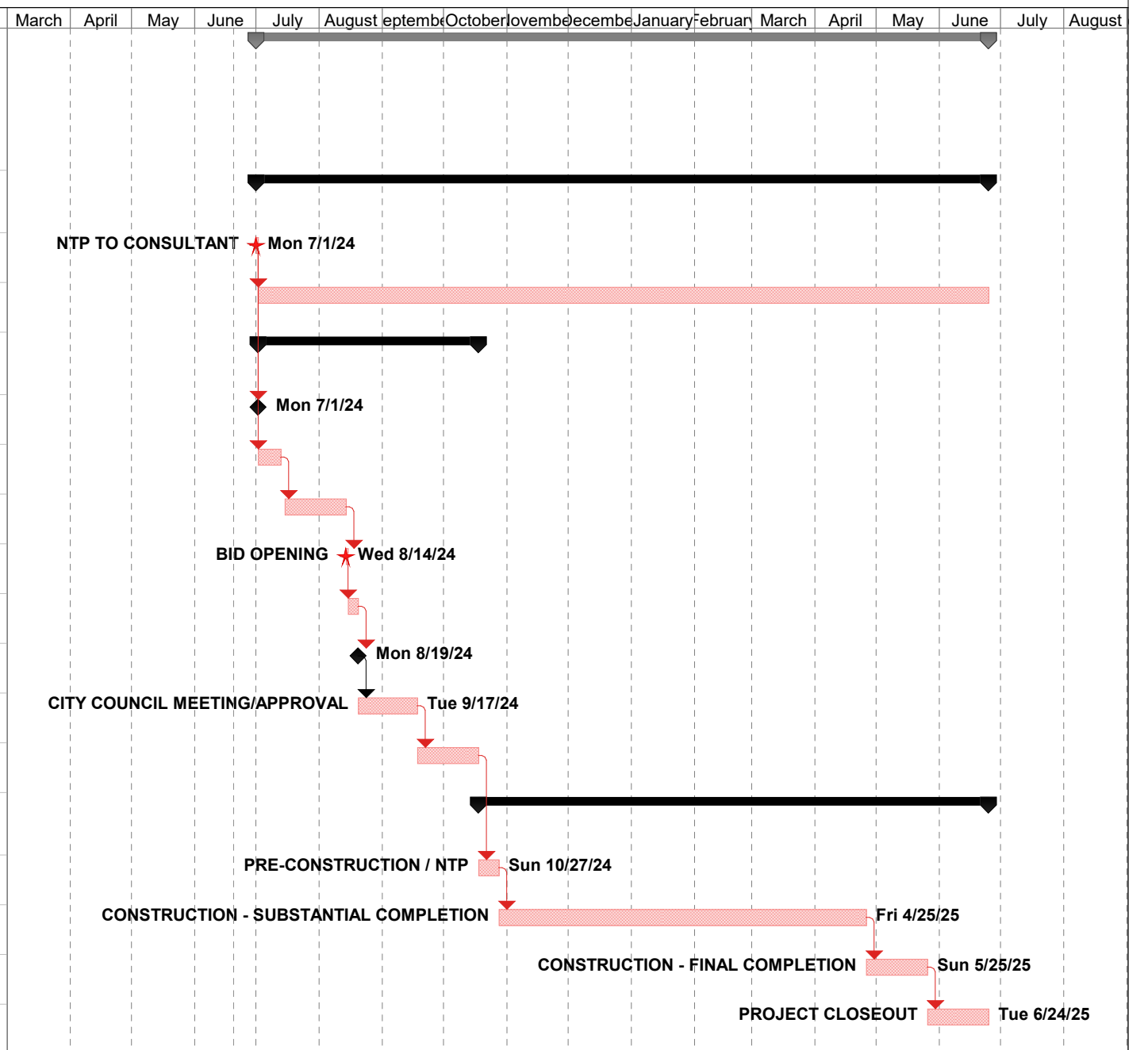




PROJECT SCHEDULE (06/20/2024)

Cartersville Water Department High Pressure Zone Modifications Bid Award & Const Admin

ID	Task Name	Duration	Start	Finish	Predecessors	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	July	August
0	Forest Valley and Poplar Creek WMR Project	359 days	Mon 7/1/24	Tue 6/24/25																			
1	1 TASK 1 - PROJECT MANAGEMENT	359 days	Mon 7/1/24	Tue 6/24/25																			
2	1.1 NTP TO CONSULTANT	1 day	Mon 7/1/24	Mon 7/1/24																			
3	1.2 PROJECT MANAGEMENT	358 days	Tue 7/2/24	Tue 6/24/25	2																		
4	2 TASK 4 - BID & AWARD	108 days	Mon 7/1/24	Thu 10/17/24																			
5	2.1 SUE 'A'	0 days	Mon 7/1/24	Mon 7/1/24	2																		
6	2.2 CONTRACT DOCUMENT REVIEW w/CWD	11 days	Tue 7/2/24	Fri 7/12/24	2																		
7	2.3 ADVERTISEMENT	30 days	Mon 7/15/24	Tue 8/13/24	6FS+2 days																		
8	2.4 BID OPENING	1 day	Wed 8/14/24	Wed 8/14/24	7																		
9	2.5 BID REVIEW AND EVALUATION	5 days	Thu 8/15/24	Mon 8/19/24	8																		
10	2.6 RECOMMENDATION TO CITY COUNCIL	0 days	Mon 8/19/24	Mon 8/19/24	9																		
11	2.7 CITY COUNCIL MEETING/APPROVAL	29 days	Tue 8/20/24	Tue 9/17/24	10																		
12	2.8 CONTRACT EXECUTION (Administrative NTP)	30 days	Wed 9/18/24	Thu 10/17/24	11																		
13	3 TASK 5 - CONSTRUCTION PHASE	250 days	Fri 10/18/24	Tue 6/24/25																			
14	3.1 PRE-CONSTRUCTION / NTP	10 days	Fri 10/18/24	Sun 10/27/24	12																		
15	3.2 CONSTRUCTION - SUBSTANTIAL COMPLETION	180 days	Mon 10/28/24	Fri 4/25/25	14																		
16	3.3 CONSTRUCTION - FINAL COMPLETION	30 days	Sat 4/26/25	Sun 5/25/25	15																		
17	3.4 PROJECT CLOSEOUT	30 days	Mon 5/26/25	Tue 6/24/25	16																		



Prime Engineering, Inc.
Date: Thu 6/20/24

Task		External Tasks		Duration-only		External Tasks		Split	
Split		External MileTask		Manual Summary Rollup		External Milestone			
Milestone		Inactive Milestone		Manual Summary		Critical			
Summary		Inactive Summary		Start-only		Critical Split			
Project Summary		Manual Task		Finish-only		Progress			



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Engineering Services
DEPARTMENT NAME:	Water
AGENDA ITEM TITLE:	Sewer System Upgrade Engineering
DEPARTMENT SUMMARY RECOMMENDATION:	<p>Based on sanitary sewer system inflow and infiltration studies, two areas of the sewer system have been identified as major contributors to the I&I problems within the system, identified as the Plymouth Drive and Dellinger area sewers. These two areas include approximately 20,000 linear feet of pipe of various sizes, material, and age.</p> <p>The Water Department received proposals from three engineering firms for a find and fix project to address the I&I problem within these systems. Prime Engineering submitted the best proposal to investigate the system, design the fixes, and administer the construction projects to eliminate the issues in these areas of the system.</p> <p>I recommend approval of Prime Engineering’s proposal for the cost of \$431,107.70 to perform these services. This is a budgeted expense.</p>
LEGAL:	N/A

PRIME ENGINEERING INCORPORATED®

June 24, 2024

Mr. Michael De Leon, P.E.
Cartersville Water Department
148 Walnut Grove Road
(PO Box 1390)
Cartersville, GA 30120

Re: Surveying, Engineering, and Construction Administration Services for
the Plymouth and Dellinger Areas, Cartersville, GA
Sanitary Sewer Evaluation Study (SSES) and Find & Fix Project

Dear Mr. De Leon:

Prime Engineering is pleased to submit this proposal to provide professional surveying, engineering design, and construction support services and act as Engineer-of-Record to evaluate and design improvements for approximately 17,444 LF of existing 8-inch, 630 LF of existing 10-inch, 1,550 LF of existing 12-inch, 16 LF of existing 16-inch sanitary sewer mains and approximately ninety (90) manholes. There are also about 90 segments of sewer pipe to be reviewed.

INTRODUCTION AND PROJECT GOALS:

Prime Engineering has reviewed Cartersville provided City GIS maps of the existing sanitary sewer system in the Plymouth and Dellinger Areas. We have also met with City of Cartersville Department of Water staff to gain a better understanding of the existing conditions and project objectives. The primary intent of this project is to evaluate the existing sanitary sewer mains and manholes and review the evaluation reports and sanitary sewer pipe video tapes in order to design improvements to help minimize the inflow and infiltration occurring in these areas.

PROJECT BACKGROUND AND APPROACH:

The Cartersville Water Department has identified two areas (Plymouth and Dellinger) with substantial inflow and infiltration (I&I) into the sanitary sewer collection system. The two areas of study are shown in Figures 1 and 2. I&I causes operational issues for the sanitary sewer collection system and treatment facility. I&I also reduces available treatment plant capacity that can cause a financial impact of the sanitary sewer utility.

3715 Northside Parkway, NW

Building 300, Suite 200 ■ Atlanta, GA 30327
main: 404-425-7100 ■ fax: 404-425-7101 ■ www.prime-eng.com

Mr. Michael De Leon, P.E.
June 24, 2024
Page 2



Figure #1 – Plymouth Area Map



Figure #2 – Dellinger Area Map

Mr. Michael De Leon, P.E.
June 24, 2024
Page 3

RISKS:

1. Project Specific Risks

- Working adjacent to other utilities and in the Right-of-Way.
- Temporary traffic control plans will be required.
- Unknown condition of existing sanitary sewer mains and manholes.

2. Impact on Operations and Maintenance

- Bypass pumping of existing sanitary sewer mains may be required during video taping and pipe rehab (By-Pass pumping is not anticipated and would be billed as a separate cost if required during the video taping. Prior approval from Cartersville will be obtained). By-pass pumping during rehab will be at contractors expense and will be noted on the construction documents.
- Cleaning sanitary sewer may send large debris downstream in sanitary sewer collection system. We will try to minimize, but occasionally this does occur.

SCOPE OF SERVICES:

This proposal is based on our understanding of the scope of the project, as described above and as outlined in the task below.

The following Scope of Services identifies the major tasks that Prime Engineering will provide, as related to the evaluation of the existing sanitary sewer collection system and preparation of construction plans, easement and permitting documents, and support during construction for the Plymouth and Dellinger Areas sanitary sewer improvements project. Our Services will be broken down into Tasks as outlined below:

Task 1–Planning and Progress Tracking:

Mr. Paul Boyer, PE will serve as Project Manager. He will be responsible for coordinating with the Cartersville Project Manager and managing our team's efforts to successfully complete this project.

The Planning and Progress Tracking Phase Task will include attending project meetings, documenting meeting minutes, and providing monthly invoicing and project status reports, which will include the following:

Mr. Michael De Leon, P.E.

June 24, 2024

Page 4

- Conducting a project Kickoff meeting with the Cartersville Water Department Project Manager (PM) and key Stakeholders of Cartersville Water Department to verify the Scope of Services, schedule requirements, and other special conditions or considerations;
 - Activities performed during billing cycle;
 - Anticipated activities to be performed in the upcoming billing cycle;
 - Description of Project issues and Scope changes;
 - Updated monthly cash flow projection for the remainder of project;
 - Updated project schedule (MS Project format);
 - Conduct monthly meetings with Cartersville Water Department Project Manager to review project progress;
 - Conduct monthly Progress Meetings and special called meetings during construction;
 - Budget status by Task:
 - Earned Value (EV), with Spent-to-Date, annually;
 - Estimate to Complete (EC);
 - Estimate at Completion (EAC);
 - QA/QC of all deliverables.
- ✓ Deliverables:
- Documented Meeting Minutes/Summaries;
 - Monthly invoices;
 - Monthly Project Status reports to include:
 - Reporting Period
 - Work Accomplished This Period
 - Work to be Completed Next Period
 - Project Issues
 - Pending Action items
 - Schedule Status
 - Budget Status (EV, EC, EAC)
 - Updated Monthly Cash Flow
- ✓ Assumptions:
- Assumes 10 monthly meetings with Cartersville Water Department Project Manager (from NTP thru Design);

Task 2 -Data Gathering Phase:

The Data Gathering Phase Task will include locating and inspecting the sanitary sewer manholes and cleaning and cctv'ing the sanitary sewer lines within the project area.

Task 2.1- Manhole Inspection

During this phase Prime Engineering will locate the top of the sanitary sewer manholes using survey grade GPS. Additionally, the manholes will be inspected to determine their condition. Specific information to be collected include top elevation, invert elevations, size and pipe

Mr. Michael De Leon, P.E.
June 24, 2024
Page 5

material type, assessment of interior of manhole, step assessment and various other data information. A copy of the data to be collected is shown on Attachment A.

Task 2.2 CCTV Inspection

Prime Engineering shall furnish labor, equipment, supplies, and supervision to perform the work required in accordance with the technical procedures described below.

1. Prime Engineering shall perform the CCTV inspections and assessments with its subcontractor performing the field investigations. The estimated quantities budgeted are approximately 20,000 linear feet and 90 segments of sanitary sewer.
2. Prime Engineering shall update Cartersville's GIS database to include manhole and sanitary sewer data.
3. Prime Engineering shall provide a report, CCTV Data Analysis and Report, detailing all investigation activities performed during this phase (See Attachment C for various Reports to be generated).
4. Prime Engineering shall provide final reports after all investigation activities are complete. These shall include prioritization, suggested method of repair and cost estimates of repair recommendations.

Methods and Procedures are as follows:

1. Conduct CCTV Inspections; Prime will perform cleaning and CCTV inspections on sections of the collection system identified above. If the pipes require heavy duty cleaning and/or root cutting, the City will be advised.
2. Manhole Mapping and Inspections: Prime survey crews will map and inspect accessible manholes. The cost for this task is based on estimates of the number of structures requiring inspection. Deliverables shall include an updated geodatabase containing all sanitary structures with inspection data. Additionally, copies of all inspection forms will be provided.
3. CCTV Data Analysis and Report: A report detailing CCTV activities shall be submitted after the completion of the inspections. Two copies of the report shall be furnished to the City and shall include data generated for the entire inspection period. The report shall include a summary table by manhole number of system deficiencies found in this task. The deliverables shall also include an electronic copy of the inspection data and CCTV inspection DVD's.
4. Final Reports: Final reports detailing all SSES activities shall be submitted after the completion of all inspections, evaluations, and assessments. Two copies of the reports shall be furnished to the City and shall include data generated for the entire inspection period. The reports shall include inspection data for all structures and pipes and a prioritization of recommended repairs with cost estimates.

Mr. Michael De Leon, P.E.

June 24, 2024

Page 6

Exclusions:

- *The cost proposal for services to be provided above is based on unfathered access to the facility and piping system to be investigated via cleaning and/or CCTV methodology.*
- *Access to water for line cleaning to be provided at no additional costs to Prime Engineering*
- *CCTV cost based on the Quantity and size listed above with unit cost as follows:*
 - *8" Cleaning & CCTV - \$4.13/lf*
 - *10" Cleaning & CCTV - \$4.68/lf*
 - *12" Cleaning & CCTV - \$7.98/lf*
 - *16" Cleaning & CCTV - \$13.75/lf*
- *Cleaning cost based on medium cleaning. Heavy duty cleaning and By-pass pumping will be an additional service.*

Task 3 -Design Phase:

The Design Phase Task will include Preliminary Engineering, database preparation and preparation of plans, required for construction of the proposed water mains.

3.1- Database Preparation

This sub-task includes:

- Preparing a base map in CAD using GIS data (aerial photo, topography, utilities, etc.) and info collected in the field to be used in Preliminary Engineering;
 - Obtaining all available information related to visible existing utilities, roadway improvements, parcels, easements, and rights-of-way;
 - Conducting a site visit with Cartersville staff to observe site specific conditions, observable conflicts, traffic patterns, or other related constructability issues;
 - ~~Conduct SUE Level B survey of the utilities in the route of the proposed sewerlines;~~
 - ~~After SUE B utilities locations are demarcated in the field we will perform field survey to locate this information in support of the construction drawing development QA/QC of all deliverables~~
- ✓ Assumptions:
- Provide electronic copies of Plans of the data base plans;
- ✓ Assumptions:
- SUE Level 'A' Vacuum Extractions is **not included** in this proposal and will be performed under separate Cartersville Water Department Contract, if required;

Task 3.2 30% Design (Concept)

This sub-task will include preparation of the sanitary sewer main rehabilitation drawings. Work to be performed includes:

- Preparing sanitary sewer main rehabilitation plan sheets using field survey deliverable from Task 2.2 as the basis of design (Scale 1"=30'). Drawings will indicate repairs required i.e. point repair, remove and replace, slip line, pipe burst and manhole rehab.
- Preparing Cover Sheet and General Notes sheets

Mr. Michael De Leon, P.E.
June 24, 2024
Page 7

- Identifying Stream Buffer Variances and/or Wetlands Mitigation, and begin permitting from GaEPD and/or ACOE (Do not anticipate any based on preliminary review)
 -
 - Identifying easement needs for Temporary Construction and Permanent maintenance of the water main
 - Preparing Preliminary Opinion of Probable Construction cost (OPCC)
 - Participating in 30% design review meeting with Cartersville Water Department to confirm alignment, and review design schedule, prior to proceeding with final design
 - Performing ongoing QA/QC review of the design and deliverables.
- ✓ Deliverables:
- Provide Plan Sheets to include:
 - Cover Sheet;
 - Sheet Index with key identifying each sheet location on the route;
 - General Notes;
 - Conceptual rehab plan sheets of sewer main;
 - Provide Opinion of Probable Construction Cost (OPCC);
 - Provide Minutes of the 30% Design Review meeting (The Cartersville PM will use a comment log with consultants responses for tracking purposes);
 - Provide hard copies of Plans– 1 Full-Size sets (22” x 34” Provide electronic files of drawings;
 - Provide Specifications – Table of Contents – 2 sets;
 - All above listed deliverables to be provided to Cartersville Water Department in electronic format (both DGN and PDF) and hard copy.
- ✓ Assumptions/Expectations of Cartersville Water Department:
- SUE Level ‘A’ Vacuum Extractions are excluded from this proposal and will be performed under separate Cartersville Water Department Contract.
 - No public outreach meeting is anticipated.

Task 3.3 - 90% Design

The 90% Design sub-task will be used to complete the design drawings to the level of completion required for permit submittal. Work to be performed includes:

- Addressing comments received from the 30% Design Review meeting and incorporating these into the design drawings and specifications;
- Finalizing Plan sheets, erosion control plans, details, etc.
- Preparing stream monitoring plan, testing requirements, and associated notes for inclusion in the Erosion, Sedimentation & Pollution Control Plan (ES&PCP);
- Preparing Bid Form and Supplementary Conditions for initial review;
- Updating the OPCC
- Finalizing Specifications including Supplemental Specifications (SUP);
- Participating in 90% Design Review meeting (The Cartersville PM will use a comment log with consultants responses for tracking purposes);
- Performing ongoing QA/QC review of design and deliverables.

Mr. Michael De Leon, P.E.

June 24, 2024

Page 8

- ✓ Deliverables:
 - 90% Design Drawings;
 - Final Specifications,
 - Updated OPCC $\pm 10\%$;
 - Minutes of the 90% Design Review meeting;
 - Electronic Copy of 90% Plans, and Specifications;
 - Hard Copy of 90% Design Plans – 1 Full-Size (22"x34") sets,;
 - Hard Copy of Specifications – 2 sets;
 - Bid Form;
 - Supplementary Conditions;
 - All above listed deliverables to be provided to Cartersville Water Department in electronic format (both DGN and PDF) and hard copy.

- ✓ Assumptions/Expectations of Cartersville Water Department:
 - Supplemental Specifications (SUP) will be included for items as required by the project, but not covered in the City of Cartersville Standard Specifications.

Task 3.4-100% Design (Final / Bid Ready)

During this sub-task, the contract documents will be completed such that the project is ready for submittal to City of Cartersville Purchasing for solicitation of construction bids. Work to be performed includes:

- Addressing comments received from the 90% Design Review meeting;
- Preparing/finalizing the required documents for submittal to Purchasing for the advertisement of construction bids, including;
- P.E. sealed bid documents – electronic submittal (both DGN and PDF) to Cartersville Water Department and Purchasing in PDF format:
 - Front-End Documents;
 - Technical Specifications;
 - Drawings;
- P.E. sealed bid documents – hard copy submittal to Purchasing:
 - Two copies of unbound sets of front-end documents (single sided);
 - Two copies of unbound sets of Technical Specifications (single sided);
 - One set of unbound Drawings;
 - One bound set of front-end documents (single sided);
 - One bound set of technical specifications (double sided)
- P.E. sealed bid documents – hard copy submittal to Cartersville Water Department:
 - Two bound sets of front-end documents (single sided);
 - Two bound sets of Technical Specifications (double sided);
 - Two half-size sets of Drawings;
- Updating OPCC $\pm 10\%$
- Performing ongoing QA/QC review of design and deliverables.

We anticipate the following Drawing List for the project:

Mr. Michael De Leon, P.E.
June 24, 2024
Page 9

G-000	Cover Sheet
G-001	General Abbreviations, Notes and Legends
G-002	General Notes
C-200	Key Map
C-201 to C-230	Sewer Main Plans & Profiles
C-401	Construction Details
C-402	Construction Details
C-403	Construction Details
C-404	Construction Details
C-405	Construction Details
C-406	Pavement Details
C-501	Closure Plans
C-502	Closure Plans
EC-001	Erosion and Sediment Narrative Plan
EC-002	Erosion and Sediment Control Notes
EC-003	Erosion and Sediment Control Notes
EC-004	ES and PC Checklist
EC-005	Soils Info and Comprehensive Monitoring Plan
EC-006	Receiving Waters Basin Map
EC-201 to EC-215	Erosion Control Plan
EC-401	Erosion Control Details
EC-402	Erosion Control Details

✓ Deliverables:

- All Bid Documents, as described above, for submittal to Purchasing;
- Plans – 2 Full-Size sets (22” x 34”), and 5 Half-Size sets (11” x 17”);
- Specifications - 2 Sets (8½” x 11”);
- Updated OPCC
- All above listed deliverables to be provided to Cartersville Water Department in electronic format and hard copy.

Task 4 – Permitting:

The Permitting & Land Acquisition Phase Task will include obtaining all permits, and preparing condemnation-ready easement plats, necessary to construct the proposed sewer main improvements.

Task 4.1 - Land Acquisition at 60% Design (Preliminary)

This sub-task will include preparation of condemnation-ready plats. Work to be performed includes:

- Preparing up to Ten (10) temporary construction easements plats for the establishment of Temporary Construction and Permanent easement(s) as required for the construction and maintenance of the project;
- Assisting Cartersville Water Department with easement modifications for the acquisition of the required easements.
- QA/QC of all deliverables

Mr. Michael De Leon, P.E.

June 24, 2024

Page 10

- ✓ Deliverables:
 - Provide in electronic format and hard copy, Condemnation-ready easement plats for up to 10 Temporary Construction Easements, signed and sealed by a Professional Land Surveyor licensed to practice in the State of Georgia.
- ✓ Assumptions/Expectations of Cartersville Water Department:
 - Based on assumption of approximately 10 Temporary Construction Easements.

Task 4.2-Land Acquisition at 90% Design (Permit Ready)

This sub-task will include updating condemnation-ready plats for Temporary Construction easements necessary for permit submittal. Work to be performed includes:

- Updating easement plats.
- QA/QC of all deliverables

- ✓ Deliverables:
 - Provide in electronic format and hard copy, updated 10 Temporary Construction Easements, signed and sealed by a Professional Land Surveyor licensed to practice in the State of Georgia.
- ✓ Assumptions/Expectations of Cartersville Water Department:
 - Based on assumption of approximately 10 Temporary Construction Easements.

Task 4.3-Permitting

This sub-task will include making necessary submittals to, and obtaining permits from, required jurisdictional agencies. Work to be performed includes:

- After incorporating 90% Design Review comments into the Design Drawings and Specifications, preparing Land Development Permit (LDP) application package, and submitting to the City of Cartersville for review;
- Addressing comments received during the regulatory permit review process and obtaining permits required for construction.
- QA/QC of all deliverables

- ✓ Deliverables:
 - Land Development Permit (LDP) from the City of Cartersville;
- ✓ Assumptions:
 - Cartersville Water Department will pay all permit fees, if not waived;
 - No GADOT permits are anticipated;
 - No EPD Stream Buffer Variances are anticipated;
 - No ACOE permits are anticipated;
 - Archaeological shovel testing would not be required;
 - No archaeological sites or cemeteries will be located during the site survey;
 - No eligible historic resources will be located by the site survey;

Mr. Michael De Leon, P.E.
June 24, 2024
Page 11

- The project will have no adverse effect on historic or archaeological resources;

Task 5- Bid & Award Phase:

Working closely with Cartersville Water Department Representative(s) throughout the bidding process, services to be provided during the bidding cycle include the following:

- Participating in Review Meeting with CWD to review the Contract Documents to make sure that they are complete. (Contract front-end documents, Technical Specifications, etc.);
 - Printing and distributing bid documents to CWD;
 - Printing and distributing bid documents to prospective bidders, and maintaining plan holders list;
 - Participating in Pre-Bid meeting;
 - Assisting CWD in responding to bid questions and issuing Addenda;
 - Assist CWD with bid opening, bid evaluation and written recommendation for bid award to qualified, responsible and responsive low bidder.
 - QA/QC of all deliverables.
- ✓ Deliverables:
- Electronic and hard copies of the Bid Documents to CWD;
 - Maintain Plan holders list - with weekly updates to CWD;
 - Prime Engineering will sell copies to prospective bidders to cover cost of document production;
 - Participate in Pre-Bid meeting;
 - Assist CWD in answering bidder questions;
 - Prepare Addenda for submittal to CWD for distribution to Bidders;
 - Provide a written recommendation to CWD for bid award to qualified, responsible, and responsive bidder.
- ✓ Assumptions:
- Construction shall be completed under a single contract;

Task 6 – Construction Administration:

Assist CWD during construction with technical guidance and review, periodic part-time inspection, and prepare project Record Drawings upon completion of construction. Construction duration is based on 6 months to Substantial Completion and 2 month to Final Completion. Services will include:

- Preparing a Notice of Intent (NOI) and Notice of Termination (NOT) for submittal to EPD;
- Preparing the Conformed Contract Documents;
- Participating in Pre-Construction meeting;
- Reviewing and responding to contractor RFIs (Assume 4 RFI's);
- Reviewing and responding to Submittals (Assume 10 Submittals);
- Providing Change Order Request review and recommend action (Assume 2 C.O.);
- Performing initial 7-day BMP inspection as required by erosion and sediment control permitting and prepare summary of findings with noted deficiencies;

Mr. Michael De Leon, P.E.
June 24, 2024
Page 12

- Performing periodic site inspections to monitor contractor progress, identify deficiencies and/or areas of concern, and evaluate maintenance of BMPs (Scheduled -8 site visits by PM; Unscheduled - 2 site visit by PM for special issues); Scheduled – part-time inspection by Engineer III or Field Inspector up to a maximum of 12 hours per week during construction;
- Preparing Record Drawings following the completion of construction based on contractor's field markups and survey data;
- Providing Substantial Completion walk-through and Punchlist;
- Providing Final Completion walk-through;
- Providing Contract closeout assistance, including any Fixed Asset reporting;
- Performing ongoing QA/QC review;
- Reviewing Contractor Pay Application (assume 6), *if requested by CWD Project Manager*

✓ Deliverables:

- Make Site Visits as scheduled and/or unscheduled, as required and provide documentation/minutes/summaries of visits;
- NOI and NOT for signature and submittal to EPD;
- Conformed Documents (electronic and hard copy), - Confirm number of sets and sizes of sets with CWD Project Manager prior to printing;
- 7-day ES&PCP BMP inspection letter;
- Provide RFI responses (assumes 4);
- Provide Submittal responses (assumes 10)
- Provide Change Order review and recommendation (Assumes 2);
- Punchlist(s) from site Substantial Completion walk-through;
- Project Record Drawings signed and sealed by a Professional Engineer licensed to practice in the State of Georgia (hard copy and electronic files), to CWD Standards. Provide GIS data (such as manholes, inverts at sewer manholes, pipeline locations, valves, etc.), to CWD Standards in both horizontal and vertical location. Contractor to provide survey info.

✓ Assumptions:

- Construction and Material Testing services are excluded from this proposal, and will be performed under separate Contract with CWD;
- An estimated construction contract duration of 8 months is assumed for budgetary and scheduling purposes.
- Assumes one (1) Construction Contract.

SCHEDULE:

Based on the Scope of Services identified in this proposal, and an estimated Notice to Proceed date of September 1, 2024, the enclosed proposed schedule has been developed:

NTP to Consultant	09/01/2024		
Manhole Inspections	09/14/2024	thru	10/14/2024
CCTV	10/01/2024	thru	11/01/2024
Inspection Report Submittal	11/01/2024	thru	11/30/2024

Mr. Michael De Leon, P.E.
June 24, 2024
Page 13

30% Design Submittal	12/01/2024	thru	1/15/2025
Easement Acquisition (Starts)	2/1/2025	thru	3/30/2025
90% Design Submittal	1/16/2025	thru	3/31/2025
Design Ends (100% Submittal)	4/30/2025		
Permitting Complete	4/30/2025		
Bidding Begins	5/1/2025	thru	6/30/2025
Construction Begins	7/1/2025		
Construction Complete	1/31/2026		
Project Closeout	2/28/2026		

Schedule dates can be adjusted to meet City’s final deliverable needs.

PROJECT BUDGET:

The project will be invoiced monthly according to the actual hours spent. Not-to-Exceed fees are based on the Scope of Services listed in this proposal.

Task 1 – Project Management	\$ 20,164.00	
Task 2 – Survey	\$ 16,822.00	
Cleaning & CCTV	\$ 97,797.70	(Unit Price)*
Data Reduction & Reporting	\$ 51,194.00	
SUE	\$ 00,000.00	(Hourly)**
Task 3 – Design Phase	\$ 102,280.00	
Task 4 – Easements	\$ 10,322.00	(Based on 10 Plats)
Permitting	\$ 10,944.00	
Task 5 – Bidding	\$ 11,304.00	
Task 6 – Construction Administration	\$ 78,420.00	
Subtotal	\$ 399,247.70	
Reimbursable Costs	\$ 6,860.00	
Owner Controlled Allowance	\$ 25,000.00	
<u>Total Not-to-Exceed Amount</u>	\$ 431,107.70	

* - CCTV & Cleaning cost are based on the following unit prices (a 10% markup will be applied to these cost).
 8” - \$3.90/lf
 10” - \$4.42/lf
 12” - \$7.54/lf
 16” - \$13.00/lf

** - This cost is based on doing SUE Level B for entire sewer length. We do not anticipate this will be required except on lines that require excavations i.e. Point Repairs, Remove & Replace. Pipe bursting and slip lining repairs should not require any SUE Service.

Mr. Michael De Leon, P.E.
June 24, 2024
Page 14

Once the proposal is accepted, Prime Engineering will prepare an EJCDC Contract to supplement this proposal. Please contact Rob MacPherson should you have any questions regarding this proposal. We appreciate the opportunity to work with you on this project.

Sincerely,



Robert R. MacPherson, P.E.
Vice President
Prime Engineering, Inc.

Enclosures Project Budget & MH Estimate
 2024 Hourly Rate Table
 Attachment A – Manhole Inspection Form
 Attachment B – Structural Defect & Defect Matrix

M:\Proposals\2035 - Cartersville, City of\2023 SSES for Plymouth and Dellinger Areas\2024-06-24 SSES for Plymouth and Dellinger Areas - Full services.docx

Project Estimating Worksheet

Meeting: July 18, 2024 Item 12.

Project Name	Cartersville - Find & Fix Proposal
Proposal No.	P-2034-00XX
Project Duration	
Client Project No.	0
Client	Cartersville, GA
Client Contact	Mike DeLeon

Date 6/25/24

Cell Not Used For Estimate
PART OF ESTIMATED SUB CONSULTANT FEE
NOT PART OF THIS PROJECT
ACCOUNTED FOR ELSEWHERE



Task Cost	Hours	Sheet Numbers	Task Outline	TOTALS	TASK HOURS	Estimated Labor														
						Principal In Charge	Dept Head	Sr Engineer	Engineer	Jr. Engineer	Sr. Landscape	Landscape	RLS	Survey Lead	Field Surveyor	SUE Surveyor	Office Tech			
						MacPherson	Blaydes	Boyer	Wells	Lake	Karwoski	MacPherson	Tunnell	Emery	Groynski	Hutchins	Wolski			
BILLING RATES:						\$260	\$240	\$240	\$161	\$130	\$182	\$140	\$182	\$161	\$130	\$156	\$130			
Overall Management Tasks																				
Project Management and Planning (In-House)																				
Project Manager Only																				
			Project Management and Coordination	\$ 9,760	40.00	8.0	8.0	24.0												
			Sub Consultant Coordination	\$ 1,125	6.00			2.0	4.0											
			Client Meetings (2 In-Person) - (Also combined with Field Walks Below)	\$ 2,645	12.00	4.0		4.0	4.0											
			Client Meetings (4 Virtual)	\$ 3,210	16.00		8.0		8.0											
			Monthly Invoicing	\$ 1,920	8.00			8.0												
Full Team Planning and Management																				
			Jurisdictional & Code Research	\$ -	0.00															
			Kick Off Meeting (Internal)	\$ 1,504	8.00	1.0	1.0	1.0	1.0	1.0			1.0	1.0				1.0		
			Weekly Team Technical Internal Meetings	\$ -	0.00															
				\$ -	0.00															
				\$ -	0.00															
				\$ -	0.00															
				\$ -	0.00															
			Sub-Totals			\$3,380	\$4,080	\$9,360	\$2,740	\$130	\$0	\$0	\$182	\$161	\$0	\$0	\$130	\$0	\$0	\$0
Civil Engineering																				
Site Plans																				
			Review Video & Complete Tables	\$ 17,736	125.00			5.00	30.0	90.0										
			Prepare Report - Plymouth	\$ -	0.00															
			Prepare Report - Billinger	\$ 10,824	70.00			10.00	20.0	40.0										
			Prepare Report - Billinger	\$ 13,410	87.00			12.00	25.0	50.0										
			Prepare Analysis/Recommendation Spreadsheet	\$ -	0.00															
			Prepare Analysis/Recommendation Spreadsheet	\$ 6,014	40.00			4.00	12.0	24.0										
				\$ -	0.00															
				\$ -	0.00															
				\$ -	0.00															
			Data Gathering/Field Walk	\$ 3,210	16.00			8.00	8.0											
				\$ -	0.00															
			G-000 Cover And Index Of Drawings	\$ 260	2.00					2.0										
			G-001 General Notes	\$ 645	4.00				4.0											
			G-002 Civil Legend	\$ 260	2.00					2.0										
			C-200 Overall Key Plan (1"=200')	\$ -	0.00															
			C-201 - 230 Sewer Plan & Profiles (1" = 30')	\$ 37,854	255.00			30.00	45.0	180.0										
			C-401 - 405 Construction Details	\$ 1,362	10.00				2.0	8.0										
			C-406 Pavement Details	\$ 520	4.00					4.0										
			C-501 - 502 Lane Close Plans	\$ 1,685	12.00				4.0	8.0										
				\$ -	0.00															
			Specifications	\$ 4,880	24.00				16.00	8.0										
			Cost Estimates/Bid Tab	\$ 7,450	52.00				4.00	8.0	40.0									
			Final Field Walk	\$ 3,210	16.00				8.00	8.0										
			Contingency	\$ 6,780	45.00				6.0	8.0	31.0									
			QA/QC (30, 90, 100)	\$ 22,880	94.00		16.00	20.00	58.00											
Erosion Control																				
			EC-001 ESPC Narrative	\$ 520	4.00					4.0										
			EC-002 ESPC Comprehensive Monitoring Plan	\$ 260	2.00					2.0										
			EC-003 ESPC Permitting Notes	\$ 260	2.00					2.0										
			EC-004 ESPC Noi And Checklist	\$ 520	4.00					4.0										
			EC-201- 215 ESPC Sheet (1"=30')	\$ 7,800	60.00					60.0										
			EC-401 ESPC Details	\$ 260	2.00					2.0										
			EC-402 ESPC Details	\$ 266	2.05					2.0										
			Contingency	\$ 1,169	8.99					9.0										
			QA/QC (30, 90, 100)	\$ 3,460	14.00		5.00	9.00												
			Sub-Totals			\$5,460	\$4,800	\$40,800	\$28,049	\$74,365	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
			\$153,474																	

Project Estimating Worksheet

Meeting: July 18, 2024 Item 12.

Project Name: Cartersville - Find & Fix Proposal
 Proposal No: P-2034-00XX
 Project Duration: _____
 Client Project No: 0
 Client: Cartersville, GA
 Client Contact: Mike DeLeon

Date: 6/25/24



Cell Not Used For Estimate
 PART OF ESTIMATED SUB CONSULTANT FEE
 NOT PART OF THIS PROJECT
 ACCOUNTED FOR ELSEWHERE

Task	Hours	Sheet Numbers	Task Outline	TOTALS	TASK HOURS	Estimated Labor														
						Principal In Charge	Dept Head	Sr Engineer	Engineer	Jr. Engineer	Sr. Landscape	Landscape	RLS	Survey Lead	Field Surveyor	SUE Surveyor	Office Tech			
						MacPherson	Blaydes	Boyer	Wells	Lake	Karwoski	MacPherson	Tunnell	Emery	Groynski	Hutchins	Wolski			
BILLING RATES:						\$260	\$240	\$240	\$161	\$130	\$182	\$140	\$182	\$161	\$130	\$156	\$130			
125	Survey																			
	Utility Locate - Field Work			\$ -	0.00															
	Survey - Field Work (Manhole Locate & inspect)			\$ 11,700	90.00											90.0				
	Office Calculations, Research			\$ -	0.00															
	Drafting			\$ 2,600	20.00													20.0		
RLS - QA/QC			\$ 2,522	15.00								5.0	10.0							
Sub-Totals			\$ -	0.00																
\$16,822						\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$910	\$1,612	\$11,700	\$0	\$2,600	\$0	\$0	\$0
75	Plats (10 Easements)																			
	Plats (10 Easements)			\$ 10,322	75.00									5.00	10.0				60.0	
	Sub-Totals			\$ -	0.00															
\$10,322						\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$910	\$1,612	\$0	\$0	\$7,800	\$0	\$0	\$0
8	Permitting																			
	Submit for Permit			\$ 520	4.00					4.0										
	Respond to Permit Comments			\$ 7,779	56.00				16.0											
	Resubmits			\$ 520	4.00					4.0										
	SD1 Permitting			\$ 1,605	8.00			4.0	4.0											
\$10,944						\$0	\$0	\$960	\$3,224	\$6,760	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
9	Bid Support																			
	Final Plan Review w/ Client (Teams Meeting)			\$ 2,645	12.00	4.0	4.0		4.0											
	Distribute Bid Documents			\$ 2,725	20.00				4.0	16.0										
	Pre-Bid Meeting			\$ 1,605	8.00				4.0											
	Prepare Addenda			\$ 2,685	18.00			2.0	4.0	12.0										
	Prepare Bid Award Recommendation			\$ 1,645	10.00			2.0	4.0	4.0										
	Sub-Totals			\$ -	0.00															
	\$11,304						\$1,040	\$2,880	\$0	\$3,224	\$4,160	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	10	Construction Admin (Assumes 6 Months Field, 8 Mo Total)																		
		Pre-Con Meeting/Conformed Contract Docs			\$ 3,290	20.00		4.0		8.0	8.0									
Perform 7-Day BMP Inspection, Assist with NOI, Prepare Letter Report			\$ 1,290	8.00				8.0												
Scheduled Site Visits (8)			\$ 10,317	64.00				64.0												
Unscheduled Site Visits (2)			\$ 2,579	16.00				16.0												
Review Submittals - (10 - Total Project)			\$ 5,412	35.00		5.0		10.0	20.0											
Review and Issue RFI Responses - (4)			\$ 4,330	28.00		4.0		8.0	16.0											
Review and Recommend Change Order Requests - (2)			\$ 1,645	10.00		2.0		4.0	4.0											
Review Contractor Pay Applications (8) - Included in 8 Scheduled Site Visits			\$ -	0.00																
Part-Time Inspections (12 Hrs/Week) - 6 mo.			\$ 40,560	312.00					312.0											
Project Management & Coordination			\$ 8,998	48.00		16.0		32.0												
\$78,420						\$0	\$7,440	\$0	\$24,180	\$46,800	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
					1,932	38	80	213	381	1,017	0	0	11	21	90	0	81	0	0	0
\$301,449						\$9,880	\$19,200	\$51,120	\$61,417	\$132,215	\$0	\$0	\$2,002	\$3,385	\$11,700	\$0	\$10,530	\$0	\$0	\$0

Project Modifiers & Subcontractors				Cost
		Mobilization	1	2,600.00
		MME - 8" Clean & CCTV	18000	3.90
		MME - 10" Clean & CCTV	650	4.42
		MME - 12" Clean & CCTV	1600	7.54
		MME - 16" Clean & CCTV	50	13.00
		Demobilization	1	520.00
Total				\$ 88,907.00

Notes (Client information, milestone dates, etc.)

Other Direct Costs				Unit	Quantity	Cost
		Hotel		0	\$ -	
		Per Diem		0	\$ -	
		Mileage		1000	\$0.70	
		Mileage (Construction)		8800	\$0.70	
Total						\$ 6,860.00

Summary	
Total Hours	1,932
Total Labor Dollars	301,450.00
Modifiers...	88,907.00
ODC	6,860.00
Sub & Modifier Mark-Up %	10%
ODC Mark-Up %	0%
Owner Allowance	25,000.00

Total Project 431,107.70

HOURLY RATE SCHEDULE

Meeting: July 18, 2024 Item 12.

2024 HOURLY RATE SCHEDULE



Employee Classification

Rate Per Hour

1. Principal	325.00
2. Director	275.00
3. Associate Director	260.00
4. Engineer VII/ Project Manager II/Department Head	240.00
5. Engineer VI/ Associate Department Head	215.00
6. Engineer V/ Project Manager I/Senior Engineer	195.00
7. Engineer IV	170.00
8. Engineer III	155.00
9. Engineer II	140.00
10. Engineer I	125.00
11. Intern II	100.00
12. Intern I	75.00
13. Architect VIII	260.00
14. Architect VII	245.00
15. Architect VI	210.00
16. Architect V	190.00
17. Architect IV	170.00
18. Architect III	150.00
19. Senior Architectural Designer IV	150.00
20. Architectural Designer III	135.00
21. Architectural Designer II	125.00
22. Architectural Designer I	110.00
23. Senior Project Controller	155.00
24. Project Controller	125.00
25. Construction Manager V	175.00
26. Construction Manager IV	160.00
27. Construction Inspector III	135.00
28. Construction Inspector II	120.00
29. Construction Inspector I	100.00
30. Landscape Architect V	180.00
31. Landscape Designer	135.00
32. Design Coordinator VII	180.00
33. Designer VI	170.00
34. Designer V	160.00
35. Designer IV	145.00
36. Designer III	130.00
37. Designer II	115.00
38. Designer I	95.00
39. Registered landscape Architect	180.00
40. Landscape Designer	135.00
41. Surveyor VIII	250.00
42. Surveyor VII	200.00
43. Surveyor VI	170.00
44. Surveyor V	165.00
45. Surveyor IV	155.00
46. Surveyor III	135.00
47. Surveyor II	115.00
48. Surveyor I	95.00

January – December 2024

01/29/2024

HOURLY RATE SCHEDULE

Meeting: July 18, 2024 Item 12.

49.	One Person Survey Crew	135.00
50.	Two Person Survey Crew	245.00
51.	SUE Crew	165.00
52.	Contract Administrator	125.00
53.	Executive Assistant	120.00
54.	Marketing Specialist	140.00
55.	Writer/Editor/Visual Communications Coordinator	125.00
56.	Marketing Communications Assistant	105.00
57.	Office Manager/Clerical	80.00

HOURLY RATES SCHEDULE NOTES:

1. In addition to the hourly fee for services, Prime Engineering will be reimbursed for job related expenses including but not limited to travel, reprographic costs and supplies, interim review document printing, mail and express mail services and printing costs. Job-related expenses associated with the tasks performed under this agreement shall be billed as incurred and as provided under the task orders to this contract and each of the respective additional services tasks (if any).



INSPECTION FORM

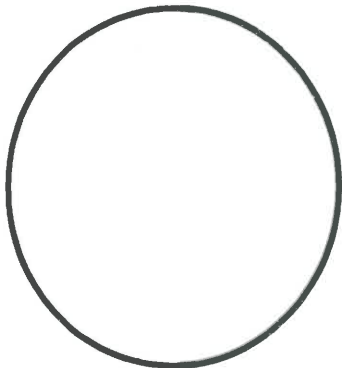
1. INSPECTION CREW _____ DATE ___/___/___ STRUCTURE #: _____

2. GEN. LOCATION: _____ POINT #: _____

3. ADDRESS: _____ LOT LOCATION: _____

OBSERVATION	CODE NO.	CODE
4. INSPECTION TYPE	<input type="text"/>	1-INTERNAL 2-SURFACE 3-NOT INSPECTED 4-BURIED 5-NOT FOUND
5. STRUCTURE TYPE	<input type="text"/>	MH-Manhole JB-JunctionBox SW-SingleWingCatchBasin DW-DoubleWing DI-DropInlet HW-Headwall CI-CurbInlet
6. LOCATION	<input type="text"/>	1-STREET 2-ALLEY 3-SDWLK 4-DRVWY 5-GRASS
7. SURFACE TYPE	<input type="text"/>	1-ASPHALT 2-CONCRETE 3-GRAVEL 4-DIRT/GRASS
8. COVER	A. TYPE	<input type="text"/> 1-PICK 2-CONCEALED PICK 3-BOLT DOWN 4-GRATE
	B. FIT	<input type="text"/> 1-GOOD 2-TIGHT 3-LOOSE 4-ROCKING 5-BOLTS MISSING 6-GASKET BAD/GONE
	C. # OF HOLES	<input type="text"/>
	D. PONDING DEPTH (IN)	<input type="text"/> (Applicable to manholes in paved areas)
	E. PONDING TYPE	<input type="text"/> 1-SHEET FLOW 2-LOW POINT
	F. GRADE +/- (IN)	<input type="text"/> (Applicable to manholes and junction boxes in unpaved areas)
	G. SIZE (IN)	<input type="text"/>
9. WALL	A. MATERIAL	<input type="text"/> 1-PRECAST 2-BRK 3-BLK 4-POURED
	B. LINING TYPE	<input type="text"/> 1-CEMENTITIOUS 2-CAST-IN-PLACE 3-CURED-IN-PLACE 4-EPOXY
	C. DIA/LENGTH (IN)	<input type="text"/>
	D. DIA/WIDTH (IN)	<input type="text"/>
10. BENCH TYPE	<input type="text"/>	1-NONE 2-PRECAST 3-BRICK 4-BLOCK 5-POURED
11. TROUGH TYPE	<input type="text"/>	1-NONE 2-PRECAST 3-POURED 4-VCP 5-PVC
12. PIPE SEAL TYPE	<input type="text"/>	1-NONE 2-MORTAR 3-GASKET
13. STEPS	A. TYPE	<input type="text"/> 1-NONE 2-BAR 3-CAST IRON 4-PLASTIC 5-BRICK
	B. CONDITION	<input type="text"/> 1-GOOD 2-CORRODED 3-MISALIGNED 4-BROKEN 5-MISSING
14. EVIDENCE OF SURCHARGE (FT)	<input type="text"/>	
15. FLOW CODE	<input type="text"/>	1-LIGHT 5-MODERATE 10-HEAVY

SKETCH OF STRUCTURE WITH PIPE MATERIALS, DIAMETERS AND INVERTS LISTED



COMMENTS

Table 2.1 Structural Defect III Flow Rating Matrix

DEFECTIVE TYPE	CONDITION OF DEFECT	UNIT	PIPE SIZE LESS THAN 18" (GPM)	PIPE SIZE 18" TO 36" (GPM)	PIPE SIZE GREATER THAN TO 60" (GPM)
Open Joint	Minimum	Per Joint	0.20	0.50	1.00
	Moderate	Per Joint	0.40	1.00	2.00
	Heavy	Per Joint	0.60	1.50	3.00
	Severe	Per Joint	0.80	2.00	4.00
Offset Joint	Minimum	Per Joint	0.10	0.25	0.50
	Moderate	Per Joint	0.30	0.75	1.50
	Heavy	Per Joint	0.50	1.25	2.50
	Severe	Per Joint	0.70	1.75	3.50
Cracked Pipe	Circumferential	Per Crack	0.40	1.00	2.00
	Longitudinal	Per Linear Foot	0.10	0.10	0.10
Fractured Pipe	Circumferential	Per Fracture	0.90	2.25	4.50
	Longitudinal	Per Linear Foot	0.20	0.20	0.20
Broken Pipe	Circumferential	Per Break	2.00	5.00	10.00
	Longitudinal	Per Linear Foot	0.45	0.45	0.45
Collapsed Pipe		Per Linear Foot	3.00	7.50	15.00
Abandoned Main	Minimum	Each	0.40	1.00	2.00
	Moderate	Each	0.60	1.50	3.25
	Heavy	Each	0.90	2.25	4.50
	Severe	Each	1.50	3.75	7.50
Pipe to Manhole Connection	Minimum	Each	0.40	1.00	2.00
	Moderate	Each	0.60	1.50	3.25
	Heavy	Each	0.90	2.25	4.50
	Severe	Each	1.50	3.75	7.50
Service Connection	Minimum	Each	0.20	0.20	0.20
	Moderate	Each	0.50	0.50	0.50
	Heavy	Each	1.00	1.00	1.00
	Severe	Each	1.50	1.50	1.50
Stubout	Minimum	Each	0.10	0.10	0.10
	Moderate	Each	0.30	0.30	0.30
	Heavy	Each	0.50	0.50	0.50
	Severe	Each	0.70	0.70	0.70
Roots	Fine		0.10	0.25	0.50
	Mass		0.20	0.50	1.00
	Tap		0.40	1.00	2.00



City of Cartersville - Plymouth & Dellinger Areas

Table 2.2 - CCTV Matrix Defect Itemization

ACTION REQUIRED TO COMPLETE INVESTIGATION	Month Invoiced	Cleared Length (Ft.)	CCTV'd Length (Ft.)	Total Pipe Length (Ft.)	Upstream Manhole ID	Downstream Manhole ID	Pipe Size (In.)	Pipe Material	Date Inspected	Date Data Submitted to Engineer	Defect Type & I/I Flow (GPM)											Total I/I Contribution (GPM)	GPM/LF	Defect Locations	Defects	% Sags	Reverse	Service Connection Locations (Min.)	Service Connection Locations (Mod.)	Comments			
											Open Joint	Offset Joint	Cracked Pipe	Fractured Pipe	Broken Pipe	Collapsed Pipe	Abandoned Main	Pipe to Manhole Connection	Service Connection	Stubout	Roots												
											<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"												
CP-TIE BANKS, SIMS, AND LAKE SEWERS INTO NEW OUTFALL	JANUARY	7	104.4	104.4	LDE010	LDE009	15	VCP	12/12/2010	12/17/2010																						ABANDONED LINE. COLLECTS FROM LAKE DR., SIMS CT. AND BANKS CT. SEWERS (NO CUSTOMERS ON THESE SEWERS)	
CP-HOW TO HANDLE ABANDONED LINE?	MARCH	86.6	86.6	?	LDC560	LDC560A	8	CONC	7/8/2011	7/15/2011																						SURVEY ABANDONED INCOMPLETE, MISSING X. ABANDONED LINE?	
CP-SMOKE TEST TO DETERMINE IF STORM CROSS CONNECTION	DECEMBER	0.0	8.8	100.0	LDA395	LDA390	8	RCP	11/22/2010	11/30/2010																						ASSUMED LENGTH OF 100. POSSIBLE STORM CROSS CONNECTION	
CP-CLEAR BLOCKAGE (3). RAISE DSMH LDA065A, PE-MAP/INSPECT/CORRECT GIS, COMPLETE CCTV	OCTOBER	0.0	3.0	98.0	LDA065	LDA065A	8	VCP	9/30/2010	10/5/2010																						TOTAL BLOCKAGE	
	MARCH	455.0	81.3	455.0	CPC200	CPC198	6	CONC	3/17/2011	3/23/2011			0.5		1.6																	SURVEY ABANDONED, INCOMPLETE, MISSING 373.7'. RELATIVE TREATMENT (455/81.3). PREVIOUSLY INSPECTED APRIL 2006, RE-INSPECTED AT JESSE HOWARD'S REQUEST AFTER POINT REPAIR WAS PERFORMED	
CP-POINT REPAIR INTRUDING SERVICE (45.9') AND INTRUDING STUBOUT (294.6'). RAISE DSMH LDA165A, PE-MAP/INSPECT/CORRECT GIS	OCTOBER	817.4	68.7	817.4	LDA165	LDA165A	6	VCP	9/28/2010	10/5/2010			0.5	0.4	2.7																	SURVEY ABANDONED, INCOMPLETE, MISSING 248.7'. RELATIVE TREATMENT (817.4/68.7). LDA165A PREVIOUSLY UNIDENTIFIED MH BURIED	
CP-POINT REPAIR GROUT OBSTRUCTION (221' FROM USMH) AND CHIP OUT INVERT AT USMH, PE COMPLETE CCTV	MAY	487.2	221.0	487.2	LDB260	LDB250	6	CONC	2/24/2011	3/8/2011	0.2	0.1	0.9	11.7	6.																	SURVEY ABANDONED, INCOMPLETE MISSING 266.2'. RELATIVE TREATMENT (487.2/221)	
CP-POINT REPAIR AT OFFSET JOINT (64.6') AND FRACTURES (299.3'). PE COMPLETE CCTV	OCTOBER	264.3	264.3	499.0	LDA140	LDA090	8	VCP	9/30/2010	10/5/2010			0.6	0.8	5.3	2.2																	SURVEY ABANDONED, INCOMPLETE, MISSING 234.7'. RELATIVE TREATMENT (499/264.3)
CP-POINT REPAIR OFFSET JOINT (295.4') AND INVERT AT DSMH, PE COMPLETE CCTV	OCTOBER	295.4	295.4	415.0	LDA373	LDA370	6	CONC	10/22/2010	10/27/2010			0.8	0.4	6.6	6.6																	SURVEY ABANDONED, INCOMPLETE, CANNOT REVERSE DUE TO IMPROPER INVERT. MISSING 119.6'. RELATIVE TREATMENT (415/295.4)
	NOVEMBER	519.0	899.8	519.0	LDE510	LDE500	8	CONC	11/11/2010	11/30/2010				0.8	5.5	4																	SURVEY ABANDONED, INCOMPLETE, MISSING 119.2'. RELATIVE TREATMENT (519/399.8)
CP-RAISE LDAB10, POINT REPAIR ROOTS MASS (151.3'), HEAVY CLEAN, PE-LDAB10 MAP, INSPECT, CORRECT GIS	OCTOBER	59.0	123.7	216.0	LDAB10	LDA500	8	CONC	10/7/2010	10/12/2010	3.8			0.4	6.5																		SURVEY ABANDONED, INCOMPLETE, MISSING 92.3' (ASSUMED LENGTH OF 216'). RELATIVE TREATMENT (123.7/151.3). UPSTREAM OF 151.3' NOT CLEANED
	MAY	417.2	266.5	417.2	WRD715	WRD710	6	VCP	2/18/11 & 2/24/11	5/16/2011				2.4	3.3																		SURVEY ABANDONED, INCOMPLETE, MISSING 150.7'. RELATIVE TREATMENT (417.2/266.5)
CP-CHIP OUT INVERT USMH EPC039 TO FIT CAMERA, PE COMPLETE CCTV	SEPTEMBER	30.6	30.6	367.0	EPC039	EPC037	6	CONC	9/23/2010	9/28/2010	0.4																						SURVEY ABANDONED, INCOMPLETE, MISSING 336.4'. RELATIVE TREATMENT (367/30.6). NO REVERSE, USMH EPC039 IMPROPER INVERT, DEFECT DISTANCES MEASURED FROM DSMH

Table 2.1 Structural Defect III Flow Rating Matrix

DEFECTIVE TYPE	CONDITION OF DEFECT	UNIT	PIPE SIZE LESS THAN 18" (GPM)	PIPE SIZE 18" TO 36" (GPM)	PIPE SIZE GREATER THAN TO 60" (GPM)
Open Joint	Minimum	Per Joint	0.20	0.50	1.00
	Moderate	Per Joint	0.40	1.00	2.00
	Heavy	Per Joint	0.60	1.50	3.00
	Severe	Per Joint	0.80	2.00	4.00
Offset Joint	Minimum	Per Joint	0.10	0.25	0.50
	Moderate	Per Joint	0.30	0.75	1.50
	Heavy	Per Joint	0.50	1.25	2.50
	Severe	Per Joint	0.70	1.75	3.50
Cracked Pipe	Circumferential	Per Crack	0.40	1.00	2.00
	Longitudinal	Per Linear Foot	0.10	0.10	0.10
Fractured Pipe	Circumferential	Per Fracture	0.90	2.25	4.50
	Longitudinal	Per Linear Foot	0.20	0.20	0.20
Broken Pipe	Circumferential	Per Break	2.00	5.00	10.00
	Longitudinal	Per Linear Foot	0.45	0.45	0.45
Collapsed Pipe		Per Linear Foot	3.00	7.50	15.00
Abandoned Main	Minimum	Each	0.40	1.00	2.00
	Moderate	Each	0.60	1.50	3.25
	Heavy	Each	0.90	2.25	4.50
	Severe	Each	1.50	3.75	7.50
Pipe to Manhole Connection	Minimum	Each	0.40	1.00	2.00
	Moderate	Each	0.60	1.50	3.25
	Heavy	Each	0.90	2.25	4.50
	Severe	Each	1.50	3.75	7.50
Service Connection	Minimum	Each	0.20	0.20	0.20
	Moderate	Each	0.50	0.50	0.50
	Heavy	Each	1.00	1.00	1.00
	Severe	Each	1.50	1.50	1.50
Stubout	Minimum	Each	0.10	0.10	0.10
	Moderate	Each	0.30	0.30	0.30
	Heavy	Each	0.50	0.50	0.50
	Severe	Each	0.70	0.70	0.70
Roots	Fine		0.10	0.25	0.50
	Mass		0.20	0.50	1.00
	Tap		0.40	1.00	2.00



City of Cartersville - Plymouth & Dellinger Areas

Table 2.2 - CCTV Matrix Defect Itemization

ACTION REQUIRED TO COMPLETE INVESTIGATION	Month Invoiced	Cleared Length (Ft.)	CCTV'd Length (Ft.)	Total Pipe Length (Ft.)	Upstream Manhole ID	Downstream Manhole ID	Pipe Size (In.)	Pipe Material	Date Inspected	Date Data Submitted to Engineer	Defect Type & I/I Flow (GPM)										Total I/I Contribution (GPM)	GPM/LF	Defect Locations	Defects	% Sags	Reverse	Service Connection Locations (Min.)	Service Connection Locations (Mod.)	Comments				
											Open Joint	Offset Joint	Cracked Pipe	Fractured Pipe	Broken Pipe	Collapsed Pipe	Abandoned Main	Pipe to Manhole Connection	Service Connection	Stubout										Roots			
											<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"	<18"										<18"			
CP-TIE BANKS, SIMS, AND LAKE SEWERS INTO NEW OUTFALL	JANUARY	7	104.4	104.4	LDE010	LDE009	15	VCP	12/12/2010	12/17/2010																						ABANDONED LINE. COLLECTS FROM LAKE DR., SIMS CT. AND BANKS CT. SEWERS (NO CUSTOMERS ON THESE SEWERS)	
CP-HOW TO HANDLE ABANDONED LINE?	MARCH	86.6	86.6	?	LDC560	LDC560A	8	CONC	7/8/2011	7/15/2011																						SURVEY ABANDONED INCOMPLETE, MISSING X. ABANDONED LINE?	
CP-SMOKE TEST TO DETERMINE IF STORM CROSS CONNECTION	DECEMBER	0.0	8.8	100.0	LDA395	LDA390	8	RCP	11/22/2010	11/30/2010																						ASSUMED LENGTH OF 100. POSSIBLE STORM CROSS CONNECTION	
CP-CLEAR BLOCKAGE (3). RAISE DSMH LDA065A, PE-MAP/INSPECT/CORRECT GIS, COMPLETE CCTV	OCTOBER	0.0	3.0	98.0	LDA065	LDA065A	8	VCP	9/30/2010	10/5/2010																						TOTAL BLOCKAGE	
	MARCH	455.0	81.3	455.0	CPC200	CPC198	6	CONC	3/17/2011	3/23/2011			0.5	1.6	8.2																	SURVEY ABANDONED, INCOMPLETE, MISSING 373.7'. RELATIVE TREATMENT (455/81.3). PREVIOUSLY INSPECTED APRIL 2006, RE-INSPECTED AT JESSE HOWARD'S REQUEST AFTER POINT REPAIR WAS PERFORMED	
CP-POINT REPAIR INTRUDING SERVICE (45.9') AND INTRUDING STUBOUT (294.6'). RAISE DSMH LDA165A, PE-MAP/INSPECT/CORRECT GIS	OCTOBER	817.4	68.7	817.4	LDA165	LDA165A	6	VCP	9/28/2010	10/5/2010			0.5	0.4	2.7	4																SURVEY ABANDONED, INCOMPLETE, MISSING 248.7'. RELATIVE TREATMENT (817.4/68.7). LDA165A PREVIOUSLY UNIDENTIFIED MH BURIED	
CP-POINT REPAIR GROUT OBSTRUCTION (221' FROM USMH) AND CHIP OUT INVERT AT USMH, PE COMPLETE CCTV	MAY	487.2	221.0	487.2	LDB260	LDB250	6	CONC	2/24/2011	3/8/2011	0.2	0.1	0.9	11.7	6																	SURVEY ABANDONED, INCOMPLETE MISSING 266.2'. RELATIVE TREATMENT (487.2/221)	
CP-POINT REPAIR AT OFFSET JOINT (64.6') AND FRACTURES (299.3'). PE COMPLETE CCTV	OCTOBER	264.3	264.3	499.0	LDA140	LDA090	8	VCP	9/30/2010	10/5/2010			0.6	0.8	5.3	2.2																	SURVEY ABANDONED, INCOMPLETE, MISSING 234.7'. RELATIVE TREATMENT (499/264.3)
CP-POINT REPAIR OFFSET JOINT (295.4') AND INVERT AT DSMH, PE COMPLETE CCTV	OCTOBER	295.4	295.4	415.0	LDA373	LDA370	6	CONC	10/22/2010	10/27/2010			0.8	0.4	6.6	6.6																SURVEY ABANDONED, INCOMPLETE, CANNOT REVERSE DUE TO IMPROPER INVERT. MISSING 119.6'. RELATIVE TREATMENT (415/295.4)	
	NOVEMBER	519.0	899.8	519.0	LDE510	LDE500	8	CONC	11/11/2010	11/30/2010				0.8	5.5	4																SURVEY ABANDONED, INCOMPLETE, MISSING 119.2'. RELATIVE TREATMENT (519/399.8)	
CP-RAISE LDAB10, POINT REPAIR ROOTS MASS (151.3'), HEAVY CLEAN, PE-LDAB10 MAP, INSPECT, CORRECT GIS	OCTOBER	59.0	123.7	216.0	LDAB10	LDA500	8	CONC	10/7/2010	10/12/2010	3.8			0.4	6.5																	SURVEY ABANDONED, INCOMPLETE, MISSING 92.3' (ASSUMED LENGTH OF 216'). RELATIVE TREATMENT (123.7/151.3). UPSTREAM OF 151.3' NOT CLEANED	
	MAY	417.2	266.5	417.2	WRD715	WRD710	6	VCP	2/18/11 & 2/24/11	5/16/2011				2.4	3.3																	SURVEY ABANDONED, INCOMPLETE, MISSING 150.7'. RELATIVE TREATMENT (417.2/266.5)	
CP-CHIP OUT INVERT USMH EPC039 TO FIT CAMERA, PE COMPLETE CCTV	SEPTEMBER	30.6	30.6	367.0	EPC039	EPC037	6	CONC	9/23/2010	9/28/2010	0.4																					SURVEY ABANDONED, INCOMPLETE, MISSING 336.4'. RELATIVE TREATMENT (367/30.6). NO REVERSE, USMH EPC039 IMPROPER INVERT, DEFECT DISTANCES MEASURED FROM DSMH	



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Contracts/Agreements
DEPARTMENT NAME:	Water
AGENDA ITEM TITLE:	WPCP Construction Manager at Risk (CMAR)
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The Water Department has determined the best delivery method for the 10 MGD expansion of the Water Pollution Control Plant is the Construction Manager at Risk, due to its ability to deliver early work packages and early order of long-lead items, which serve to expedite construction.</p> <p>Qualifying firms were evaluated and interviewed for this project in response to the City’s RFP. Archer Western Construction was selected as the firm most capable of delivering the project to completion as designed and desired.</p> <p>The proposed costs for CMAR services are \$1,585,000.00 for Phase I, Pre-Construction Services, and the CMAR Fee for Phase II Construction Services is 8.00% of final construction costs.</p> <p>I recommend approval to contract with Archer Western Construction as Construction Manager at Risk for this project.</p>
LEGAL:	Reviewed by City Attorney

Agreement Between Owner and Construction Manager at Risk (Rev 3)

for

Cartersville WPCP Expansion to 25 mgd Cartersville, Georgia



June 2024



Revision History

REVISION	DATE ISSUED	DESCRIPTION / ISSUED FOR
Rev 3	0711-2024	Incorporated Select CMAR and Owner Comments
Rev 2	06-18-2024	Conformed Draft Agreement for Owner and CMAR review
Rev 1	04-17-2024	Revised Draft Agreement via Addendum #1
Rev 0	03-14-2024	Draft Agreement for bidding purposes

CONTENTS

ARTICLE 1 — Definitions	5
ARTICLE 2 — CMAR Responsibilities	10
ARTICLE 3 — Owner Responsibilities	12
ARTICLE 4 — Subcontracts and Labor Relations	12
ARTICLE 5 — Time	13
ARTICLE 6 — Compensation.....	15
ARTICLE 7 — Changes	16
ARTICLE 8 — Payment.....	16
ARTICLE 9 — Liability	16
ARTICLE 10 — Dispute Mitigation and Resolution.....	17
ARTICLE 11 — Miscellaneous Provisions.....	18
Exhibit A—General Conditions to Agreement	
Exhibit B—CMAR Phase I Preconstruction Scope of Services	
Exhibit C—Phase I Notice to Proceed	
Exhibit D—Phase I Early Work(s) Package(s)	
Exhibit D.1—Phase I Early Work(s) Package(s) Amendment Form	
Exhibit E—Phase II Construction Price Amendment	
Exhibit F—Initial Schedule of Work	
Exhibit G—Project Technical Scheduling Requirements	
Exhibit H—Preconstruction Phase Services Hourly Rate Schedule	
Exhibit I—Project Technical Performance Requirements	
Exhibit J—Key Personnel	
Exhibit K—Additional Required Forms	

Cartersville WPCP Expansion to 25 mgd Agreement Between Owner and Construction Manager at-Risk (CMAR)

Agreement

This Agreement is made this ____ day of _____ in the year 2024 (the “Contract Date”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, by and between the

OWNER

City of Cartersville
1 North Erwin Street
Cartersville, GA 30120

and the

CONSTRUCTION MANAGER AT-RISK (CMAR):

Archer Western Construction, LLC
2839 Paces Ferry Road, SE
Atlanta, GA, 30339

for services in connection with the following Project:

PROJECT NO.: _____

PROJECT NAME: CARTERSVILLE WPCP EXPANSION TO 25 MGD

PROJECT LOCATION: 102 WALNUT GROVE ROAD, SE, CARTERSVILLE, GEORGIA 30120

PROJECT SUMMARY: The scope of work under this project includes construction of the following facilities at the Cartersville WPCP:

Facility	Planned Improvements
Influent Pump Station	New 55-mgd influent pump station Submersible pumps, coarse screens, and bypass channel New Influent PS Electrical Building
Preliminary Treatment	New 55-mgd Headworks Facility Fine screens, grit removal, and odor control New Headworks Electrical Building
Flow Equalization	Gravity feed to/from EQ, Equalize to Max Day Flow (42 mgd) Two 6-MG EQ tanks (approx. 170-ft Φ by 35.5-ft tall), prestressed concrete

Facility	Planned Improvements
Biological Treatment	Two new bioreactors (5 mgd MM capacity each), approx. 3 MG each, 22 ft deep Diffused aeration, vertical shaft mixing, internal recycle pump Bioreactor splitter box
Blowers	New Blower Building with attached electrical room High speed turbo blowers
Final Clarifiers	Two new 135-ft Φ clarifiers; option for a third new 135-ft Φ clarifier New scum pump station New clarifier flow distribution box
Tertiary Filtration	Addition to existing filter facility Two new 5-mgd (MM) tertiary filters Rapid mix and flocculation
UV Disinfection	New 42-mgd UV disinfection facility Effluent Parshall flume NPW pumps with sodium hypochlorite feed system
Outfall Line/Diffuser	New parallel outfall line and/or parallel diffuser
Solids Dewatering	Add fourth BFP, including BFP feed pump, polymer pump, and conveyor modifications
Biosolids Dryer	Provisions for installation of future dryer (e.g., concrete pad, drains, electrical power stub-outs)
Septage Receiving Station	New Septage Receiving Station
Alum Storage and Feed System	Expand existing alum storage and feed system New tanks and pumps
RAS / WAS Pump Station	Existing RAS Pump Station modifications to accommodate new clarifiers New submersible RAS pumps
Site Modifications, Electrical Distribution/Communications Coordination	New electrical switchgear building Backup power for the entire WPCP including 2 standby generators Medium voltage (12.47kV) distribution system New fault-tolerant communication ring

The Work includes, but is not limited to, all piping and valves, grading and paving, sedimentation and erosion control, electrical work, instrumentation and controls, HVAC equipment and all other work necessary to render the facilities complete and operational in accordance with the Contract Documents. The expanded facility will be capable of meeting all current and anticipated regulatory requirements of the State of Georgia.

The existing WPCP shall remain in service at all times during construction of the new and modified facilities. Multiple Work Packages will be required to facilitate maintenance of plant operations and to expedite completion of the Project.

Notice to the Owner and/or CMAR (each individually a “Party” and collectively, the “Parties”) shall be given at the above addresses.

Accordingly, the Parties hereto hereby agree as follows.

ARTICLE 1 — Definitions

1.1 Definitions

1.1.1 “Agreement” means this Agreement between Owner and CMAR (where the Basis of Payment is the Cost of the Work plus CMAR’s Fee with a Guaranteed Maximum Price or a Lump Sum, as modified by the Parties, and the exhibits and attachments made part of this Agreement upon its execution), as modified by subsequent Amendments.

1.1.2 “Allowance” is an estimated sum to be used as Owner directs for categories of Work that cannot be established at the time the GMP or Fixed Price are agreed upon. Owner can direct Work under Allowances only up to the established amount. Any work directed over the established Allowance amount is to be processed by Change Order to CMAR.

1.1.3 “Applicable Law” or “Applicable Laws” means, collectively, all applicable federal, state, and local laws, statutes, rules, regulations, tariffs, levies, embargoes, ordinances, codes, and binding administrative or judicial precedents or authorities, including the binding interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation, or administration thereof, and all applicable administrative orders, directed binding duties, licenses, authorizations, and permits of, and binding agreements with, any Governmental Authority, in each case applicable to or affecting the Project or the Work of CMAR under this Agreement or the other Contract Documents.

1.1.4 “Assumptions” and “Clarifications” are material terms associated with CMAR’s Guaranteed Maximum Price or Lump Sum upon which the Owner and CMAR agree and are more particularly described in Attachment 23 of the Phase II Construction Price Amendment.

1.1.5 “Bid Package” or “Bid Packages” means one or more design bid packages for specific scopes of the Work that are developed and generated by the Engineer for bidding and award pursuant to this Agreement.

1.1.6 The term “Business Day” or “business day” means any day other than a Saturday, Sunday, or legal holiday on which national banks located in the state jurisdiction in which the Project is situated are not required or permitted to be open for business to the public.

1.1.7 A “Change Order” is a written order signed by the Owner and the CMAR after execution of this Agreement indicating any change to the Agreement including, among other things, changes in the Scope of the Work, the CMAR’s Fee for Preconstruction Phase Services, the Phase II Construction Price and Date of Substantial Completion, or Date of Final Completion.

1.1.8 A “Change Order Proposal” is a proposal submitted by the CMAR or the Owner for a change in the Work as evidenced by a Change Order.

1.1.9 The “CMAR” is Archer Western Construction, LLC.

1.1.10 The “CMAR Representative” is David Walker, Vice President.

1.1.11 “Construction Phase” or “Construction Phase Services” means the Work of the CMAR undertaken during Phase II pursuant to the Drawings and Specifications in accordance with Paragraph 2.2 of this Agreement and other applicable terms and provisions of this Agreement and the other Contract Documents.

1.1.12 “Construction General Conditions Costs” are an element of the Cost of Work that is included in the Construction Price as agreed to by the CMAR and the Owner and has the meaning set forth in Article 5 of the Phase II Construction Price Amendment.

1.1.13 “Contingencies,” where applicable, has the meaning set forth in Paragraph 10.5 of the Phase II Construction Price Amendment.

1.1.14 The “Contract Documents” represents the entire and integrated agreement between the Parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. It consists of this Agreement, the General Conditions, the Phase II Construction Price Amendment, the Drawings, Specifications, addenda issued prior to execution of this Agreement, information furnished by the Owner under Paragraph 3.8 of the General Conditions, any supplemental or other conditions attached as an exhibit to this Agreement, performance Specifications attached as an exhibit to this Agreement, the CMAR’s qualifications, Assumptions, and Clarifications mutually agreed upon by Owner and CMAR and identified in and attached to this Agreement and/or the Phase II Construction Price Amendment, the other documents listed in this Agreement, and any modifications issued after its execution, including, without limitation, Change Orders and Owner Change Directives. The Contract Documents do not include bidding instructions or sample forms not attached as exhibits to this Agreement.

1.1.15 The “Contract Time” is the overall time period allowed for performance of the Work.

1.1.16 “Cost of the Work,” where applicable, has the meaning of the sum of all allowed direct and indirect costs necessarily and reasonably incurred and paid by CMAR in the performance of the Work including those set forth in the Phase II Construction Price Amendment.

1.1.17 The term “Day” or “day” shall mean calendar day unless otherwise specifically defined.

1.1.18 “Defective Work” is any portion of the Work that does not conform to the Contract Documents, as more fully described in Paragraphs 2.4 and 2.5 of the General Conditions.

1.1.19 “Differing Site Conditions” means conditions at the Project site that are: (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents, or (b) unusual or unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract Documents.

1.1.20 “Drawings” means the documents prepared by Engineer or other consultants of Owner showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

1.1.21 “Early Work(s) Package(s)” is procurement or construction work that may be performed during Phase I or Phase II that may benefit the Project.

1.1.22 “Engineer” means the licensed Engineer and its consultants, retained by Owner to perform design services for the Project. The Engineer for the Project is Hazen and Sawyer.

1.1.23 “Engineer Contract” means the engineering contract between Owner and Engineer for the design and/or engineering of the Project or portions thereof.

1.1.24 “Fee” or “CMAR Fee” means, where a GMP has been selected by the Owner and CMAR as the basis for establishing a Phase II Construction Price for the Project or Bid Package, as applicable, the Fee to be charged by the CMAR, which shall either be (a) expressed as a percentage of the Cost of the Work, or (b) a fixed dollar amount based on the Cost of the Work, in each case agreed upon by the Owner and the CMAR at the time of execution of, and in accordance with, the Phase II Construction Price Amendment for the CMAR’s performance of the Work.

1.1.25 “Field Order” means minor changes in the Work if the changes do not involve an adjustment in the Phase II Construction Price or the Contract Times and are compatible with the design of the completed Project as a functioning whole as indicated by the Contract Documents.

1.1.26 “Final Completion” occurs on the date when the CMAR’s obligations under this Agreement are complete and accepted by the Owner and final payment becomes due and payable in accordance with Article 14 of the Phase II Construction Price Amendment and Paragraph 8.9 of the General Conditions. This date shall be confirmed by a Certificate of Final Completion signed by the Owner and the CMAR.

1.1.27 “Final Payment” has the meaning set forth in Article 14 of the Phase II Construction Price Amendment.

1.1.28 “Force Majeure,” as defined in the General Conditions in Paragraph 5.4.1.3.

1.1.29 The “General Conditions” to the Agreement is included as Exhibit A.

1.1.30 “GMP” or “Guaranteed Maximum Price” means, with regard to the Project as a whole or any Bid Package for construction of any portion of the Work where a GMP is selected by the Parties as the basis for the Phase II Construction Price, as may be further defined in the Phase II Construction Price Amendment for the Project, as applicable. The Guaranteed Maximum Price for the Work covered thereby, as established by a Phase II Construction Price Amendment executed by and between Owner and CMAR, is further defined as the Cost of Work plus Allowances and fee for such Work. Subject to Change Orders and other allowable adjustments made pursuant to this Agreement or the other Contract Documents, where the Phase II Construction Price for any Work is based on a GMP, the Phase II Construction Price for such Work shall not exceed the GMP for such Work plus any approved additions or deductions to the GMP.

1.1.31 “Governmental Authorities” means any federal, state, local, or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank, public office, court, arbitration or mediation panel, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of government.

1.1.32 “Lump Sum” means a lump-sum contract price established for the Phase II Construction Phase Services in accordance with a Phase II Construction Price Amendment.

1.1.33 A “Material Supplier” is a person or entity retained by the CMAR or a Subcontractor to provide material or equipment for the Work.

1.1.34 “Others” means other contractors, Material Suppliers, and persons at the Worksite who are not employed by the CMAR or Subcontractors.

1.1.35 “Owner” is City of Cartersville and includes the Owner’s representative and any other Owner authorized person or entity.

1.1.36 “Owner’s Approved Budget” means the sum of \$200,000,000.00.

1.1.37 “Owner Change Directive” means a directive issued by Owner to CMAR to undertake and perform a change in the Work prior to the time such Parties have reached agreement on the adjustment, if any, of the Phase II Construction Price or the Contract Time.

1.1.38 The Owner’s authorized representative is Sidney Forsyth, Cartersville Water Department Director (the “Owner’s Representative”).

1.1.39 “Phase I” means the Preconstruction Phase.

1.1.40 “Phase II” means the Construction Phase Services performed by CMAR pursuant to this Agreement and the other Contract Documents.

1.1.41 “Phase II Construction Price” means the contract price established by the Parties for CMAR’s performance of the Work during the Construction Phase in accordance with this Agreement and the other Contract Documents and as reflected in the Phase II Construction Price Amendment, as the same may be modified by any Change Orders increasing or reducing such contract price and may be either a Lump Sum price or GMP.

1.1.42 “Phase II Construction Price Amendment” has the meaning given to it in Exhibit B, Paragraph 1.15.

1.1.43 “Phase II Construction Price Proposal” has the meaning given to it in Exhibit B, Paragraph 1.15.2.

1.1.44 “Preconstruction Phase” or “Preconstruction Phase Services” means the Phase I Preconstruction Services performed by CMAR in connection with the Project and described in Paragraph 2.1 of this Agreement.

1.1.45 “Project” is the building, facility, or other improvements for which the CMAR is to perform Work under this Agreement. It may also include construction by the Owner or Others which is not part of the Work of this agreement.

1.1.46 “Risk Register” is the result of an assessment led by either the Owner or the CMAR, and agreed to by both parties, that identifies potential project risks and the likelihood of occurrence and allocates the responsibility for mitigation of each risk element.

1.1.47 “Schedule” is the critical path method (CPM) schedule prepared by the CMAR that specifies the dates on which the CMAR plans to begin and complete various parts of the Work, including all activities during Phase I Preconstruction and Phase II Construction.

1.1.48 “Schedule Update” means any update to the Schedule prepared and submitted by CMAR to Owner concurrently with CMAR’s submission to Owner of a Phase II Construction Price Proposal, a Phase II Construction Price Amendment, or as otherwise required or permitted hereunder.

1.1.49 “Specifications” means the documents prepared by Owner, Engineer, or

other consultant of Owner consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work and performance of related services.

1.1.50 A “Subcontractor” is a person or entity retained by the CMAR as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The Subcontractor

obligations within this Agreement shall also apply to the CMAR for all self-perform trade work.

1.1.51 “Substantial Completion of the Work,” or “Substantially Complete” or a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner may occupy or utilize the Work, or a designated portion, for the beneficial use for which it is intended. This date shall be confirmed by a certificate of Substantial Completion signed by the Engineer and CMAR with Owner’s consent. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond the CMAR’s control. In addition to and without limiting the generality of the foregoing requirements of this Paragraph 1.1.51, “Substantial Completion” of the Work or a portion of the Work shall not be deemed to have occurred unless and until the Project or a portion thereof is available for beneficial use and satisfies any other requirements set forth in the Phase II Construction Price Amendment.

1.1.52 A “Sub-subcontractor” is a person or entity who has an agreement with a Subcontractor to perform any portion of the Work.

1.1.53 “Work” means the construction and services necessary or incidental to fulfill the CMAR’s obligations for the Project in conformance with this Agreement and the other Contract Documents, including the Preconstruction Phase Services and the Construction Phase Services as set forth in the Scope of Work.

1.1.54 “Worksite” means the location of the Project as identified in Article 1 where the Work is to be performed.

Capitalized terms used herein but not defined herein shall have the meanings given them in the Phase II Construction Price Amendment, General Conditions, and other Contract Documents.

ARTICLE 2 — CMAR Responsibilities

2.1 Phase I Preconstruction Phase Services

2.1.1 Commencement. Preconstruction Phase Services, as described in **Exhibit B** attached hereto, shall commence no later than ten (10) calendar days following the Owner’s issuance of a Phase I Notice to Proceed in substantially the form of **Exhibit C** attached hereto and incorporated herein by this reference with the appropriate box checked. For the performance of the Preconstruction Phase Services CMAR

shall be paid the Preconstruction Phase Services fees in the amount and in the manner set forth in Paragraph 6.1.

Early Work(s) Package(s). If applicable, Early Work(s) Package(s) commenced prior to mutual execution of a Phase II Construction Price Amendment shall be performed and paid for pursuant to **Exhibit D** and **Exhibit D.1** to this Agreement but otherwise subject to the terms, covenants, and conditions of this Agreement and the other Contract Documents.

2.1.2 Completion. CMAR's Preconstruction Phase Services shall be deemed to have been completed upon mutual execution of a Phase II Construction Price Amendment for the Work, hereto attached as **Exhibit E**, covered by the Construction Phase Services. If the Owner and CMAR are unable to reach a written agreement on a Phase II Construction Price Amendment, the Owner may terminate this Agreement for convenience on five (5) business days' written notice to the CMAR in accordance with Paragraph 10.3 of the General Conditions. In the event of such termination for convenience, the CMAR shall be compensated for (1) the portion of the CMAR's Preconstruction or Construction Phase Services, if any, performed to the date of such termination, but the CMAR shall not be entitled to compensation for Work not performed, plus (2) reasonable demobilization costs, if any, which shall include, but not be limited to, reasonable cost(s) incurred by CMAR to break contractual obligations with Subcontractors, Subconsultants, Suppliers, Vendors, and Materialmen entered prior to Subcontractor's receipt of the notice of termination. In such event, the CMAR shall have no obligation to perform the Scope of Work covered by such unexecuted Phase II Construction Price Amendment.

2.1.3 CMAR's Fee. Notwithstanding the Parties' obligation to negotiate the Phase II Construction Price Amendment as provided herein, the Parties agree that the CMAR's Fee for Construction Phase Services shall be 8%. The CMAR's Fee shall not be subject to negotiation and shall be incorporated into the Phase II Construction Price Amendment.

2.2 Construction Phase Services

2.2.1 Commencement. Unless otherwise provided to the contrary elsewhere in this Agreement or the other Contract Documents, CMAR's Construction Phase Services shall commence within ten (10) days of the Phase II Notice to Proceed.

2.2.2 Self-Perform Work. As part of the CMAR's Construction Phase Services, the CMAR may be entitled to self-perform work on a negotiated basis or competitively bid against the market in accordance with applicable law and Owner approval. Any self-perform Work, whether negotiated or competitively bid, that is approved by the Owner is subject to the terms and conditions of and as identified in **Exhibit B** and the following provisions of this Paragraph 2.2.2.

2.2.2.1 The CMAR may seek to perform portions of the Work itself, other than minor work that may be included in the CMAR's Construction General Conditions Costs, if the CMAR or CMAR team member submits its

proposal and is awarded for those portions of Work in the same manner as all other Subcontractors. If the CMAR intends to submit a proposal for such Work, it shall notify Owner prior to soliciting Proposals and all such proposals shall be submitted directly to the Owner in accordance with **Exhibit B**. If the Owner determines that the CMAR's bid or CMAR team member's proposal provides the best value, based on cost and relevant experience for the Owner, the CMAR or CMAR team member may be awarded that portion of the Work.

2.2.2.2 If a selected Subcontractor defaults in the performance of its Work or fails to execute a subcontract after being selected in accordance with this paragraph, the CMAR may, without advertising, fulfill the contract requirements through selection of an alternate Subcontractor or self-performance, in each case with the Owner's prior written approval. Owner shall be notified in the event of a Subcontractor default or failure to execute the subcontract.

2.2.2.3 Work identified pursuant to **Exhibit B** and performed directly by the CMAR shall be not be limited. For any Work that is proposed to be performed directly by the CMAR, bids or request for proposal shall be submitted to and reviewed by the Owner's Representative or any other neutral party as determined by the Owner to avoid a conflict of interest.

ARTICLE 3 — Owner Responsibilities

3.1 Owner Responsibilities

Owner shall be responsible for providing the information and delivering the materials set forth in Article 3 of the General Conditions.

ARTICLE 4 — Subcontracts and Labor Relations

4.1 Subcontractors

The work not performed by the CMAR with its own forces shall be performed by Subcontractors. All subcontracts shall be issued on a Lump Sum basis unless the Owner has given prior written approval of a different method of payment to the Subcontractor. Owner will require CMAR to competitively bid subcontracts for all services or supplies.

4.2 Labor Relations

4.2.1 Prevailing Wages. Deleted.

4.2.2 Compliance Monitoring. CMAR shall require every subcontract to provide certified payroll reports with respect to all persons performing labor necessary to complete any portion of Work on the Project.

4.2.3 Nondiscrimination / Nonharassment. CMAR shall not engage in any form

of discrimination or harassment because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, or any other protected classification against any employee or applicant for employment on the Project.

ARTICLE 5 — Time

5.1 Performance of the Work

5.1.1 Date of Commencement. The Date of Commencement of the Preconstruction Phase Services and Construction Services, as applicable, shall be as set forth in Subparagraph 5.1.1 of the General Conditions. The Work shall proceed in general accordance with the Schedule of Work as such Schedule may be amended from time to time, subject to other provisions of this Agreement. The Schedule is subject to allowable adjustments in the Contract Time as permitted herein or in the other Contract Documents.

5.1.2 Substantial / Final Completion. Unless the Parties agree otherwise, the Date of Substantial Completion and the Date of Final Completion shall be established pursuant to the Phase II Construction Price Amendment, subject to adjustments as provided for in the Contract Documents. If a Phase II Construction Price is not established and the Parties desire to establish a Date of Substantial Completion or Date of Final Completion, it shall be set forth via Amendment.

5.1.3 The CMAR shall not knowingly commence the Work before the effective date of insurance to be provided by the CMAR and Owner as required by the Contract Documents.

5.2 Schedule of the Work

5.2.1 The initial Schedule of Work is attached hereto as **Exhibit F**.

5.2.2 Owner will timely review the baseline Schedule submitted by CMAR. If the Owner determines that additional supporting data are necessary to fully evaluate the Schedule, the Owner will request additional supporting data in writing. Such data shall be furnished no later than five (5) business days after the date of such request. Owner will render a decision promptly and in any case within five (5) business days after the latter of the receipt of the Schedule update or the deadline for furnishing such additional supporting data. Owner shall review, approve, and/or provide comments in a reasonable time.

5.2.3 Contemporaneously with CMAR's submission of its Phase II Construction Price Proposal in accordance with Phase II Construction Price Amendment, the CMAR shall submit to the Owner and, if directed, the Engineer, a Schedule Update, in compliance with the technical scheduling requirements attached hereto as **Exhibit G** and the requirements of this Paragraph 5.2, that shall show the dates on which the CMAR plans to commence and complete various parts of the Work, including dates on which information and approvals are required from the Owner.

5.3 Contract Time, Delays, and Extensions of Time

5.3.1 The Contract Time for Phase I Preconstruction Services is 460 days. The Contract Time for Phase II Construction Services will be set as part of the Phase II Construction Amendment.

5.3.2 The Contract Time, as it may be modified from time to time in accordance with this Agreement and any other applicable Contract Documents, shall control the determination of liquidated damages payable to CMAR under Paragraph 5.4 and in the determination of any delay under Paragraph 5.3.

5.3.3 The CMAR will include [TBD] days per year of weather-related delays within the Project Construction Schedule. If the number of weather-related delays exceeds [TBD] days per year, the CMAR may be entitled to a commensurate extension of time and reimbursement of costs associated with the delay, including Construction General Conditions Costs, in each case as may be agreed upon by the Owner and CMAR but subject to the requirements of Article 5 of the General Conditions.

5.3.4 In the event delays to the Work are encountered for any reason, the CMAR shall provide prompt written notice to the Owner of the cause of such delays after CMAR first recognizes the delay. Excusable delays shall be adjusted upon and subject to the terms and conditions of Article 5 of the General Conditions.

5.3.5 A waiver of or failure by the Owner or Owner's Representative to enforce any requirement in this Article 5 hereof or the requirements of Article 5 of the General Conditions, including, without limitation, the requirements in Paragraph 5.3 thereof, in connection with any or all past delays shall not constitute a waiver of, and shall not preclude the Owner or Owner's Representative from enforcing such requirements in connection with any present or future delays.

5.4 Liquidated Damages

5.4.1 Substantial Completion. The Owner and the CMAR agree that this Agreement shall provide for the imposition of liquidated damages for any CMAR delay not excused by Paragraph 5.3 hereof or elsewhere in this Agreement.

5.4.1.1 The CMAR agrees that if the Work of the Project is not Substantially Completed on or before the Substantial Completion Date applicable to the Project or related Bid Package, the CMAR shall pay the Owner as liquidated damages and not as a penalty the sum of \$10,000.00 per day for each day of unexcused delay past the Substantial Completion Date. After Substantial Completion, if CMAR shall neglect, refuse or fail to complete the remaining Work within the time specified for completion and readiness for final payment applicable to the Project or related Bid Package, CMAR shall pay the Owner as liquidated damages and not as a penalty the sum of \$5,000.00 per day for each day of unexcused delay past the Final

Completion Date. The liquidated damages provided herein shall be the sole and exclusive remedy for any unexcused delay in the performance of CMAR's obligations hereunder and shall be in lieu of any and all other liability to the Owner for extra costs, losses, expenses, claims, penalties and any other damages of whatever nature (whether actual, compensatory, direct, indirect, special, consequential, punitive, or otherwise) incurred by the Owner and which are caused by any unexcused CMAR delay in timely achieving Substantial or Final Completion on or before the Substantial or Final Completion Date. The Parties acknowledge and agree that it would be extremely difficult, if not impossible, to quantify the economic loss incurred by the Owner as a result of such unexcused delay, that the liquidated damages contemplated herein are reasonable and represent a fair approximation of the economic loss to be incurred by Owner as a result of such unexcused delay, and that such liquidated damages shall be enforceable to the maximum extent permitted under Applicable Law.

ARTICLE 6 — Compensation

6.1 CMAR's Compensation for Preconstruction Phase Services

6.1.1 The Owner shall compensate CMAR for performance of the CMAR's Preconstruction Phase Services outlined in Paragraph 2.1 hereof on a Lump Sum basis. Such compensation shall be based on the direct personnel costs incurred by CMAR and includes the direct salaries of the CMAR's personnel providing Preconstruction Phase Services on the Project and CMAR's customary and mandatory contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions and, unless otherwise provided, includes all sales, use, consumer, and other taxes mandated by applicable law, and appropriate fee applied to such costs. Such compensation shall include all other direct and indirect costs for the performance of the CMAR's Preconstruction Services.

6.1.2 The CMAR's Lump Sum Fee for Preconstruction Services is One Million, Five Hundred Eighty-Five Thousand dollars (\$1,585,000).

6.2 CMAR Compensation for Early Work(s) Package(s)

6.2.1 If the Parties agree to negotiate Early Work Packages, refer to **Exhibit D**. Services performed for Early Works shall be subject to this Agreement and the General Conditions and other provisions of the Contract Documents applicable to the Phase II Construction Services.

6.3 CMAR's Compensation for Construction Phase Services

6.3.1 The Owner shall compensate the CMAR for Work performed and described in a Phase II Construction Price Amendment on the basis of either a Lump Sum

Phase II Construction Price or Guaranteed Maximum Price, in each case as set forth in such Phase II Construction Price Amendment and General Conditions.

6.4 Hourly Rates

6.4.1 Where Work or portions thereof performed by the CMAR for Preconstruction Phase Services is charged on an hourly rate basis, such Work shall be subject to and completed in accordance with the CMAR's hourly rate schedule attached hereto as **Exhibit H** and incorporated herein by this reference and shall be inclusive of markup for overhead and profit. A separate hourly rate schedule for Construction Phase Services shall be attached to the Phase II Construction Price Amendment upon Owner's and CMAR's mutual execution of the same and shall be at cost without markup for overhead and profit.

ARTICLE 7 — Changes

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order, Owner Change Directive, and Field Order, in each case in accordance with and subject to the terms and provisions of Article 7 of the General Conditions and any Phase II Construction Price Amendment executed in connection herewith for the Project.

ARTICLE 8 — Payment

Payments for Preconstruction Phase Services shall be made monthly in proportion to services performed unless otherwise agreed, in writing, by Owner and CMAR.

8.1 Payments for Construction Phase Services performed following the execution of a Phase II Construction Price Amendment for the same shall be made in accordance with such Amendment and the General Conditions.

ARTICLE 9 — Liability

9.1 Waiver of Consequential Damages

Except for (a) damages mutually agreed upon by the Parties as liquidated damages in Paragraph 5.4 hereof, and (b) subject to the following provisions set forth in this Paragraph 9.1, notwithstanding anything else herein to the contrary, the CMAR agrees to waive all claims against each other for any consequential or other special damages that may arise out of or relate to this agreement. The CMAR agrees to waive consequential damages including, but not limited to, loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation and / or insolvency. The provisions of this paragraph shall also apply to the termination of this Agreement and shall survive such termination.

9.2 CMAR's Limitation of Liability

Notwithstanding anything to the contrary contained herein or in the other Contract Documents, the maximum liability, in the aggregate, of the CMAR, its Subcontractors, sureties (if any) and their respective officers, directors, shareholders, employees, agents, successors and assigns to Owner and anyone claiming by, through, or under Owner for any loss, damage, suit, action, liability, claim, or expense caused by, resulting from, or arising out of or relating in any way to this Agreement or the Project from any cause whatsoever, including, without limitation, the negligence, breach of contract, strict liability, express or implied warranty, indemnity, professional errors or omissions, or any other cause arising at law or in equity, shall in all events be limited to and not exceed 120% of the Phase II Construction Price. This limitation has been freely bargained for by the Parties for valuable consideration and shall be enforceable to the maximum extent permitted by applicable law.

- 9.3** Releases, waivers, and limitations on liability and remedies expressed in the Contract Documents shall apply even in the event of the fault, tort (including negligence), strict liability, breach of contract or warranty, or other basis of liability of the benefited Party, and shall extend to and benefit the Subcontractors, agents, employees, officers, directors, assignees, affiliates, and vendors and each of their respective Subcontractors, agents, employees, officers, directors, assignees, affiliates, and vendors of each Party.

ARTICLE 10 — Dispute Mitigation and Resolution

10.1 Claims Procedures

Claims procedures are governed by Article 11 of the General Conditions.

10.2 Preconstruction Phase Services

If, during the Preconstruction Phase Services the Parties cannot reach resolution on a matter relating to or arising out of the Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) business days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) business days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the Parties shall submit such matter to the mediation procedures identified in Paragraph 11.2.2 of the General Conditions as a condition precedent to any judicial forum or voluntary binding alternative dispute resolution proceeding subsequently agreed to by the Parties.

10.3 Construction Phase Services

During the Construction Phase Services, the Parties shall resolve any disputes between them in accordance with the dispute mitigation and resolution procedures selected by them in Article 11 of the General Conditions.

ARTICLE 11 — Miscellaneous Provisions

11.1 Governing Law

This Agreement shall be governed by the laws of the State of Georgia in effect at the location of the Project, including the Ordinances and Regulations of the City of Cartersville.

11.2 Severability

The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

11.3 No Waiver of Performance

The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right.

11.4 Titles and Groupings

The titles given to the articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose. The grouping of the articles in this Agreement and of the Owner's Specifications under the various headings is solely for the purpose of convenient organization and in no event shall the grouping of provisions, the use of paragraphs, or the use of headings be construed to limit or alter the meaning of any provisions.

11.5 Joint Drafting

The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party but shall be construed in a neutral manner.

11.6 Not Used

11.7 Counterparts; Electronic Signatures

This Agreement, the General Conditions, and other Contract Documents may be

executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. Facsimile or electronic signatures on this Agreement and/or the other Contract Documents, as applicable, shall be deemed originals for all purposes.

11.8 Attorneys' Fees

In the event of any claim, controversy, or dispute involving this Agreement, the Parties' performance hereunder or interpretation hereof, if the Owner is the substantially prevailing Party in such claim, controversy, or dispute they shall be awarded its reasonable attorneys' fees and costs, including attorneys' fees and costs of any associated appeal.

11.9 Exhibits, Schedules, and Addenda

Exhibits, schedules, and addenda bearing on the payment and performance of the Construction Phase Services will be attached to the Phase II Construction Price Amendment for such Construction Phase Services. The following Exhibits A through C as well as Exhibits H and J pertaining to the Preconstruction Phase Services are attached hereto and incorporated herein by this reference. The remaining exhibits for Early Works Packages as well as the Construction Phase Services shall be negotiated by the Parties and incorporated through an appropriate change order, including the Phase II Construction Price Amendment.

- Exhibit A General Conditions to Agreement
- Exhibit B CMAR Phase I Preconstruction Scope of Services
- Exhibit C Phase I Notice to Proceed (to be issued by the Owner to the selected CMAR)
- Exhibit D Phase I Early Works Packages (to be negotiated and incorporated as part of Phase II Amendment)
- Exhibit D.1 Phase I Early Works Packages Amendment Form (to be negotiated and incorporated as part of Phase II Amendment)
- Exhibit E Phase II Construction Price Amendment (to be negotiated and incorporated as part of Phase II Amendment)
- Exhibit F Initial Schedule of Work (to be negotiated and incorporated as part of Phase II Amendment)

- Exhibit G Project Technical Scheduling Requirements (to be negotiated and incorporated as part of Phase II Amendment)
- Exhibit H Preconstruction Phase Services Hourly Rate Schedule
- Exhibit I Project Technical Performance Requirements (to be negotiated and incorporated as part of Phase II Amendment)
- Exhibit J Key Personnel
- Exhibit K Additional Required Forms

Other Certification of Contractor's Attorney
 Certification of Owner's Attorney

11.10 Other Provisions

None.

- CONTINUED ON NEXT PAGE -

This Agreement is entered into as of the date entered in Article 1.

OWNER: CITY OF CARTERSVILLE

BY: _____

PRINT NAME MATT SANTINI

PRINT TITLE MAYOR

[SEAL]

BY: _____

PRINT NAME JULIA DRAKE

PRINT TITLE CITY CLERK

CONSTRUCTION MANAGER AT-RISK (CMAR):

BY: _____

PRINT NAME DAVID WALKER

PRINT TITLE VICE PRESIDENT

[SEAL]

ATTEST: _____

PRINT NAME _____

PRINT TITLE: SECRETARY

(Attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement.)

Exhibit A—General Conditions to Agreement

Exhibit A – General Conditions to Agreement (Rev 3)



CONTENTS

ARTICLE 1 — General Provisions..... 1

**ARTICLE 2 — CMAR Preconstruction Phase and Construction Phase
Responsibilities 4**

ARTICLE 3 — Owner’s Responsibilities..... 19

ARTICLE 4 — Subcontracts 22

ARTICLE 5 — Time..... 23

ARTICLE 6 — Compensation 28

ARTICLE 7 — Changes 28

ARTICLE 8 — Payment 30

ARTICLE 9 — Indemnity, Insurance, Waivers, and Bonds 36

ARTICLE 10 — Suspension, Notice to Cure, and Termination of the Agreement . 38

ARTICLE 11 — Claims, Claims Procedures, Dispute Mitigation, and Resolution . 42

ARTICLE 12 — Miscellaneous Provisions..... 47

Cartersville WPCP Expansion to 25 mgd General Conditions to Agreement Dated _____, 20____ (“Agreement”)

Between

City of Cartersville, as Owner (“Owner”), whose address is:

1 North Erwin Street
Cartersville, GA 30120

and

Archer Western Construction, LLC, as Construction Manager at-Risk (“CMAR”), whose address is:

Archer Western Construction, LLC
2839 Paces Ferry Road, SE
Atlanta, GA, 30339

For the following Project (“Project”):
Cartersville WPCP Expansion to 25 mgd

In which Hazen and Sawyer is the Engineer (“Engineer”).

Capitalized terms used herein but not defined herein shall have the meanings given them in the Agreement, Phase II Construction Price Amendment, and other Contract Documents.

ARTICLE 1— General Provisions

1.1 Contract; Order of Precedence

The Contract Documents are enumerated in the Agreement and consist of the Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, addenda issued prior to execution of the Agreement, other documents or exhibits listed in or attached to the Agreement, and Modifications issued after execution of the Agreement. A “Modification” is (a) a written amendment to the Agreement signed by both the Owner and the CMAR (each a “Party” and collectively, the “Parties”), (b) a Change Order, (c) an Owner Change Directive, or (d) a written order for a minor change in the Work issued by

the Engineer. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, instructions to bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the CMAR's bid or proposal, or portions of addenda relating to bidding or proposal requirements. Conflicts, ambiguities, or inconsistencies between or amongst the Contract Documents are governed by and subject to the order of precedence set forth in Paragraph 1.1.5 hereof.

1.1.1 The Drawings and Specifications are complementary. If Work is shown only on one but not on the other, the CMAR shall perform the Work as though fully described on both, in all cases consistent with the Contract Documents.

1.1.2 In case of conflicts or inconsistencies between the Drawings and Specifications, the Owner and the CMAR shall attempt to resolve the conflict or inconsistency through mutual and good faith discussions and if the Parties are unable to resolve the matter in a mutually satisfactory manner, the CMAR shall be entitled to submit a Claim in accordance with Article 11 hereof for the increased cost and time caused by or resulting from such conflict or inconsistency.

1.1.3 Where figures are given, they shall be preferred to scaled dimensions.

1.1.4 Any terms that have well-known technical or trade meanings, unless otherwise specifically defined in the Agreement or these General Conditions, shall be interpreted in accordance with their well-known meanings.

1.1.5 In the event of a conflict between provisions of any of the Contract Documents which cannot be resolved by giving effect to both provisions, the order of precedence of the Contract Documents in descending order, shall be as follows:

1.1.5.1 Amendments and Change Orders, with precedence of amendments and Change Orders in reverse order of execution;

1.1.5.2 The Agreement, including all exhibits thereto; in event of a conflict between the body of the Agreement and (or between) Agreement exhibits which cannot be resolved by giving effect to both provisions, the order of precedence shall be the body of the Agreement followed by the exhibits in the order they are attached to the body of the Agreement, with precedence of such exhibits given in the order in which they are attached to the Agreement;

1.1.5.3 Supplementary Conditions, if any, to the Contract Documents;

1.1.5.4 These General Conditions;

1.1.5.5 Drawings and Specifications; and

1.1.5.6 Notice to Proceed.

If any provision of the Agreement conflicts with or is inconsistent with any other provision of other Contract Documents, the provisions of the Agreement govern, unless the other provision specifically refers to the provision it supersedes and replaces it in the Agreement or unless otherwise superseded by the order of precedence set forth above in this Paragraph 1.1.5.

1.1.6 The Agreement and other Contract Documents are solely for the benefit of the Owner and the CMAR except to the extent expressly provided in the Agreement, represents the entire and integrated agreement between such Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

1.2 Relationship of Parties

The Owner and the CMAR agree to proceed with the Project based on mutual trust, good faith, and fair dealing.

1.2.1 The CMAR shall furnish preconstruction, permitting assistance, construction, administration, and management services and use the CMAR's reasonable efforts to perform the Work in an expeditious manner consistent with the Contract Documents. The Owner and CMAR shall endeavor to promote harmony and cooperation among all Project participants.

1.2.2 The CMAR represents that it is an independent contractor and that in its performance of the Work it shall act as an independent contractor.

1.2.3 Neither the CMAR nor any of its agents or employees shall act on behalf of or in the name of the Owner except as provided in the Agreement unless authorized in writing by the Owner's Representative.

1.2.4 The Owner's Representative shall possess full authority to give instructions from the Owner and shall be able to issue directions and Change Orders to the CMAR.

1.2.5 The CMAR Representative shall possess full authority to receive instructions from the Owner and to act on those instructions. The CMAR shall notify the Owner in writing of a change in the designation of the CMAR Representative. Upon such notice, the Owner will have five (5) Business Days to approve or reject the change in designation. Should the Owner reject the CMAR Representative, the CMAR and Owner shall meet within one (1) Business Day to decide on who will serve as the CMAR Representative.

1.2.6 The Owner and the CMAR shall perform their obligations with integrity, ensuring at a minimum that:

1.2.6.1 Conflicts of interest shall be avoided or disclosed promptly to the other Party; and

1.2.6.2 The Owner and the CMAR warrant that they have not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including their agents, officers, and employees, Subconsultants, or Others from whom they may be liable, to secure preferential treatment.

1.3 Engineer

The Owner, through its Engineer, shall provide all engineering and other design services necessary for the completion of the Work. The Owner shall obtain from the Engineer either a license for the CMAR and Subcontractors to use the design documents prepared by the Engineer or ownership of the copyrights for such design documents, and shall, to the fullest extent permitted the law, indemnify, defend, and hold harmless the CMAR against any suits or claims of infringement of any copyrights or licenses arising out of the use of the design documents except if used by the CMAR on work not contemplated by this Agreement or work outside the Project.

ARTICLE 2 — CMAR Preconstruction Phase and Construction Phase Responsibilities

2.1 General Responsibilities

2.1.1 The CMAR shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord and consistent with the Contract Documents as being necessary to produce the indicated results.

2.1.2 The CMAR shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures used, unless the Contract Documents give other specific instructions. In such case, the CMAR shall not be liable to the Owner for damages resulting from compliance with such instructions unless the CMAR recognized and failed to timely report to the Owner any error, inconsistency, omission, or unsafe practice that it discovered in the specified construction means, methods, techniques, sequences, or procedures. The CMAR shall not be required to provide professional services which constitute the practice of architecture or engineering except as otherwise provided in Subparagraph 2.1.6 nor shall the CMAR be liable for professional services rendered by or design documents prepared by the Engineer or any of its consultants or subconsultants at any tier. The CMAR shall be entitled to rely upon the adequacy, accuracy, and completeness of all design, engineering, and other consulting services provided by the Engineer and its consultants and subconsultants at all tiers and/or other consultants retained directly or indirectly by the Owner. The CMAR shall have no liability to the Owner or any other Party for the failure of any Drawings, Specifications, or other design or engineering produced by Others to be adequate, correct, complete, and free from defect for

any purpose or to comply with Applicable Law, all of which shall remain the responsibility of the Engineer.

2.1.3 The CMAR shall perform Work only within locations allowed by the Contract Documents, applicable permits, and Applicable Law.

2.1.4 The CMAR and its Subcontractors shall review and compare each of the Contract Documents with the others and with information furnished or made available by Owner and shall, subject to limitations set forth in Subparagraph 2.1.2 hereof, promptly report in writing to Owner's Representative any errors, inconsistencies, or omissions it discovers in the Contract Documents or inconsistencies it discovers with Applicable Law observed by the CMAR or its Subcontractors. The CMAR and its Subcontractors shall take field measurements, verify field conditions, and compare with the Contract Documents with such field measurements and conditions before commencing any of the Work. The observations and measurements are for the purpose of facilitating coordination and construction by the CMAR and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, they are opportunities for the CMAR to identify any readily observable or potential errors, omissions, or inconsistencies in the Contract Documents. Readily observable errors, inconsistencies, or omissions discovered by the CMAR shall be promptly reported in writing to Owner's Representative. The CMAR maintains responsibility for losses, including the costs of correcting Defective Work involving an error, inconsistency, or omission by the CMAR and/or its Subcontractors which are caused by or are attributable to the CMAR, but the CMAR does not have responsibility for losses arising from design or engineering errors or omissions and it is recognized that the CMAR's review, observations, and measurements are made in the CMAR's capacity as a construction manager and not as a licensed design or engineering professional.

2.1.5 Worksite Visit. The CMAR acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work and, during the Preconstruction Phase, has participated in Owner/Engineer work sessions and provided input and feedback to the Owner and Engineer on the design and engineering of the Project, both from a constructability and a budgeting and cost-trending analysis standpoint. The CMAR will advise the Owner if it requires additional visits to increase its familiarity with the general and local conditions of the Worksite which may impact the Work.

2.1.6 Professional Services. The CMAR may be required to procure professional services to carry out its responsibilities for construction means, methods, techniques, sequences, and procedures or as such services are specifically called for by the Contract Documents. The CMAR shall obtain these professional services and any design certifications required from design professionals licensed in the State where the Project is located. All Drawings, Specifications, calculations, certifications, and submittals prepared by such design professionals shall bear the signature and seal of such design professionals and

the Owner and the Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of such design services. If professional services are specifically required by the Contract Documents, the Owner, through the Engineer, shall indicate all required performance and design criteria. The CMAR shall not be responsible for the adequacy of such performance and design criteria. The CMAR shall not be required to provide such services in violation of Applicable Law in the jurisdiction where the Project is located. Should the CMAR refuse to provide services based on the inadequacy of design criteria or because of a violation of existing Applicable Law, the CMAR shall provide notice and an explanation to Owner within five (5) Business Days of the CMAR becoming aware of the issue. The CMAR shall work with Owner to mitigate the issue.

2.2 Preconstruction Phase Services

The CMAR's Scope of Work responsibilities include the Preconstruction Phase Services defined and described in the Agreement. The CMAR shall perform such Preconstruction Phase Services at the time, in the manner, and for the Fee set forth in Article 2 of the Agreement. Unless otherwise mutually agreed in writing by the Owner and the CMAR, such Preconstruction Phase Services do not require or obligate the CMAR to generate or produce any design or engineering for the Project but will require the CMAR to participate in Owner/Engineer work sessions and provide input and feedback to the Owner and Engineer on the design and engineering of the Project from a constructability, budgeting, schedule, and cost-trending analysis standpoint. The CMAR, when providing input and feedback, shall not be responsible or liable for any design or engineering related work or services. However, the CMAR shall be responsible for any temporary works or related construction engineering necessary to implement the construction of the Project.

2.3 Construction Phase Services

2.3.1 Commencement. Unless otherwise provided to the contrary elsewhere in this Agreement or the other Contract Documents, the CMAR's Construction Phase Services shall commence upon execution of a Phase II Construction Price Amendment for the Project or specific Bid Package or other portion of the Work.

2.3.2 Coordination. The CMAR shall supervise, coordinate, and direct the Work using the CMAR's ordinary skill and attention. Subject to Subparagraph 2.1.2, the CMAR shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Work. The CMAR shall manage and administer all phases of construction activities to achieve the completion of all Work within the requirements of the Contract Documents. The CMAR shall coordinate the Work of its Subcontractors and Material Suppliers to optimize efficiency and minimize conflict and interference between the various Subcontractors on-site. It is recognized, however, that the CMAR is not acting in the capacity of a licensed design professional, and that the CMAR's examination is to facilitate construction and does not create an affirmative

responsibility to detect errors, omissions, or inconsistencies in the design Drawings or plans created by the Engineer or to ascertain from the design Drawings or plans created by the Engineer compliance with Applicable Laws. The CMAR does not have an affirmative responsibility to detect errors or omissions by the Engineer.

2.3.3 Cost Reporting. The CMAR shall keep such full and detailed accounts as are necessary for proper financial management under this Agreement. The CMAR shall maintain a complete set of all books and records prepared or used by the CMAR with respect to the Project. The CMAR's records supporting its performance and billings under this Agreement shall be current, complete, and accurate and maintained according to Generally Accepted Accounting Principles, consistently applied. The Owner shall be afforded access to all the CMAR's records, books, correspondence, instructions, Drawings, receipts, vouchers, memoranda, and similar data relating to this Agreement. The CMAR shall preserve all such records for a period of three years after the Final Payment in accordance with Paragraph 8.9 hereof or longer where required by law.

2.3.4 Construction Personnel and Supervision

2.3.4.1 The CMAR shall provide competent supervision for the performance of the Work. Before commencing the Work, the CMAR shall notify the Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager so the Owner may review the individual's qualifications. If, for reasonable cause, the Owner refuses to approve the individual, or withdraws its approval after once giving it, the CMAR shall name a different superintendent for the Owner's review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

2.3.4.2 The CMAR shall be responsible to the Owner for acts or omissions of Parties or entities performing portions of the Work for or on behalf of the CMAR or any of its Subcontractors and Material Suppliers.

2.3.4.3 The CMAR shall permit only fit and ordinarily skilled persons to perform the Work. The CMAR shall enforce safety procedures, discipline, and good order among persons performing the Work. If the Owner reasonably determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned Work, the CMAR shall immediately reassign the person on receipt of the Owner's written notice to do so.

2.3.5 Submittals

2.3.5.1 The CMAR shall be responsible to the Owner for the accuracy and conformity of its submittals to the Contract Documents. The CMAR shall prepare and deliver its submittals to the Owner and Engineer in such time and sequence so as not to delay the performance of the Work or the work

of the Owner and Others. When the CMAR delivers its submittals to the Owner, the CMAR shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The review and approval of any CMAR submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless express written approval is obtained from the Owner specifically authorizing such deviation, substitution, or change. To the extent a change, deviation or substitution causes an impact to the Phase II Construction Price or Contract Time, such approval shall be promptly memorialized in a Change Order. Further, the Owner shall not make any change, deviation, or substitution through the submittal process without specifically identifying and authorizing such deviation to the CMAR. If the Contract Documents do not contain submittal requirements pertaining to the Work, the CMAR agrees upon request to submit in a timely fashion to the Owner for review and approval any submittals, samples, product data, manufacturers' literature, or similar submittals as may reasonably be required by the Owner.

2.3.5.2 The CMAR shall perform all Work strictly in accordance with approved submittals. Approval does not relieve the CMAR from responsibility for Defective Work resulting from errors or omissions of any kind on the approved submittals.

2.3.5.3 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Worksite and available to the Owner upon request: Drawings, Specifications, addenda, and other Modifications, and required submittals including product data, samples, and shop drawings.

2.3.5.4 No substitutions shall be made in the Work unless permitted in the Contract Documents and then only after the CMAR obtains all approvals required under the Contract Documents for substitutions. All such substitutions shall be memorialized promptly by written approval by the Owner no later than seven (7) days following the Owner's receipt of a written request for approval thereof. If required, the CMAR will prepare a Change Order request within seven (7) days following approval by the Owner and, if applicable, provide for an adjustment in the Phase II Construction Price or Contract Time.

2.3.5.5 The CMAR shall prepare and submit to the Owner updated electronic data, in accordance with Subparagraph 3.8.1.

2.3.6 Cooperation with Work of Owners and Others

2.3.6.1 The Owner may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance,

indemnification, waiver of subrogation, coordination, interference, cleanup, and safety which are substantively the same as the corresponding provisions of this Agreement.

2.3.6.2 If the Owner elects to perform work at the Worksite directly or by Others, the CMAR and Owner shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. The Owner shall require each separate contractor to cooperate with the CMAR and assist with the coordination of activities and the review of construction schedules and operations. The Phase II Construction Price or the Date of Substantial Completion or the Date of Final Completion may be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the Schedule of the Work shall be revised accordingly. The CMAR, Owner, and Others shall adhere to the revised Schedule of the Work until it may subsequently be revised.

2.3.6.3 With regard to the work of the Owner and Others, the CMAR shall (a) proceed with the Work in a manner which does not hinder, delay, or interfere with the work of the Owner or Others or cause the work of the Owner or Others to become defective, (b) afford the Owner or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities, and (c) coordinate the CMAR's construction and operations with theirs as required by Subparagraph 2.3.6.2.

2.3.6.4 Before proceeding with any portion of the Work affected by the construction or operations of the Owner or Others, the CMAR shall visually examine such work performed by the Owner or Others and give the Owner prompt, written notification of any defects the CMAR discovers therein of their work which will prevent the proper execution of the Work. The CMAR's obligations in this Subparagraph 2.3.6.4 do not create a responsibility for the work of Others but are for the purpose of facilitating the Work. If the CMAR does not notify the Owner of patent defects interfering with the performance of the Work, the CMAR acknowledges that to the CMAR's reasonable knowledge at the time, the work of the Owner or Others is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from the CMAR of defects, the Owner shall promptly inform the CMAR what action, if any, the CMAR shall take regarding the defects.

2.3.7 Cutting, Fitting, and Patching

2.3.7.1 The CMAR shall perform cutting, fitting, and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of the Owner or Others, if within the CMAR's Scope of Services.

2.3.7.2 Cutting, patching, or altering the work of the Owner or Others shall be done with the prior written approval of the Owner. Such approval shall not be unreasonably withheld.

2.3.8 Cleaning Up

2.3.8.1 The CMAR shall regularly remove debris and waste materials at the Worksite resulting from the Work. Prior to discontinuing Work in an area, the CMAR shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. The CMAR shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, the CMAR shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris created by the CMAR and its Subcontractors.

2.3.8.2 If the CMAR fails to commence compliance with cleanup duties within two (2) Business Days after written notification from the Owner of noncompliance, the Owner may implement appropriate cleanup measures without further notice and the cost shall be deducted from any amounts due or to become due the CMAR in the next payment period.

2.3.9 Access to Work. The CMAR shall facilitate the access of the Owner, its Engineer, and Others to Work in progress. The Owner, Engineer, and Others shall follow safety protocols in effect and in compliance with OSHA.

2.3.10 Materials Furnished by the Owner or Others

2.3.10.1 In the event the Work includes installation of materials or equipment furnished by the Owner or Others, it shall be the responsibility of the CMAR to visually examine the items so provided and thereupon handle, store, and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of the CMAR shall be the responsibility of the CMAR and may be deducted from any amounts due or to become due the CMAR. Any defects discovered in such materials or equipment shall be reported at once to the Owner. Following receipt of written notice from the CMAR of defects, the Owner shall promptly inform the CMAR what action, if any, the CMAR shall take regarding the defects.

2.3.11 Tests and Inspections

2.3.11.1 The CMAR shall schedule all required tests, approvals, and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other Work related to the Project. The CMAR shall give proper notice to all required Parties of such tests, approvals, and inspections. If feasible, the Owner and Others may timely observe the tests at the normal place of testing. Except as provided in Subparagraph 2.3.11.3 below or unless otherwise required by the Contract

Documents, the Owner shall bear all expenses associated with tests, inspections, and approvals required by the Contract Documents which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by the Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by the CMAR and promptly delivered to the Owner.

2.3.11.2 If the Owner or appropriate authorities determine that tests, inspections, or approvals in addition to those required by the Contract Documents will be necessary, the CMAR shall arrange for the procedures and give timely notice to the Owner and Others who may observe the procedures. Costs of the additional tests, inspections, or approvals are at the Owner's expense except as provided in Subparagraph 2.3.11.3.

2.3.11.3 If the procedures described in Subparagraph 2.3.11.1 and 2.3.11.2 indicate that portions of the Work fail to comply with the Contract Documents due to the negligence of the CMAR, the CMAR shall be responsible for costs of correction and retesting.

2.4 Warranty

2.4.1 The CMAR warrants that all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, and in conformance with the Specifications set forth in the Contract Documents. The CMAR further warrants that the Work shall be free from defects in materials and workmanship not intrinsic in the design or materials required in the Contract Documents. The CMAR's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use, or operation for a purpose for which the Project was not intended, improper or insufficient maintenance, inadequate, incomplete, or defective design, modifications performed by the Owner or Others, or abuse. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS PROVIDED FOR HEREIN, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, AND FITNESS FOR PARTICULAR PURPOSE ARE HEREBY DISCLAIMED AND ARE NULL AND VOID. The CMAR's warranty pursuant to this Subparagraph 2.4.1 shall commence on the earlier of (a) the Date of Substantial Completion of the Work or the designated portion as agreed to by the Owner and the CMAR, and (b) the date the Owner takes beneficial use of the Work or designated portion of the Work as agreed to by the Owner and the CMAR.

2.4.2 The CMAR shall use commercially reasonable efforts to obtain from its Subcontractors and Material Suppliers any special or extended warranties expressly required by the Contract Documents. The CMAR's liability for such warranties shall be limited to the one-year correction period referred to in Subparagraph 2.5. After that period, the CMAR shall assign them to the Owner and provide reasonable assistance to the Owner in enforcing the obligations of Subcontractors and Material Suppliers.

2.5 Correction of Defective Work

2.5.1 If prior to Substantial Completion and within one year after the date of Substantial Completion and Acceptance of the Work any Defective Work is found, the Owner shall promptly notify the CMAR in writing of the Defective Work. Unless the Owner provides written acceptance of the condition, the CMAR shall promptly correct the Defective Work. If the Owner discovers a defect, the Owner shall notify the CMAR within ten (10) Business Days of the date of discovery. Work that is found not to conform to the requirements of the Agreement prior to Substantial Completion but does not prevent achievement of Substantial Completion may be corrected prior to Final Completion.

2.5.2 With respect to any portion of Work first performed after Final Completion, the one-year correction period for the Defective Work shall be extended by the time period between Final Completion and the actual performance of the later Work.

2.5.3 If the CMAR fails to correct Defective Work within a mutually agreed time after receipt of written notice from the Owner prior to Final Payment, the Owner may correct it in accordance with the Owner's right to carry out the Work in Subparagraph 10.2.3. In such case, an appropriate Change Order shall be issued deducting the cost of correcting such deficiencies from payments then or thereafter due the CMAR. If payments then or thereafter due the CMAR are not sufficient to cover such amounts, the CMAR shall pay the difference to the Owner.

2.5.4 If after the one-year correction period but before the periods of limitations and repose applicable to the Work in the jurisdiction in which the Project is located have run the Owner discovers any Defective Work, the Owner shall, unless the Defective Work requires emergency correction, promptly notify the CMAR. If the CMAR elects to correct the Work, it shall provide written notice of such intent within fourteen (14) days of its receipt of notice from the Owner. The CMAR shall complete the correction of Work within a mutually agreed time frame. If the CMAR does not elect to correct the Work, the Owner may have the Work corrected by itself or Others and charge the CMAR for the reasonable cost of the correction. The Owner shall provide the CMAR with an accounting of correction costs it incurs.

2.5.5 If the CMAR's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing building, the CMAR shall be responsible for the cost of correcting the destroyed or damaged property.

2.5.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of the CMAR's other obligations under the Contract Documents.

2.5.7 Prior to Final Payment, at the Owner's option and with the CMAR's agreement, the Owner may elect to accept Defective Work rather than require its

removal and correction. In such cases, the Phase II Construction Price shall be equitably adjusted for any diminution in the value of the Project, if any, caused by such Defective Work.

2.6 Correction of Covered Work

2.6.1 On request of the Owner, Work that has been covered without a requirement that it be inspected prior to being covered may be uncovered for the Owner's inspection. The Owner shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by the Owner or Others and the CMAR shall be entitled to a Change Order adjusting the Contract Time and/or the Phase II Construction Price for any resulting delay or added cost. If the uncovered Work proves to be defective, the CMAR shall pay the costs of uncovering and replacement.

2.6.2 If a portion of the Work is covered, contrary to specific requirements in the Contract Documents or contrary to a specific request from the Owner, the Owner, by written request, may require the CMAR to uncover the Work, at a mutually convenient time, for the Owner's observation. In this circumstance, the Work shall be replaced at the CMAR's expense and with no adjustment to the Contract Time.

2.6.3 The CMAR is required to correct in a timely fashion any Work rejected by the Owner which fails to comply with the Contract Documents prior to the commencement of the warranty period(s) or during the correction period(s) established under Paragraph 2.5. The CMAR shall correct at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible.

2.7 Safety of Persons and Property

2.7.1 Safety Precautions and Programs. The CMAR shall have overall responsibility for safety precautions and programs in the performance of the Work. While this Paragraph 2.7 establishes the responsibility for safety between the Owner and CMAR, it does not relieve the Engineer or Subcontractors of their responsibility for the safety of persons or property in the performance of their Work, nor for compliance with the provisions of Applicable Laws.

2.7.2 The CMAR shall seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect:

2.7.2.1 Its employees and other persons at the Worksite;

2.7.2.2 Materials and equipment stored at on-site or off-site locations for use in the Work; and

2.7.2.3 Property located at the Worksite and adjacent to Work areas,

whether the property is part of the Work.

2.7.3 CMAR’s Safety Representative. The CMAR shall designate an individual at the Worksite in the employ of the CMAR who shall act as the CMAR’s authorized safety representative with a duty to prevent accidents in accordance with Subparagraph 2.7.2. The CMAR shall report immediately in writing all accidents and injuries occurring at the Worksite. When the CMAR is required to file an accident report with a public authority, the CMAR shall furnish a copy of the report to the Owner concurrent with the report’s distribution with the public authority.

2.7.4 The CMAR shall provide the Owner with copies of all notices required of the CMAR by Applicable Law. The CMAR’s safety program shall comply with the requirements of Governmental Authorities having jurisdiction.

2.7.5 Damage or loss not insured under property insurance which may arise from the Work to the extent caused by negligent acts or omissions of the CMAR, or anyone for whose acts the CMAR may be liable, shall be promptly remedied by the CMAR. If the Owner deems any part of the Work or Worksite unsafe, and such safety concerns are due to the fault or neglect of the CMAR, its Subcontractors, or anyone else for whom such Parties are responsible, the Owner, without assuming responsibility for the CMAR’s safety program, may require the CMAR to stop performance of the Work or take corrective measures satisfactory to the Owner, or both. If the CMAR does not adopt corrective measures, the Owner may perform them and deduct their cost from the Phase II Construction Price. The CMAR agrees to make no claim for damages, or an increase in the Phase II Construction Price, or for a change in the Dates of Substantial or Final Completion based on the CMAR’s compliance with the Owner’s reasonable request.

2.8 Emergencies

2.8.1 In an emergency, the CMAR shall act in a reasonable manner to prevent personal injury or property damage. If appropriate, an equitable adjustment in the Phase II Construction Price or Date of Substantial Completion or Date of Final Completion shall be determined in a Change Order.

2.9 Hazardous Materials

2.9.1 A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup. The CMAR shall not be obligated to commence or continue Work until any unknown Hazardous Material discovered or encountered at the Worksite has been removed, rendered, or determined to be harmless by the Owner as certified by an independent testing laboratory and approved by the appropriate government agency. The Owner shall retain generator status of any preexisting hazardous

materials contained on-site and shall sign manifests for removal of preexisting hazardous materials.

2.9.2 If after the commencement of the Work, unknown Hazardous Material is discovered or encountered at the Worksite, the CMAR shall be entitled to immediately stop Work in the affected area. The CMAR shall report the condition to the Owner, the Engineer, and, if required, the Governmental Authority with jurisdiction.

2.9.3 The CMAR shall not be required to perform any Work relating to or around Hazardous Material without written mutual agreement.

2.9.4 The Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of the Owner and shall be performed in a manner minimizing any adverse effects upon the Work. The CMAR shall resume Work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the Governmental Authority with jurisdiction.

2.9.5 If the CMAR incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, the CMAR may be entitled to an equitable adjustment in the Phase II Construction Price and in the Dates of Substantial and Final Completion.

2.9.6 To the extent not caused by the negligent acts or omissions of the CMAR, its Subcontractors and Sub-subcontractors, and the agents, officers, directors, and employees of each of them (collectively, the “CMAR Indemnitees”), and to the fullest extent permitted by law, the Owner shall defend, indemnify, and hold harmless the CMAR Indemnitees from and against any and all direct or indirect claims, suits, damages, losses, costs, and expenses (including, but not limited to, attorneys’ fees and costs) incurred by any such CMAR Indemnitees in connection with or arising out of or relating to the performance of the Work in any area contaminated or affected by Hazardous Material or any bodily injury or property damage suffered or incurred by any CMAR Indemnitee, in each case arising out of, relating to, resulting from, or incurred in connection with the generation, location, transportation, or the existence, remediation, or removal of any Hazardous Materials located on, under, in, or adjacent to the Project Site or transported to or from such Project Site, in each case where such generation, location, transportation, or the existence, remediation, or removal resulted from events or circumstances either (a) occurred prior to the CMAR’s execution of any Phase II Construction Price Amendment and entry onto the Project site at commencement of the Construction Phase Services covered by such Phase II Construction Price Amendment, and/or (b) did not result from or arise out of any errors or omissions of the CMAR or its Subcontractors at any tier. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault,

negligence, breach of warranty or contract, or strict liability of the Owner and such indemnity obligations shall survive the termination of this Agreement and/or the completion of the Work and the transactions contemplated herein.

2.9.7 To the extent not caused by the acts or omissions of the Owner, its Engineer or other consultants, the agents, officers, directors, and employees of any of them, or any person or entity in the chain of title to the real property comprising the Project or any portion thereof, whether as owner, tenant, guest, licensee, invitee, or otherwise (collectively, the “Owner Indemnitees”), the CMAR shall defend, indemnify and hold harmless the Owner Indemnitees from and against any and all direct or indirect claims, suits, damages, losses, costs, and expenses (including, but not limited to, attorneys’ fees and costs) incurred by any such Owner Indemnitees in connection with or arising out of or relating to any Hazardous Materials first introduced onto the Project site by the CMAR or its Subcontractors on or after the date of the Agreement; provided however, that in no event shall such indemnity and defense obligations apply to (a) any Hazardous Materials specified for the Work by the Owner, the Engineer, any consultants of such Parties or any other person or entity for whom the Owner is legally responsible, or (b) common cleaning solvents used by the CMAR in the performance of the Work. To the fullest extent permitted by law, such indemnification shall survive the termination of this Agreement and/or the completion of the Work and the transactions contemplated herein.

2.9.8 Removal of Hazardous Materials

2.9.8.1 To the extent the Hazardous Materials not the subject of Subparagraph 2.9.7 above are identified in other applicable provisions above of this Paragraph 2.9, the CMAR shall proceed with remediation and removal of such Hazardous Materials as agent for the Owner in accordance with this Subparagraph 2.9.8.

2.9.8.2 The Owner hereby appoints the CMAR as its agent to act in the Owner’s name and on the Owner’s behalf to negotiate, enter, and execute contracts with third parties to remove, transport, and/or dispose of Hazardous Materials. The CMAR’s scope of authority as agent does not include the execution of any manifests or governmental documents related to the Hazardous Materials. All documents executed by the CMAR acting within the CMAR’s scope of authority shall provide that the CMAR is acting solely as agent for the Owner. The CMAR shall maintain appropriate records of all acts undertaken as agent for the Owner and all such documents shall be available for audit by the Owner.

2.9.8.3 The authority of the CMAR to act as agent on behalf of the Owner shall terminate upon termination or assignment of the Construction Agreement.

2.10 Materials Brought to the Worksite

2.10.1 Material Safety Data (MSD) sheets as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by the CMAR, Subcontractors, the Owner, or Others, shall be maintained at the Worksite by the CMAR and made available to the Owner, Subcontractors, and Others.

2.10.2 The CMAR shall be responsible for the proper delivery, handling, application, storage, removal, and disposal of all materials and substances brought to the Worksite by the CMAR in accordance with the Contract Documents and used or consumed in the performance of the Work.

2.10.3 To the extent caused by the negligent acts or omissions of the CMAR, its agents, officers, directors, and employees, the CMAR shall defend, indemnify, and hold harmless the Owner, its agents, officers, directors, and employees, in accordance with Paragraph 2.9.7 hereof, from and against claims, damages, losses, costs, and expenses, including, but not limited to, reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution process, in each case arising out of or relating to the delivery, handling, application, storage, removal, and disposal of all materials and substances.

2.11 Differing Site Conditions

2.11.1 If the CMAR encounters Differing Site Conditions, the CMAR shall stop Work within the affected area(s) and shall provide the Owner and the Engineer with written notice and details of its claim for Differing Site Conditions within the time period set forth in Paragraph 11.1. Any change in the Phase II Construction Price, estimated Cost of the Work and/or CMAR's Fee (where applicable), Date of Substantial Completion, or Date of Final Completion and, if appropriate, the Compensation for Construction Phase Services because of the Differing Site Conditions shall be determined as provided in Article 11. The CMAR shall only be entitled to pursue a claim for Differing Site Conditions if the Parties have not agreed, in writing, that Differing Site Conditions have occurred after the CMAR's submission of appropriate backup documentation.

2.12 Permits And Taxes

2.12.1 The CMAR shall give public authorities all notices required by law and, except for permits and fees which are the responsibility of the Owner pursuant to Paragraph 3.6 hereof, shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. The CMAR shall provide to the Owner copies of all notices, permits, licenses, and renewals required under this Agreement.

2.12.2 The CMAR shall pay all applicable taxes legally enacted when bids are received or negotiations concluded for the Work provided by the CMAR.

2.12.2.1 Certain sales tax paid to the State of Georgia by the CMAR, its Subcontractors, suppliers, and vendors ultimately may be paid by the Owner by reimbursement to the CMAR through Progress Payments. The Owner desires to apply to the State of Georgia for a rebate of such sales

taxes back to the Owner. The CMAR shall assist the Owner with the Owner's procedures for applying for such rebates.

2.12.2.2 With each Application for Payment, the CMAR shall submit invoices that show the amount of sales tax paid, and the entity that paid the tax, for the items on that invoice. The CMAR shall develop and maintain an Excel spreadsheet that summarizes the date and amount of sales tax paid, the entity that paid the tax, and a cross reference to the CMAR's Application for Payment number. The CMAR shall further assist the Owner by periodically executing, and requiring its Subcontractors, suppliers, and vendors that paid sales tax to the State of Georgia to periodically execute, certain forms required by the State of Georgia as part of Owner's application for sales tax rebate.

2.12.3 The Phase II Construction Price shall be adjusted for additional costs, subject to approval by the Owner, resulting from Applicable Laws enacted after the date of this Agreement, including increased taxes.

2.12.4 If, in accordance with the Owner's direction, the CMAR claims an exemption for taxes, the Owner shall, to the fullest extent permitted by law, indemnify, defend, and hold the CMAR harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees, or other expense or cost incurred by the CMAR because of any such action.

2.13 Confidentiality

2.13.1 The CMAR shall treat as confidential and shall not use for its own benefit nor disclose to third persons, except as is necessary for the performance of the Work, any of the Owner's confidential information, know-how, discoveries, production methods, and the like that may be disclosed to the CMAR or which the CMAR may acquire in connection with the Work. The Owner shall treat as confidential information all of the CMAR's estimating systems and historical and parameter cost data and identified related proprietary information that may be disclosed to the Owner in connection with the performance of this Agreement. The Owner and the CMAR shall each specify those items to be treated as confidential and shall mark them as "Confidential." The provisions of this Subparagraph 2.13.1 shall survive the termination or completion of this Agreement and the transactions contemplated hereby. This paragraph is subject to the Georgia Open Records Act O.C.G.A. § 50-18-70 et. seq.

ARTICLE 3 — Owner's Responsibilities

3.1 Adequate Funding for Project

At the CMAR's request following execution of the Phase II Construction Price Amendment and prior to the Owner's issuance of a Notice to Proceed with the Construction Phase Services, the Owner shall promptly furnish reasonable evidence satisfactory to the CMAR that the Owner has adequate funds available

and committed to fulfill all of the Owner’s payment obligations under the Contract Documents. If the Owner fails to furnish such financial information in a timely manner, the CMAR may stop Work under Section 10.4 of the General Conditions or exercise any other right permitted under the Contract Documents. Following the Owner’s issuance of the Phase II Notice to Proceed, so long as the Owner satisfies its payment obligations under the Agreement and other Contract Documents, the Owner shall not be required to furnish any further financial evidence of its ability to satisfy its payment obligations under the Contract Documents.

3.2 Owner’s Representative

The Owner will identify the Owner’s Representative, or any other authorized person or entity as defined in Subparagraph 1.1.38 of the Agreement, to act on behalf of the Owner. The Owner may change the Owner’s Representative upon written notice to the CMAR.

The Owner’s authorized representative shall be fully acquainted with the Project and shall have the authority to bind the Owner in all matters requiring the Owner’s approval, authorization, or written notice. If the Owner changes its representative or the representative’s authority as listed above, the Owner shall immediately notify the CMAR in writing.

3.3 Information And Services

Any information or services to be provided by the Owner shall be provided in a timely manner so as not to delay the Work. The Owner shall establish and update an overall budget for the Project in accordance with Paragraph 2.1 of the Agreement hereof, based on consultation with the CMAR and Engineer, which shall include Contingencies for changes in the Work and other costs which are the responsibility of the Owner.

3.4 Worksite Information

Except to the extent that the CMAR knows of any inaccuracy, the CMAR is entitled to rely on the following Project information furnished by the Owner pursuant to this Paragraph 3.4. To the extent the Owner has obtained, or is required elsewhere in the Contract Documents to obtain, the following Project information, the Owner

shall provide such information to the CMAR at the Owner's expense and with reasonable promptness so as not to delay the Schedule:

3.4.1 Information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data or Drawings depicting existing conditions, subsurface conditions and environmental studies, reports, and investigations.

3.4.2 Tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests required by the Contract Documents or by law.

3.4.3 Any other information or services requested in writing by the CMAR which are relevant to the CMAR's performance of the Work and under the Owner's control. The information required by this Subparagraph 3.4.3 shall be provided in reasonable detail. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by the CMAR in laying out the Work.

3.4.4 All licenses and other rights to use of the Drawings, Specifications, and any other intellectual property necessary or required for the CMAR's performance of the Work as well as any other rights to use of any other documents, materials, and/or information generated or produced by the Engineer or its consultants at any level in connection with the design, engineering, or programming for the Project.

3.5 Engineer

Unless otherwise expressly provided to the contrary in this Agreement, the Owner shall be responsible for retaining and paying the Engineer and all other professional design and engineering consultants required for construction of the Project or portions thereof.

3.6 Building Permit, Fees, And Approvals

Except for those permits and fees related to the Work which are the responsibility of the CMAR pursuant to Paragraph 2.12, the Owner shall secure and pay for all other permits, approvals, easements, assessments, and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit. Assuming the CMAR has performed all necessary and reasonable actions to obtain permits, the CMAR shall not be liable for any delays related to obtaining permits and shall

be entitled to any cost or Schedule impacts related thereto so long as not caused by any acts, errors, or omissions of the CMAR.

3.7 Mechanics and Construction Lien Information

Deleted.

3.8 Contract Documents

Unless otherwise specified, Owner shall provide electronic or hard copies of the Contract Documents to the CMAR as may be agreed to by the Owner and CMAR and without cost to the CMAR.

3.8.1 Electronic Documents. If the Owner requires that the Owner, Engineer, and CMAR exchange documents and data in electronic or digital form, prior to any such exchange the Owner, Engineer, and CMAR shall agree on a written protocol governing all exchanges which, at a minimum, shall specify: (1) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (2) management and coordination responsibilities; (3) necessary equipment, software, and services; (4) acceptable formats, transmission methods, and verification procedures; (5) methods for maintaining version control; (6) privacy and security requirements; and (7) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, the Parties shall bear their own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

If the CMAR incurs additional costs or is delayed due to such loss or damage, the CMAR may be entitled to an equitable adjustment in the Phase II Construction Price estimated Cost of the Work, CMAR's Fee, Date of Substantial Completion, or Date of Final Completion.

3.9 Submittals

The CMAR shall have the duty to carefully review, inspect and examine any and all submittals before submission of same to the Owner. The Owner shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay and shall cause the Engineer to respond to such submittals and to either approve or reject the same no later than twenty-eight (28) days following Engineer's receipt of same, unless an earlier or later response deadline is provided elsewhere in the Contract Documents.

3.10 Access

The Owner shall provide the CMAR and its Subcontractors and Materials Suppliers at all tiers with appropriate physical and legal access to the Project Site and other

areas necessary for the proper and timely performance and completion of the Work.

ARTICLE 4 — Subcontracts

4.1 Subcontractors

The Work not performed by the CMAR with its own forces shall be performed by Subcontractors. All subcontracts shall be issued on a Lump-Sum cost basis unless the Owner has given prior written approval of a different method of payment to the Subcontractor.

4.2 Award of Subcontracts and Other Contracts for Portions of the Work

4.2.1 As soon after the execution of this Agreement as possible and at least thirty (30) days prior to the submitting a Phase I Early Works Package Proposal to the Owner, if applicable, and at least thirty (30) days prior to submitting the Phase II Construction Amendment Proposal to the Owner, the CMAR shall submit to the Owner and, if directed, the Engineer a written list of proposed Subcontractors and their Key Personnel qualifications, as well as a written list of significant Material Suppliers. If the Owner has a reasonable objection to any proposed Subcontractor or Material Supplier, the Owner shall notify the CMAR in writing. Failure to promptly object shall constitute acceptance. Subcontractors shall be secured by the CMAR in accordance with the Subcontractor Procurement Plan.

4.2.2 If the Owner has reasonably and promptly objected as provided in Subparagraph 4.2.1, the CMAR shall not contract with the proposed Subcontractor or Material Supplier, and the CMAR shall propose another acceptable to the Owner. If the substituted Subcontractor or Material Supplier is more or less expensive or use of such Party will result in a change in the Contract Time, the Owner shall execute an appropriate Change Order that shall reflect any increase or decrease in the Phase II Construction Price or Dates of Substantial or Final Completion because of the substitution.

The CMAR agrees to bind every Subcontractor and Material Supplier (and require every Subcontractor to so bind its Subcontractors and Material Suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the Subcontractors' and Material Suppliers' portions of the Work.

4.2.3 The CMAR shall be responsible for ensuring Subcontractor compliance with Applicable Law, including applicable registration and reporting requirements.

4.3 Contingent Assignment of Subcontracts

4.3.1 If this Agreement is terminated for cause in accordance with Paragraph 10.1 hereof, each subcontract agreement shall be assigned by the CMAR to the Owner, subject to the prior rights of any surety, provided that the Owner accepts such assignment after termination by notifying the Subcontractor or Material Supplier and CMAR in writing, and assumes all rights and obligations of the CMAR pursuant to each subcontract agreement.

4.3.2 If the Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive days following termination, the Subcontractor's compensation shall be equitably adjusted because of the suspension.

ARTICLE 5 — Time

5.1 Performance of the Work

5.1.1 Date of Commencement. Unless otherwise provided to the contrary in the Agreement or other Contract Documents, the Date of Commencement of the Preconstruction Phase Services is the date of issuance of a Phase I Notice to Proceed for the same in accordance with Paragraph 2.1 of the Agreement. Unless otherwise provided to the contrary in the Agreement, the Date of Commencement of the Construction Phase Services is the date construction of those services commence following issuance of a Phase II Notice to Proceed by the Owner for some or all the Work covered by such Construction Phase Services as described in a Phase II Construction Price Amendment executed by the Owner or the CMAR for the same. The Work shall proceed in general accordance with the Schedule of Work as such Schedule may be amended from time to time, subject to other provisions of this Agreement. The Schedule is subject to allowable adjustments in the Contract Time as permitted herein or in the other Contract Documents.

5.1.2 Substantial/Final Completion. Unless the Parties agree or otherwise, the Date of Substantial Completion or the Date of Final Completion shall be established pursuant to the Phase II Construction Price Amendment, subject to adjustments as provided for in the Contract Documents. If a Phase II Construction Price is not established and the Parties desire to establish a Date of Substantial Completion or Date of Final Completion, it shall be set forth via Amendment.

5.1.3 Time limits stated above are of critical importance to this Agreement.

5.1.4 The CMAR shall not knowingly commence the Work before the effective date of the insurance to be provided by the CMAR and Owner as required by the Contract Documents.

5.2 Schedule of the Work

5.2.1 The CMAR shall submit an initial and updated Project Construction Schedule to the Owner in the form and within the time limits acceptable to the Owner. The Owner will determine the acceptability of the initial and updated Project Construction Schedule within a reasonable period of time. If the Owner deems the Project Construction Schedule unacceptable, it shall specify in writing to the CMAR the basis for its objection.

5.2.2 The initial and updated Project Construction Schedule shall represent a practical plan to complete the Work within the Contract Time. Schedules showing the Work completed in less than the Contract Time may be acceptable if judged by the Owner to be practical.

5.2.3 The CMAR shall use the Critical Path Method (“CPM” or “Critical Path”) to schedule and manage the Work. The CMAR shall create and manage the Schedule. If the CMAR does not have staff capable of preparing and managing CPM Schedules, the CMAR shall obtain such qualified personnel on a subcontract basis for supporting the Contract Documents.

5.2.4 All CPM scheduling shall be performed using CPM precedence diagramming method (PDM) scheduling software such as Primavera Project Planner or an Owner or Engineer required platform with import capabilities commercially available and reasonably acceptable to the CMAR. The CMAR shall submit all Schedules and associated reports to the Owner in digital (pdf) and native file or another specified format commercially available in the marketplace to allow the Owner and Engineer to complete the analysis and review of the Schedule.

5.3 Delays and Extensions of Time

5.3.1 If the CMAR is delayed at any time in the commencement or progress of the Work by Excusable Delay (as hereinafter defined), then, upon agreement of the Parties:

5.3.1.1 The Contract Time shall be extended by Change Order for a reasonable time based on the impact of such delay or concurrent delays to the Critical Path of the Project Schedule.

5.3.1.2 Provided the CMAR has mitigated the effects of such delay (such as, by way of example and not of limitation, through rescheduling, resequencing, or other measures), the Phase II Construction Price shall be adjusted to the extent reasonably necessary to compensate the CMAR for any increases in the Cost of the Work due to additional time to which the CMAR is entitled under this Paragraph 5.3.

Any adjustments made pursuant to Sections 5.3.1.1 or 5.3.1.2 shall be subject to limitations set forth in Article 7 hereof of these General Conditions and the provisions of Paragraphs 5.6 and 5.7 of these General Conditions.

The CMAR shall not be entitled to an adjustment in the Phase II Construction Price or the Contract Time for CMAR Delays.

5.4 Other Terms Defined

5.4.1 For purposes of the Contract Documents, the following terms shall have the meanings indicated for each:

5.4.1.1 "CMAR Delay" means each day of delay to the completion of the Work to the extent such delay was caused by and/or within the control of the CMAR, and (a) actually causes a delay in the Critical Path of such Work, and (b) is not caused by an Excusable Delay, Force Majeure, or Owner Delay. Delays attributable to and within the control of the CMAR, its Subcontractors of all tiers, its Material Suppliers, or other Party for whom the CMAR is responsible shall be deemed to be CMAR Delay.

5.4.1.2 "Excusable Delay" means any act, omission, condition, event, or circumstance beyond the CMAR's reasonable control and due to no fault of the CMAR including, but not limited to, the Owner's suspension of the Work without cause or the CMAR's suspension of the Work due to nonpayment, Owner Delay, delays or impacts caused by or attributable to a third party, delay caused by or resulting from Differing Site Conditions, or a Force Majeure Delay.

5.4.1.3 "Force Majeure" means any conditions, occurrences, or acts of God, and not within the reasonable control of the CMAR, not constituting Owner Delay, delay caused by Differing Site Conditions, or CMAR Delay, which impacts the Work or prevents or delays the CMAR from performing its obligations under the Contract Documents, including without limitation any one or more of the following:

5.4.1.3.1 Damage or destruction by fire or casualty.

5.4.1.3.2 Unusually severe weather including lightning, tornado, earthquake, flood, windstorm, named weather event, named storm, wind, natural disasters.

5.4.1.3.3 Pandemic, epidemic, quarantine, declaration of public health emergency, and/or governmental orders issued in connection with such public health emergencies.

5.4.1.3.4 Weather related delays beyond the number provided for in Paragraph 5.3.3 of the Agreement or as otherwise allowed or permitted, if applicable, in the Phase II Construction Price Amendment.

5.4.1.3.5 Strike or other labor dispute not specifically directed at the CMAR or any person or entity for whom the CMAR is

responsible under the Contract Documents.

5.4.1.3.6 Nationwide or global unavailability or shortage of materials or equipment resulting in Critical Path delay. To the extent that any alleged delay relates to nationwide or global unavailability or shortage of materials or equipment, the CMAR shall be required to provide documented proof to the Owner that the CMAR did not reasonably anticipate such unavailability as of the Effective Date (as defined in the Phase II Construction Price Amendment) of the Phase II Construction Price Amendment and made diligent and timely efforts to obtain (buy out) such materials or equipment as a condition precedent to any extension of the Contract Time or increase of the Phase II Construction Price under this paragraph.

5.4.1.3.7 Unavailability of utilities (not caused in whole or in part as a result of fault on the part of the Owner or the CMAR).

5.4.1.3.8 Riots, insurrections, acts of a public enemy, acts of domestic and/or foreign terrorism, or vandalism.

5.4.1.3.9 Bomb scares or similar third-party threats or disruptions.

5.4.1.3.10 Moratoriums or other unusual or unforeseeable delays in the issuance of any required approvals from any Governmental Authorities or utilities.

5.4.1.3.11 Delays caused by actions or inactions of Governmental Authorities (not caused in whole or in part as a result of fault on the part of the Owner or the CMAR) including, but not limited to, enactment or revision of Applicable Laws or official interpretations subsequent to the execution of the Agreement.

For the avoidance of doubt, the Owner's financial insolvency or inability to perform its financial obligations under the Agreement and the other Contract Documents shall not constitute an event of Force Majeure.

5.4.1.4 "Owner Delay" means a cost impact or each day of delay that actually impacts the completion of the Work and is caused by any one or more of the following actions or omissions of the Owner (or any tenant of the Owner) at the Project related to:

5.4.1.4.1 Any Change in the Work initiated by the Owner.

5.4.1.4.2 The Owner’s failure to timely approve or disapprove any item for which Owner approval is required under the Contract Documents provided notice has been provided as required by the Agreement for Change Orders except to the extent that the Owner’s failure is deemed to mean approval pursuant to the terms of the Agreement and except to the extent that the Owner cures such failure within seven (7) Business Days after receipt of written notice from the CMAR of such failure.

5.4.1.4.3 Any failure of the Owner to (a) comply with the CMAR’s reasonable requirements relative to access to areas of the Work reasonably necessary for the performance of Work, including, without limitation, the hoist, freight elevators, and/or defined path of travel established with respect to the Work; provided written notice of said request is received by Owner and said access does not constitute a safety risk to the public or employees or agents of the City.

5.5 Claims / Modifications for Excusable Delays

If any delay to the Work is caused by Excusable Delay, any adjustments to time or Phase II Construction Price shall be made in accordance with Section 5.3.

5.6 Construction General Conditions Costs

In the event of an Excusable Delay pursuant to which the CMAR, subject to consultation with and approval of the Owner, is entitled to an adjustment in the Contract Time in accordance with Paragraph 5.3.1 hereof but not otherwise, the CMAR may, subject to consultation with and approval of the Owner, be entitled to an equitable adjustment of the Phase II Construction General Conditions Costs, as negotiated between the Parties. The CMAR shall, in the event of an occurrence likely to cause Excusable Delay, cooperate in good faith with the Owner to minimize and mitigate the impact of any such occurrence and do all things reasonable under the circumstances to achieve this goal.

5.7 Monitoring Progress and Costs

Following acceptance by the Owner of the Phase II Construction Price, the CMAR and the Owner shall establish a process for monitoring costs against the Phase II Construction Price and actual progress against the Schedule of Work. The CMAR shall provide written reports to the Owner at monthly intervals on the status of the Work, showing variances between costs and the Phase II Construction Price and actual progress as compared to the Project Construction Schedule, including

estimates of future costs and recovery programs if actual progress indicates that

the Dates of Substantial Completion or Final Completion may not be met.

5.8 Owner Approval

Notwithstanding anything contained herein or in the other Contract Documents to the contrary, any decision by the Owner to approve (or disapprove) any requested adjustments in the Contract Time and/or the Phase II Construction Price (including any increase in the Construction General Conditions Costs) resulting from an Excusable Delay shall be made by the Owner in its sole but good faith discretion. Any failure by the Parties to reach an agreement hereunder shall not prejudice the CMAR's entitlement to price and Schedule relief otherwise provided and may constitute a Claim for purposes of the dispute-related provisions in this Agreement.

ARTICLE 6 — Compensation

6.1 CMAR's Compensation for Preconstruction Phase Services

The Owner shall compensate the CMAR for the performance of the CMAR's Preconstruction Phase Services in accordance with Paragraph 6.1.1 of the Agreement.

6.2 CMAR's Compensation for Early Work(s) Package(s)

Any Early Works compensation will be agreed to by the Parties pursuant to a separate written amendment to the Agreement (Early Works Price Amendment).

6.3 CMAR's Compensation for Construction Phase Services

The Owner shall compensate the CMAR for Work performed and described in a Phase II Construction Price Amendment on the basis of either a Lump Sum Phase II Construction Price or Guaranteed Maximum Price, in each case as set forth in such Phase II Construction Price Amendment.

6.4 Contingency and Allowances

Contingency and/or Allowances, if any, and the use thereof, shall be as set forth in, and subject to the terms, covenants, and conditions of the Phase II Construction Price Amendment executed in connection therewith.

ARTICLE 7 — Changes

Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order, Owner Change Directive, and/or Field Order.

7.1 Change Order

7.1.1 The CMAR may request, or the Owner may order, changes in the Work or the timing or sequencing of the Work that impacts the Phase II Construction Price, where applicable the estimated Cost of the Work and CMAR's Fee, the Date of Substantial Completion, and/or the Date of Final Completion. All such changes in the Work shall be formalized in a Change Order. Any such requests for changes in the Work shall be processed in accordance with this Article 7.

7.1.2 The Phase II Construction Price will be adjusted only for Excusable Delay in accordance with and subject to the terms, conditions, and limitations set forth in Article 5.3 hereof.

7.2 Owner Change Directives and Field Orders

7.2.1 The Owner may issue a written Owner Change Directive directing a change in the Work prior to reaching agreement with the CMAR on the adjustment, if any, in the Phase II Construction Price or the Date of Substantial Completion or Date of Final Completion.

7.2.2 The Owner and the CMAR shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Phase II Construction Price or the Contract Time arising out of Owner Change Directives. If the Owner and the CMAR are unable to reach agreement within thirty (30) days, the issue shall be elevated to the CMAR's management and the Owner's Representative for a determination. As the Work associated with the Owner Change Directive is performed, the CMAR shall submit its costs for such Work with its Application for Payment and the CMAR shall be paid for the Work performed in accordance with the Phase II Contract Price Amendment. The Owner shall prepare an Owner Change Directive, utilizing the Owner's available funds, for any undisputed portion of the costs. Contingency funds may only be used for Owner Change Directives upon written agreement of the Parties.

7.2.3 When the Owner and the CMAR agree upon the adjustments in the Phase II Construction Price, the Date of Substantial Completion, and/or Date of Final Completion for a change in the Work directed by an Owner Change Directive, such agreement shall be the subject of an appropriate Change Order.

7.2.4 The Owner may authorize Field Orders. Such Field Orders will be binding on the Owner and on the CMAR, which shall perform the Work involved promptly. If the CMAR believes that a Field Order justifies an adjustment in the Phase II Construction Price or Contract Times or both, then the CMAR shall submit a Change Order Proposal.

7.3 Determination of Cost

7.3.1 An increase or decrease in the Phase II Construction Price established in a Phase II Construction Price Amendment (whether based on a GMP or Lump Sum Phase II Construction Price) or changes to the Project Construction Schedule or the Schedule/Contract Time resulting from a change in the Work that affect the

Phase II Construction Price shall, in each case, be determined by one or more of the following methods:

7.3.1.1 Unit prices set forth in this Agreement or as subsequently agreed.

7.3.1.2 A mutually accepted, itemized Lump Sum, based on the Cost of the Work definition appearing in the Phase II Construction Price Amendment.

7.3.1.3 Cost of Work (as defined in the Phase II Construction Price Amendment) calculated on a basis agreed upon by the Owner and the CMAR, plus CMAR's Fee.

7.3.1.4 If an increase or decrease cannot be agreed to as set forth in Clauses .1 through .3 above, and the Owner issues an Owner Change Directive, the cost of the change in the Work shall be determined by the reasonable actual expense and savings of the performance of the Work resulting from the change. Where applicable, if there is a net increase or decrease in the GMP, the CMAR's Fee shall be adjusted accordingly. The CMAR shall maintain a documented, itemized accounting evidencing the expenses and savings.

7.3.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to the Owner or the CMAR, such unit prices shall be equitably adjusted.

7.3.3 If the Owner and the CMAR disagree as to whether work required by the Owner is within the Scope of the Work, the CMAR shall furnish the Owner with an estimate of the costs to perform the disputed work in accordance with the Owner's interpretations. Any such disagreement shall be resolved in accordance with Article 11.

ARTICLE 8 — Payment

8.1 Schedule of Values

Concurrently with the CMAR's preparation and delivery to the Owner of any cost model or progressive cost model as required for the Phase I Preconstruction Services Scope of Work through and including the date on which a Phase II

Construction Price Amendment for any portion of the Work is executed by the CMAR, the CMAR shall prepare and submit to the Owner and, if directed, the Engineer, a Schedule of Values apportioned to the various divisions or phases of the Work in increasing level of detail. At the time a Phase II Construction Price Amendment is executed for the Work or any portion thereof, each line item contained in the Schedule of Values shall be assigned a value such that the total

of all items shall equal the Phase II Construction Price for such Work or portion thereof.

8.2 Progress Payments for Preconstruction Phase Services

Progress Payment for Preconstruction Phase Services shall be made in accordance with Paragraph 6.1 of the Agreement.

8.3 Progress Payments for Construction Phase Services

Applications for Payment for Construction Phase Services shall be submitted by the CMAR to the Owner and the same paid, in each case in accordance with and subject to the terms and provisions of this Article 8, the Phase II Construction Price Amendment, and other applicable provisions of the Agreement and other Contract Documents.

8.3.1 Applications. The CMAR shall submit to the Owner and, if directed, its Engineer a monthly application for payment for Construction Phase Services no later than the 25th day of the calendar month for the preceding thirty (30) days; the CMAR's applications for payment shall be itemized and supported by the CMAR's Schedule of Values and any other substantiating data as required by these General Conditions and the other Contract Documents. Payment applications shall include payment requests on account of properly authorized Change Orders or Owner Change Directives. The Owner shall pay amounts not in dispute and otherwise due no later than thirty (30) days after the CMAR has submitted a complete and accurate payment application. The Owner may deduct from any progress payment amounts as may be retained pursuant to Subparagraph 8.3.3 below, as well as amounts in dispute.

8.3.2 Lien Waivers and Liens.

8.3.2.1 Partial Lien Waivers and Affidavits. The Owner shall require, as a prerequisite for payment, but subject to the CMAR's receipt of payment, the CMAR shall provide partial conditional payment lien waivers in the amount of the application for payment and affidavits from its Subcontractors and Material Suppliers for the Work completed during the period covered by the current application for payment and partial unconditional payment lien waivers from the CMAR and all Subcontractors and Material Suppliers paid from the previous month's application payment. In no event shall the CMAR be required to sign an unconditional waiver of lien or claim, either partial or final, prior to receiving payment nor shall the

CMAR be required to execute or deliver any lien waiver for the Work not covered by such lien waiver or in an amount more than what it has been paid.

8.3.2.2 Responsibility for Liens. If the Owner has made payments in the time required by this Article 8 and is otherwise not in breach of its obligations, the CMAR shall, within thirty (30) days after written notice of

filing, cause the removal or bonding over of any liens filed against the premises or public improvement fund by any Party or Parties performing labor or services or supplying materials in connection with the Work by, among other things, securing a bond around the lien. If the CMAR fails to take such action on a lien, the Owner may cause the lien, after twenty (20) days written notice, to be removed at the CMAR's expense, including bond costs and reasonable attorneys' fees. This Clause shall not apply if there is a dispute pursuant to Article 11 relating to the subject matter of the lien.

8.3.3 Retainage. Retainage shall be withheld and disbursed in accordance with the terms and provisions of any Phase I Early Works Package Price Amendment and Phase II Construction Price Amendment. Retainage amounts held by Owner shall be in accordance with Georgia State law.

8.3.4 Stored Materials and Equipment. Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored on-site or off-site, including applicable insurance, storage, and costs incurred transporting the materials to an off-site storage facility. Approval of payment applications for stored materials and equipment stored off-site shall be conditioned on submission by the CMAR of bills of sale and proof of required insurance, or such other procedures satisfactory to the Owner to establish the proper valuation of the stored materials and equipment, the Owner's title to such materials and equipment, and to otherwise protect the Owner's interests therein, including transportation to the Worksite.

8.4 Adjustment of CMAR's Payment Application

The Owner may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to protect the Owner from loss or damage based upon the following, to the extent that the CMAR is responsible therefor under the Agreement:

8.4.1 The CMAR's failure to perform the Work as required by the Contract Documents.

8.4.2 Loss or damage arising out of or relating to this Agreement and caused by the CMAR to the Owner or Others to whom the Owner may be liable.

8.4.3 The CMAR's failure to properly pay Subcontractors and Material Suppliers following receipt of such payment from the Owner.

8.4.4 Defective Work not corrected in a timely fashion.

8.4.5 Reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Dates of Substantial or Final Completion.

8.4.6 Reasonable evidence demonstrating that the unpaid balance of the Phase II Construction Price is insufficient to fund the cost to complete the Work.

8.4.7 Third-party claims involving the CMAR or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the CMAR furnishes the Owner with adequate security in the form of a surety bond, letter of credit or other collateral or commitment sufficient to discharge such claims if established.

No later than ten (10) business days after receipt of an application for payment, the Owner shall give written notice to the CMAR, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by the CMAR in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

Undisputed portions of any Application for Payment shall be promptly paid by the Owner in accordance with the terms of the Agreement, these General Conditions, and other applicable Contract Documents.

8.5 Acceptance of Work

Neither the Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work not complying with the Contract Documents.

8.6 Payment Delay

If for any reason, not the fault of the CMAR, the CMAR does not receive a progress payment from the Owner in accordance with the Agreement and Phase II Construction Price Amendment, the CMAR, upon giving the Owner such written notice, if any, as specified in the Phase II Construction Price Amendment, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to the CMAR has been received, including interest from the date payment was due in accordance with the Agreement and Phase II Construction Price Amendment. The Phase II Construction Price and Dates of Substantial or Final Completion shall be equitably adjusted by a Change Order for reasonable cost and delay resulting from shutdown, delay, and startup.

8.7 Substantial Completion

8.7.1 The CMAR shall notify the Owner and, if directed, its Engineer when it considers Substantial Completion of the Work or a designated portion to have been achieved. The Owner, with the assistance of its Engineer, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or utilized for its intended use by the Owner without excessive interference in completing any remaining unfinished Work by the CMAR. If the Owner determines that the Work or designated portion has not reached Substantial Completion, the Owner, with the assistance of its Engineer, shall promptly compile

a list of items to be completed or corrected so the Owner may occupy or utilize the Work or designated portion for its intended use. The CMAR shall promptly complete all items on the list.

8.7.2 When Substantial Completion of the Work or a designated portion is achieved, the CMAR shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, and the respective responsibilities of the Owner and the CMAR for interim items such as security, maintenance, utilities, insurance, and damage to the Work, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by the CMAR to the Owner and, if directed, to its Engineer for the Owner’s written acceptance of responsibilities assigned in the Certificate.

8.7.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the earlier of (a) the date of Substantial Completion of the Work or a designated portion, and (b) the date the Owner takes beneficial use of the Work or a designated portion of the Work.

8.8 Partial Occupancy or Beneficial Use

8.8.1 The Owner may occupy, or use completed or partially completed portions of the Work, beneficially when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) public authorities authorize the occupancy or use. The CMAR shall not unreasonably withhold consent to partial occupancy or use. The Owner shall not unreasonably refuse to accept partial occupancy. The CMAR shall be entitled to a Change Order if the Owner’s partial use or occupancy of completed or partially completed portions of the Work adversely impacts completion of other portions of the Work through no fault of the CMAR.

8.9 Final Completion and Final Payment

8.9.1 Upon notification from the CMAR that the Work has reached Final Completion and is ready for final inspection and acceptance, the Owner, with the assistance of its Engineer, shall promptly conduct an inspection to determine if the

Work has reached Final Completion and is acceptable under the Contract Documents.

8.9.2 When the Work has reached Final Completion, as determined by the Owner, the CMAR shall prepare for the Owner’s acceptance a final application for payment stating that to the best of the CMAR’s knowledge, and based on the Owner’s inspections, the Work has reached Final Completion in accordance with the Contract Documents.

8.9.3 Final Payment shall be due on the CMAR’s submission of the following to

the Owner:

8.9.3.1 An affidavit declaring any indebtedness connected with the Work, e.g., payrolls or invoices for materials or equipment, to have been paid, satisfied, or to be paid with the proceeds of Final Payment, so as not to encumber the Owner's property.

8.9.3.2 As-built Drawings, manuals, copies of warranties, and all other close-out documents required by the Contract Documents.

8.9.3.3 Evidence of insurance and any performance guarantees required to be in effect beyond the Final Completion date.

8.9.3.4 CMAR's signed and sealed final change order to close out the Contract.

8.9.3.5 Release of any liens, conditioned on Final Payment being received.

8.9.3.6 Documentation that all permits obtained by the CMAR or its Subcontractors have been properly closed with the issuing agency.

8.9.3.7 A list of all Claims against the Owner that CMAR believes are unsettled.

8.9.3.8 Summary of financial and other information needed to support Owner's asset registry, if applicable.

8.9.3.9 Consent of any surety to final payment.

8.9.3.10 Any outstanding known and unreported accidents or injuries experienced by the CMAR or its Subcontractors at the Worksite.

8.9.3.11 Any other data reasonably required by the Owner establishing payment or satisfaction of all obligations required of the CMAR and its Subcontractors.

8.9.4 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of the CMAR, the Owner shall pay the balance due for portion(s) of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount prior to payment, the CMAR shall submit to the Owner and, if directed, the Engineer the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by this Paragraph 8.9.

8.9.5 Claims not reserved in writing with the making of Final Payment shall be waived except for claims relating to liens or similar encumbrances, warranties, and

Defective Work.

8.9.6 Acceptance of Final Payment. Unless the CMAR provides written identification of unsettled claims with an application for Final Payment, its acceptance of Final Payment constitutes a waiver of such payment claims.

8.10 Late Payment

Deleted.

8.11 Change Of Payment

Upon execution of the Agreement, the CMAR shall provide the Owner with written payment instructions and all necessary forms required by the Owner to effectuate payments to the CMAR by wire transfer (the “Payment Information”). The CMAR shall submit the initial Payment Information to the Owner by certified mail or hand delivery only. If the Owner receives a request to change such Payment Information, the Owner agrees that it will not modify or make a change to this Payment Information without oral confirmation, followed by written confirmation, from the CMAR’s Chief Financial Officer or the CMAR’s Vice President of Finance. The Owner shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein.

ARTICLE 9 — Indemnity, Insurance, Waivers, and Bonds

9.1 Indemnity

9.1.1 The CMAR shall indemnify, defend, and hold harmless the Owner and its directors, officers, employees, successors, and assigns from and against any and all third-party claims, legal actions, causes of action, proceedings, suits, judgments, liens, and levies, including reasonable attorneys’ fees and disbursements but only to the extent for bodily injury or death of any person(s) and damages to tangible property (other than the Work itself), to the extent caused by the CMAR (or by its Subcontractor or Sub-subcontractors, regardless of tier) and arising from the intentional, willful or negligent acts or omissions of the CMAR, any Subcontractor at any tier, or any person or entity for whom such Parties are legally responsible in the performance of the Work.

9.1.2 The CMAR’s indemnity obligations under Paragraph 9.1 shall not apply (a) to the extent of the negligence or willful or intentional misconduct of the Owner, its officers, agents, employees, successors, or assigns, or (b) to any loss, cost, claim, suit, damage, liability, or expense (including attorneys’ fees and costs) for which the Owner is required to indemnify the CMAR Indemnitees in accordance with the Contract Documents.

9.1.3 In all claims against the Owner Indemnitees by any employee of the CMAR, anyone directly or indirectly employed by the CMAR or anyone for whose acts the CMAR may be liable, the indemnification obligation set forth in Paragraph 9.1 shall

not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CMAR under workers' compensation acts, disability benefit acts, or other employee benefit acts.

9.1.4 Notwithstanding any provision or term to the contrary herein, under no circumstances shall either Party be liable to the other for any consequential, incidental, special, or punitive damages and as provided in Article 9 of the Agreement.

9.2 CMAR's Insurance

9.2.1 Insurance and Bond requirements are provided in Attachment 16 of the Phase II Construction Price Amendment.

9.3 Property Insurance

Builder's Risk Insurance shall be obtained and maintained for the Project upon and subject to the terms and conditions of the Phase II Construction Price Amendment.

9.4 Risk Of Loss

Risk of loss or damage to the Work shall be upon the CMAR until the Date of Substantial Completion but only to the extent such loss or damage is paid by Builder's Risk Insurance specified in the Phase II Construction Price Amendment, unless otherwise agreed to by the Parties.

9.5 Adjustment of Loss

A loss insured under the Builder's Risk Insurance Policy required pursuant to the Phase II Construction Price Amendment to the Agreement shall be adjusted by the Party obtaining such Builder's Risk Insurance and made payable to such Party for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause, the Phase II Construction Price Amendment, and Paragraph 9.6 hereof. The CMAR shall pay Subcontractors their just shares of

insurance proceeds received by the CMAR, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

9.6 Insurance Payouts

If required in writing by a Party in interest, the Party obtaining such Builder's Risk Insurance shall, upon occurrence of an insured loss, give bond for proper performance of such Party's duties. The cost of required bonds shall be charged against proceeds received by each Party. Such Party shall deposit in a separate account proceeds so received, which such Party shall distribute in accordance with such agreement as the Parties in interest may reach, or in accordance with Article 11 of these General Conditions. The CMAR shall not be required to repair or

replace lost or damaged Work until a mutually acceptable Change Order, in accordance with Article 7, is executed and funds are available to pay for such loss or damage.

9.7 Bonds

Payment and performance bonds or other forms of substitute security, if any, shall be required as set forth in the Phase II Construction Price Amendment.

9.8 Royalties, Patents, and Copyrights

The CMAR shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by the CMAR and incorporated in the Work. The CMAR shall indemnify and hold the Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. To the fullest extent permitted by law, the Owner agrees to indemnify and hold the CMAR harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by the Owner or Engineer or otherwise included in the Drawings, Specifications, and other documents, materials, or information provided by the Owner or the Engineer for construction of the Work, whether pursuant to this Agreement or otherwise.

ARTICLE 10 — Suspension, Notice to Cure, and Termination of the Agreement

10.1 The Owner may suspend Work at any time and, without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days in the aggregate by notice in writing to the CMAR and the Engineer, which shall fix the date on which Work shall resume. The CMAR shall resume the Work on the date so fixed.

The CMAR will be allowed an increase in the Phase II Construction Price or an extension of the Contract Time, or both, for delayed or added costs, directly attributable to any suspension (but not lost profits) if the CMAR makes a claim therefor as provided in Articles 5 and 7.

If the CMAR fails to correct Defective Work as required by Paragraphs 2.5 and 2.6 herein or fails to perform the Work in accordance with the Contract Documents, the Owner or Owner's Representative may direct the CMAR to stop the Work, or any portion thereof, until the cause for such order has been eliminated by the CMAR. The CMAR shall not be entitled to any adjustment of Contract Time or Phase II Construction Price because of any such order. The Owner and Owner's Representative have no duty or responsibility to the CMAR or any other Party to exercise the right to stop the Work.

10.2 Owner Termination

10.2.1 Upon the Owner's provision of written notice and the CMAR's failure to commence cure after receipt of such written notice as provided in Paragraph 10.2.2, the Owner may Terminate Agreement in connection with any one or more of the following events:

10.2.1.1 If the CMAR is adjudged a bankrupt or insolvent.

10.2.1.2 If the CMAR makes a general assignment for the benefit of creditors.

10.2.1.3 If a trustee or receiver is appointed for the CMAR or for any of the CMAR's property.

10.2.1.4 If the CMAR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws.

10.2.1.5 If the CMAR materially fails to perform the Work in accordance with the Contract Documents, including, but not limited to, failure to supply sufficient skilled workmen or suitable materials or equipment or failure to adhere to the progress Schedule established and adjusted in accordance with pursuant to Article 5 of the Agreement and Article 5 hereof.

10.2.1.6 If the CMAR, without justification and provided the Owner has made payment of all amounts due to the CMAR, repeatedly fails to make timely payments to Subcontractors or Material Suppliers for labor, materials, or equipment.

10.2.2 The Owner may, without prejudice to any other right or remedy, serve written notice upon the CMAR and the CMAR's surety of the Owner's intention to terminate the Agreement upon the occurrence of any breach set forth in this Paragraph 10.2. Said notice to contain the reasons for such intention to terminate the Agreement and provide that unless within seven (7) days after the service of such notice the CMAR begins to correct its failure to perform and proceeds diligently to cure such failure within no more than thirty (30) days, the Contract Documents shall cease and terminate, and the CMAR shall be excluded from the site. In such case, the CMAR

shall not be entitled to receive any further payment until the Work is finished by Others.

10.2.2.1 The foregoing notwithstanding, if the nature of the alleged reason for termination is not capable of being corrected or remedied within thirty (30) days, such correction or remedy shall commence and be completed with reasonable diligence and in no event later than sixty (60) days or such longer period as the parties mutually agree following the occurrence of such default.

10.2.3 In the event of any such termination, the Owner shall immediately serve written notice thereof upon the surety and the CMAR. Owner shall take possession of the Work incorporate in the Work all materials and equipment (excluding the

CMAR's own equipment) stored at the site or for which Owner has paid the CMAR but which are stored elsewhere that were intended to be incorporated into the Work, and finish the Work as Owner may deem expedient for the account and at the expense of the CMAR. The CMAR's surety shall be liable to the Owner for any excess costs or other damage occasioned the Owner thereby. If the unpaid Balance of the Phase II Construction Price exceeds the direct and indirect costs of completing the Work, including but not limited to, compensation for additional professional services and all costs generated to insure or bond the Work of substituted Contractors or Subcontractors utilized to complete the Work, such excess shall be paid to the CMAR. If such costs exceed the unpaid balance, the CMAR shall pay the difference to the Owner promptly upon demand; on failure of the CMAR to pay, the surety shall pay on demand by Owner. Any portion of such difference not paid by the CMAR or surety within 30 days following the mailing of a demand for such costs by the Owner shall earn interest rate authorized by Georgia State law. Such costs incurred by the Owner shall be verified by the Owner's Representative and incorporated in a Change Order, but in finishing the Work, the Owner shall have the obligation to mitigate its damages, but not be required to obtain the lowest figure for the Work performed. Any dispute under this section shall be addressed in accordance with Article 11 in this Agreement.

10.2.4 Where the CMAR's services have been so terminated by the Owner, the termination shall not affect any rights of the Owner against the CMAR then existing or which may thereafter accrue. Any retention or payment of monies due the CMAR by the Owner will not release the CMAR from liability.

10.2.5 The Owner may terminate the Agreement for convenience in accordance with Paragraph 10.3 hereof. In the event of such termination for convenience, the CMAR shall be compensated for the portion of the CMAR's Preconstruction or Construction Phase Services, if any, performed to the date of such termination, but the CMAR shall not be entitled to compensation for Work not performed.

10.3 Upon seven (7) days written notice to the CMAR, the Owner may, without cause and without prejudice to any other right or remedy of the Owner, terminate the Agreement for convenience. In such case, the CMAR shall be paid for (without duplication of any items):

10.3.1 Work executed in accordance with the Contract Documents prior to the effective date of termination, including CMAR Fee for Construction General Conditions Costs on such Work, as applicable.

10.3.2 Expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for Construction General Conditions Costs and CMAR Fee thereon.

10.3.3 Other reasonable expenses directly attributable to termination, including

demobilization costs, cancellation charges and fees, and costs incurred to prepare a termination for convenience cost proposal and cancellation costs related to material and equipment subcontracts.

10.3.4 No profit on uncompleted Work for Preconstruction Phase Services shall be due or payable for any termination for convenience exercised by the Owner during the Preconstruction Phase Services in accordance with the Contract Documents.

10.4 CMAR Termination

If, through no act or fault of the CMAR, the Work is suspended for a period of more than ninety (90) days in the aggregate by the Owner or under an order of court or other public authority, or the Owner fails to pay within thirty (30) days to the CMAR any undisputed amounts due, or the Owner breaches any other material provision of the Agreement and the same is not cured within thirty (30) days following the Owner's receipt of written notice thereof from the CMAR, then the CMAR may, upon seven (7) days written notice to the Owner, terminate the Agreement and recover from the Owner payment for all Work executed and any expense sustained plus reasonable termination expenses, provided the Owner does not remedy such suspension or failure within that time. In addition, and in lieu of terminating the Contract Documents, if the Owner has failed to make any payment as aforesaid of undisputed amounts, the CMAR may, upon seven (7) days written notice to the Owner, stop the Work until payment of all amounts then due, in which case such work stoppage shall be treated as an Owner-directed suspension entitling the CMAR to an adjustment in the Phase II Construction Price or the Date of Substantial Completion or the Date of Final Completion.

10.4.1 In addition to, and without limiting the generality of the CMAR's suspension and termination rights under Paragraph 10.4, if the Owner directs the CMAR or its Subcontractors or Material Suppliers at any tier to perform Work that the CMAR informs the Owner is illegal or involves an imminent danger to human health, the environment, or the Owner's property or other nearby or adjoining properties, the CMAR shall have the right to notify the Owner, in writing, of such illegality or danger and the Owner shall meet with the CMAR within five (5) business days following the Owner's receipt of such notice to review and discuss such concerns and work cooperatively and in good faith with the CMAR to resolve them. Any resolution shall include an appropriate adjustment in the Phase II Construction Price and Project Construction Schedule to account for the added cost and time to the CMAR in objecting to and attempting to resolve such concerns. If the Owner fails to respond to the CMAR within five (5) business days following the CMAR's notification of such concerns, or the Parties, after meeting to discuss the same are unable, within an additional ten (10) business days to resolve the concerns to the CMAR's reasonable, good faith satisfaction, the CMAR shall thereafter have the right to terminate this Agreement for convenience and without cause upon an additional seven (7) days' written notice to the Owner. In such event, the Owner shall pay the CMAR the same amounts owing to the CMAR for an Owner's termination for convenience pursuant to Paragraph 10.3.

ARTICLE 11— Claims, Claims Procedures, Dispute Mitigation, and Resolution

11.1 Claims for Additional Cost or Time

Except as provided in any applicable Phase II Construction Price Amendment, for any claim for an increase in the Phase II Construction Price or the change in or extension to the Date of Substantial Completion or Date of Final Completion (each a “Claim”), the CMAR shall promptly give written notice to the Owner of the Claim (and in no event later than thirty (30) days after the start of the event giving rise thereto). Except in an emergency, notice shall be given before proceeding with the Work. Any change in the Phase II Construction Price or the Date of Substantial Completion or Date of Final Completion resulting from such Claim shall be authorized by Change Order.

11.1.1 Claims Procedures

Submission of a Claim, in full conformance with all requirements of this Article, and rejection of all or part of said Claim by the Owner, is a condition precedent to any action by the CMAR against the Owner, including, but not limited to, the filing of a lawsuit, request for mediation, or demand for arbitration.

11.1.2 Notice of Claim

11.1.2.1 If the CMAR disagrees with the decision in, or in any case where the CMAR deems additional compensation or a time extension to the Contract Time is due the CMAR for work or materials not covered in the Contract Documents or which the Owner has not recognized as extra work, the CMAR shall notify the Owner, in writing, of its intention to make a Claim.

11.1.2.2 Written notice shall use the words “Notice of Potential Claim.”

11.1.2.2.1 Such Notice of Potential Claim shall state the circumstances and the reasons for the Claim but need not state the amount.

11.1.2.2.2 A Notice of Potential Claim and all notices and other communications required or permitted under this Agreement or the other Contract Documents shall be in writing and delivered by hand delivery, certified first class mail return receipt requested, or reputable overnight courier to:

If to: Owner

City of Cartersville
Sidney Forsyth, Director
Cartersville Water

Department
301 Douthit Ferry Road,
Cartersville, GA 30120

If to: CMAR: Archer Western Construction, LLC
2839 Paces Ferry Road, SE
Atlanta, GA, 30339

11.1.2.3 Claims pertaining to decisions or such other determinations by the Owner relating to any Claim from the CMAR shall be communicated by the CMAR with the Owner in writing within five (5) days following receipt of such decision.

11.1.2.4 All other Claims by the CMAR shall be promptly filed in writing, and in no event later than thirty (30) days after the event or occurrence giving rise to the Claim.

11.1.2.5 Additionally, no Claim for additional compensation or extension of time for a delay will be considered unless the provisions for Delays and Time Extensions are complied with.

11.1.2.6 Unless expressly permitted in the Phase II Construction Price Amendment or other Contract Documents or expressly reserved in writing, no Claim for additional compensation for Work performed filed by the CMAR after the date of Final Payment will be considered.

11.1.3 Records of Extra Work

11.1.3.1 In proceeding under a Claim for extra Work, the CMAR shall keep accurate records in such a manner as to provide a clear distinction between the direct costs of extra Work paid and the costs of other operations.

11.1.3.2 Daily extra work reports shall:

11.1.3.2.1 Be signed by the CMAR or the CMAR Representative.

11.1.3.2.2 Itemize the materials used and state the direct cost of labor and the charges for equipment rental, whether furnished by the CMAR, Subcontractor, or any specialized forces.

11.1.3.2.3 Provide names or identifications and classifications of workers, the hourly rate of pay and hours worked, and also the size, type, and identification number of equipment and hours operated.

11.1.3.2.4 Substantiate material charges with attached valid copies of vendor's invoices and, if not available, the

invoices shall be submitted within ten (10) days after the date of delivery of the material.

11.1.3.3 Such information shall be submitted to the Owner on a monthly basis. The Owner shall review, disapprove, and request adjustments, or agree upon and sign daily extra work reports upon receipt from the CMAR. The CMAR and the Owner shall agree on the contents of the extra work reports daily.

11.1.3.3.1 The Owner will compare the Owner's records with the completed daily extra work reports furnished by the CMAR and make any necessary adjustments.

11.1.3.3.2 When these daily extra work reports are agreed upon and signed by both Parties, the reports shall become the basis of payment for the Work performed but shall not preclude subsequent adjustment based on a later audit by the Owner.

11.1.3.4 The CMAR's and Subcontractor's records pertaining to the Project shall be open to inspection or audit by representatives of the Owner, during the life of the Agreement, and for a period of three (3) years after the date of acceptance thereof, and the CMAR and all Subcontractors shall retain those records for that period. Such audit

shall not include the CMAR's proprietary information, including, but not limited to, the CMAR's formula or other data or communications used in calculating pricing.

11.1.3.4.1 Where payment for materials or labor is based on Work performed by Subcontractors and other forces not employees of the CMAR, the CMAR shall make every reasonable effort to ensure that the cost records of those other forces will be open to inspection and audit by representatives of the Owner on the same terms and conditions as the cost records of the CMAR.

11.1.3.4.2 If an audit is to be commenced more than five (5) days after the acceptance date of the Agreement, the CMAR will be given a reasonable notice of the time when the audit is to begin.

11.1.3.5 The CMAR and Subcontractors shall keep full and complete records of the costs and additional time incurred for any Work for which a Claim for additional compensation is made.

11.1.3.5.1 The Owner Representative or any designated Claim investigator or auditor shall have access to those records and any other records as may be required by the

Owner Representative to determine the facts or contentions involved in the Claims.

11.1.3.6 The Owner, or its authorized representatives, shall have access, upon reasonable notice, during normal business hours, to the CMAR and Subcontractors' books, documents, and accounting records, including, but not limited to, bid worksheets, bids, Subcontractor bids and proposals, estimates, cost accounting data, accounting records, payroll records, time sheets, canceled checks, balance sheets, project correspondence including, but not limited to, correspondence between the CMAR and its sureties and Subcontractors/Vendors, project files, scheduling information, and other records of the CMAR and Subcontractors directly or indirectly pertinent to the Work, original as well as change and Claimed extra Work, to verify and evaluate the accuracy of cost and pricing data submitted with any Change Order, prospective or completed, or any Claim for which additional compensation has been requested or Claim has been tendered. Notwithstanding the foregoing, nothing in this provision shall entitle the Owner to demand production or inspection of the CMAR's privileged, proprietary, or confidential information. This paragraph is subject to the Georgia Open Records Act O.C.G.A. § 50-18-70 et. seq.

11.1.3.6.1 Such access shall include the right to examine and audit such records, and make excerpts, transcriptions, and photocopies at the Owner's cost.

11.1.3.7 In case the Claim is found to be just, it shall be allowed and paid for as provided by the Contract Documents.

11.2 Dispute Resolution

11.2.1 Direct Discussions. If the Parties cannot reach resolution on a matter relating to or arising out of the Agreement or the Project, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within twenty (20) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that resolution was not affected. Upon receipt of such notice, the senior executives of the Parties shall meet within ten (10) Business Days to endeavor to reach resolution. If the dispute remains unresolved after forty-five (45) days from the date of first discussion, the Parties shall submit such matter to the dispute resolution procedures selected herein.

11.2.2 Mediation. Unless otherwise provided to the contrary in the Phase II Construction Price Amendment, Claims and other disputes or matters in controversy arising out of or related to the Agreement or Project that are not resolved pursuant to other provisions of this Article 11 shall be mediated prior to recourse to litigation or other binding dispute resolution proceeding. Such

mediation shall, unless the Parties mutually agree otherwise, be conducted by a mediator mutually agreeable to the Parties in Cartersville, Georgia and in accordance with the American Arbitration Association Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other Party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of litigation or other binding dispute resolution proceedings, and, in such event, mediation shall proceed at an appropriate time mutually agreed upon by the Parties or as directed by the court. The mediator shall be agreed to by the mediating Parties; in the absence of an agreement, the Parties shall each submit one name from the mediators listed by the American Arbitration Association in the locality in which the Project is located or other agreed-upon services. Such mediation shall be held for a period not to exceed one (1) day unless otherwise agreed in writing by the Parties. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Neither Party shall be deemed the prevailing Party and each Party shall pay its own attorneys' fees and costs and one-half of the mediator's fees and costs. Disputes that are not resolved through mediation in accordance with this Paragraph 11.2.2 shall be resolved in the manner selected by the Parties in Paragraph 11.2.3 below.

11.2.3 Dispute Resolution. If the matter remains unresolved after submission of the matter to direct management discussions or mediation, the Parties shall

submit the matter to the binding dispute resolution procedure selected below (**check one box**):

11.2.3.1 **By litigation.** Litigation shall commence in Bartow County Superior Court. The matter shall proceed as a bench trial tried to a single judge. **THEREFORE, THE PARTIES TO THIS AGREEMENT, INCLUDING ANY ASSIGNEES, HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY.**

11.2.4 Survival. The dispute resolution provisions of the Agreement shall survive the completion of the Work and/or the expiration or termination of the Contract Documents.

11.3 Venue

The venue of any binding dispute resolution procedure shall be Bartow County, Georgia. The Parties waive any objection to such venue on the basis of inconvenient form.

11.4 Multiparty Proceeding

The Parties agree that all Parties necessary to resolve a claim shall be Parties to the same dispute resolution proceeding. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution procedures.

11.5 Lien Rights

Nothing in this Article 11 or other applicable provisions of the Contract Documents shall limit any rights or remedies not expressly waived by the CMAR which the CMAR may have under Applicable Law.

ARTICLE 12 — Miscellaneous Provisions

Meeting: July 18, 2024 Item 13.

12.1 Assignment

Neither the Owner nor the CMAR shall assign its interest in the Agreement or the other Contract Documents without the written consent of the other except as to the assignment of proceeds. The terms and conditions of the Agreement and the other Contract Documents shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party to the Agreement or the other Contract Documents shall assign the Agreement without written consent of the other.

Exhibit B—CMAR Phase I Preconstruction Scope of Services

Exhibit B – Phase I Preconstruction Scope of Services (Rev 2)



CONTENTS

ARTICLE 1 — Phase I Preconstruction Phase Services 1

- 1.1 Scope and Commencement 1
- 1.2 Engineer 1
- 1.3 Key Personnel and Planning 1
- 1.4 Cost Models 2
- 1.5 Cost Trending 3
- 1.6 CMAR Preconstruction Phase Duties 3
- 1.7 Design Evolution Log and Cost and Schedule Logs 5
- 1.8 Cost Model Updates 6
- 1.9 Estimating and Budgeting Systems 6
- 1.10 Project Risk Registers 6
- 1.11 Constructability Reviews 7
- 1.12 Early Work(s) Package(s) 7
- 1.13 Self-Perform Work 7
- 1.14 Subcontractor Procurement for Phase II Work Not Self-Performed 7
- 1.15 Phase II Construction Price Proposal and Amendment 8
- 1.16 Schedule 9

Exhibit B

CMAR Phase I Preconstruction Scope of Services

ARTICLE 1 — Phase I Preconstruction Phase Services

1.1 Scope and Commencement

“Preconstruction Phase Services” refers to the activities and services required to develop the Project Construction Schedule, Phase II Construction Price Proposal, and, if applicable, Phase I Early Work(s) Package(s). Preconstruction Phase Services shall commence no later than ten (10) days following the Owner’s issuance of a Phase I Notice to Proceed in substantially the form of **Exhibit C** to the Agreement. For performance of the Preconstruction Phase Services, CMAR shall be paid the Preconstruction Phase Services fees in the amount and in the manner set forth in Paragraph 6.1 of the Agreement. The CMAR shall, as part of the Preconstruction Phase Services, provide an evaluation of the Owner’s Program, conduct constructability reviews of the design, develop a baseline construction schedule and execution plan, and develop construction cost estimates throughout the design at agreed-upon milestones, each in terms of the other, as more particularly in this **Exhibit B**.

1.2 Engineer

The Engineer, with input from the Owner, will develop a design (the “Design”) for the Project that will establish performance requirements, design and engineering requirements, project goals and objectives, functional programming, and other specific elements to be incorporated into the Project. The initial Project technical performance requirements are included as **Exhibit I** of the Agreement.

1.3 Key Personnel and Planning

The CMAR shall, as part of its Preconstruction Phase Services, provide the following:

1.3.1 Provide all key personnel identified in the CMAR’s response to the Request for Proposal (RFP) previously submitted to the Owner for the Project, as well as the other personnel necessary to fully meet the CMAR’s obligations for the Preconstruction Phase Services.

1.3.2 Within ten (10) days following the Owner’s issuance of the Phase I Notice to Proceed for the Preconstruction Phase Services, provide a Construction Management Plan that includes its approach to safety, quality, cost estimating, and scheduling, during both Preconstruction and Construction Phase Services.

1.3.3 Provide a Construction Emergency Response Plan and Site Safety Plan.

1.3.4 Develop a Quality Management Plan to ensure conformance to the Project design and to every section of the Specifications.

1.3.5 Develop a Quality Control Program to ensure continuing attention to the production and installation of Work in accordance with current engineering and construction practices and quality standards for similar materials and components.

1.3.6 Provide an Environmental Management Plan detailing programs for a Stormwater Pollution Prevention Plan and handling other environmental issues (dust, on-site chemicals, fuel, and similar items) if required to comply with Applicable Law.

1.3.7 Participate in progress meetings once every two weeks on-site or at the office location provided by the Owner.

1.3.8 Participate in a Project kickoff meeting for Preconstruction Phase Services.

1.3.9 Work with the Owner and Engineer to establish document management and storage protocols and provide tools to support this process if the Owner or Engineer does not already have a system in place.

1.3.10 Work with the Owner and Engineer to establish a protocol for making and documenting decisions during the Preconstruction Phase.

1.3.11 Establish a protocol for developing meeting minutes for the Preconstruction Phase.

1.4 Cost Models

Not later than thirty (30) days following the Owner's issuance of the Phase I Notice to Proceed for Preconstruction Phase Services and concurrently with the CMAR's delivery to the Owner of a Construction Schedule as defined in the Agreement, the CMAR shall develop and submit to the Owner and Engineer, for the Owner's review and comment, a baseline project cost model (the "Cost Model") based on the current design milestone then achieved at the time the Phase I Notice to Proceed for Preconstruction Phase Services was issued by the Owner to the CMAR.

1.4.1 The initial Cost Model will be based on historical cost data using system studies, area, volume, and/or similar industry standard conceptual estimating techniques acceptable to the Owner such as, but not limited to, division or work breakdown structure. If the Engineer or the Owner suggests alternative materials and systems, the CMAR shall provide cost evaluations of those alternative materials and systems. Progressive Cost Models will be submitted by the CMAR

to the Owner for the Owner’s review and comment at the designated milestones set forth in Subparagraph 1.5 of this Exhibit.

1.4.2 If the Cost Model exceeds the Owner’s Approved Budget, and the Owner and the CMAR are unable to reach written agreement on the same, or the Cost Model or any revisions of such are otherwise unacceptable to the Owner, the Owner may terminate this Agreement for convenience on five (5) business days’ written notice to the other Party in accordance with Paragraph 10.2.5 of the General Conditions.

1.5 Cost Trending

The CMAR shall undertake a cost trending analysis of the Project upon the Engineer’s generation of Drawings and Specifications for the Project at the following milestones: thirty percent (30%) complete, sixty percent (60%) complete, and ninety percent (90%) complete. Such cost trending analysis shall be completed in accordance with Subparagraph 1.7 of this Exhibit.

1.6 CMAR Preconstruction Phase Duties

During the Preconstruction Phase, the CMAR shall:

1.6.1 Consult with, advise, and provide recommendations to the Owner and the Engineer on constructability aspects of the design and proposed construction of the Project.

1.6.2 Participate in up to four (4) onboarding meetings led by the Engineer to review current state of design documents, Risk Register, and ongoing cost trending analysis, which may include workshops to review the following: (a) facility- by-facility review, (b) discipline-by-discipline review (involving CMAR major Subcontractors if part of the CMAR team), (c) preliminary Project sequencing/Schedule, including major constraints, and (d) constructability issues.

1.6.3 Participate in regular meetings or workshops (once every two weeks) with the Engineer, the Owner, or Others as needed. The CMAR is responsible for notifying the Project team of any perceived cost or Schedule impacts during these meetings and following up with the appropriate documentation, and the CMAR will also highlight potential cost- and Schedule-saving alternates during these meetings. These meetings will generally be on the same day as the biweekly progress meetings defined in Section 1.3.7.

1.6.4 Perform constructability reviews at each design milestone (30%, 60%, and 90% complete) and report the results of these reviews to the Engineer and Owner.

1.6.5 In addition to the CMAR’s cost-trending, value engineering, and related cost reduction recommendations, if required, obligations set forth in Subparagraph 1.7 of this Exhibit, perform regular informal value engineering reviews which identify,

evaluate, and propose cost-effective alternatives to all aspects of the Project design, such analysis to be presented by the CMAR in a format (report, sketches, drawings, PowerPoint presentation) that enables the Owner and the Engineer to readily evaluate proposed alternatives on the basis of their potential Project cost and time savings.

1.6.6 Cause the CMAR’s key personnel to participate in key milestone design reviews to be conducted by the Engineer.

1.6.7 Identify long-lead equipment procurement items, if any, and provide recommendations to the Owner and the Engineer on how to prevent or minimize delivery impacts to the Project.

1.6.8 Review results of field investigations performed by Engineer. Determine if additional field investigations need to be performed by CMAR to validate existing Site conditions, develop maintenance of plant operation plans, and/or assess the condition of existing facilities.

1.6.9 Develop Bid Packages that align with the proposed sequence of construction and trade packaging, which may include multiple Lump Sum or GMP Phase II Construction Prices and Early Work Packages, if required by the Project Construction Schedule. In such event, the CMAR may elect to self-perform the Work reflected in such Bid Packages. CMAR shall:

1.6.9.1 CMAR elects to self-perform such Work by bidding the same against the market in accordance with Subparagraph 1.13 of this Exhibit.

1.6.9.2 CMAR elects to perform the Work through Subcontractors in accordance with Subparagraph 1.14 of this Exhibit.

1.6.9.3 CMAR elects to self-perform the Work with its own forces on a negotiated basis as agreed to with the Owner in accordance with Subparagraph 1.13 hereof.

1.6.9.4 CMAR not allowed to self-perform. Contractor is prohibited from self-performing due to Owner direction or restriction under Applicable Law.

1.6.10 Coordinate with the Engineer and local authorities having jurisdiction to ensure seamless transition into construction.

1.6.11 Develop a draft commissioning plan to capture any additions to the Project engineering and design that would facilitate commissioning and acceptance.

Unless otherwise mutually agreed in writing by the Owner and the CMAR, the Preconstruction Phase Services described in this **Exhibit B** do not require or obligate the CMAR to generate or produce any design or engineering for the Project.

1.7 Design Evolution Log and Cost and Schedule Logs

Following the Owner’s issuance of the Phase I Notice to Proceed for Preconstruction Phase Services and thereafter during the course of the design of the Project, the CMAR will lead and work with the Engineer to develop and maintain a design evolution log (the “Design Evolution Log”) and separate cost and schedule log (the “Cost and Schedule Trend Log”) that captures changes and decisions made with respect to deviations from the Owner’s Cost Model and related Scope of Work.

1.7.1 These Logs shall track all proposed positive and negative costs and Schedule changes to the Cost Model and Project Construction Schedule as well as those changes ultimately approved by the Owner. These Logs may be separate or combined with other Decision Logs or Design Evolution Logs based on the needs of the Project team. These Logs will track all potential scope change items, identify the options for resolving the change, and estimate the net cost and Schedule impact associated with adopting the change. The Logs will allow for real-time tracking of deviations from the Cost Model. Items will be reviewed with the Owner on a monthly basis during the design of the Project.

1.7.2 The CMAR shall update the Cost Model on a monthly basis through informal design reviews with the Engineer and undertake a cost trending analysis of the Project’s projected cost versus the Cost Model in accordance with the Project Construction Schedule, and shall promptly advise the Owner and the Engineer through the Cost and Schedule Trend Log when any cost estimates generated by the CMAR are trending above the Cost Model previously approved by the Owner for the Project.

1.7.3 In the event any cost estimate or the CMAR’s Phase II Construction Price Proposal for the Project or any Bid Package exceeds any prior cost estimate or Cost Model previously submitted to the Owner, if the Owner so directs, the CMAR and the Engineer shall:

1.7.3.1 Attend such meetings with the Owner and the Engineer as may be necessary, in the Owner’s judgment, to reach a consensus as to the manner of maintaining the Phase II Construction Price Proposal within the construction budget, cost estimates, and Cost Models previously approved by the Owner for the Project or applicable Bid Package.

1.7.3.2 Work together to bring the Project and/or applicable Bid Package back within the cost estimates and Cost Models previously approved by the Owner through means and methods, value engineering, related cost

reduction recommendations, and acceptable alternates or other means appropriate to reduce the cost.

1.7.3.3 When requested by the Owner, undertake an analysis of any proposed redesign of the Project or applicable Bid Package to bring the cost of the Project or applicable Bid Package back within the cost estimates and Cost Models previously approved for the Project or applicable Bid Package.

1.8 Cost Model Updates

The CMAR shall develop and submit an updated Cost Model in line with the agreed-upon format and standards for detail at the cost estimate design milestones and work with the Owner to review and reconcile comments on each cost estimate and identify and update Project risk allocations and usage. The CMAR shall price ideas and changes and update the Cost and Schedule Trend Log to reflect such ideas and changes.

1.9 Estimating and Budgeting Systems

The CMAR's estimating and budgeting systems and reports shall be flexible and shall include a means to provide a variance analysis throughout each budget update starting with the Cost Model and continuing through execution of the Phase II Construction Price Amendment for specified Work and final permitting, bidding, and award for such Work. The Cost Model shall include detail sheets for each Work task that shall reflect unit prices, quantities, and extensions for labor and materials.

1.9.1 The CMAR shall set up the estimate in a Construction Specifications Institute (CSI) format or as otherwise agreed upon by the Owner, in a detailed open-book collaborative manner that allows for full disclosure to allow the Owner to make timely and informed decisions, detailing, in all cases, the Cost of the Work for Construction Phase Services and the associated Construction General Conditions Costs thereon plus the CMAR's Fee on such amounts.

1.9.2 Each element of the Cost Model shall also include a detailed list of relevant clarifications as they relate to the preparation of each budget update. Allowances are also to be clearly identified within each budget update on a separate summary level report at each design phase.

1.10 Project Risk Registers

The CMAR shall develop and maintain a Project Risk Register during the Preconstruction Phase Services and lead regular meetings with the Owner and the Engineer to update risk mitigation activities and potential cost and Schedule impacts.

1.11 Constructability Reviews

The constructability reviews conducted by the CMAR as part of its Preconstruction Phase Services shall (a) identify physical conflicts between existing structures and/or utilities; (b) confirm that tie-in conditions to existing structures are coordinated with the Drawings; (c) confirm that sequencing of the Work is coordinated with the Drawings; (d) identify and clarify any potential impacts to existing facility operations which require a mitigation plan to be developed; (e) identify site logistics which need to be incorporated into the Drawings; and (f) identify items or issues in the Drawings which may cause the Project additional cost and time impacts and which can be avoided or eliminated from the Project.

1.12 Early Work(s) Package(s)

If applicable, Early Work(s) Package(s) will be developed and paid for in accordance with **Exhibit D** and **D.1**, respectively, and Paragraph 6.2 of the Agreement.

1.13 Self-Perform Work

As part of the CMAR's budgeting analysis during the Preconstruction Phase, the CMAR may (a) identify Scopes of Work in accordance with Subparagraph 2.2.2.1 of the Agreement that it believes can or should be self-performed by the CMAR as a means of maintaining the budget for the Project or Bid Package, as applicable, within the Owner's Approved Budget for the Project and the probable Cost of such self-performed Work versus the probable Cost of such Work if the same is competitively bid by qualified Subcontractors; and (b) develop a Construction General Conditions Cost estimate that will include separate estimates for Preconstruction Phase Services and Construction Phase Services. At the time of the CMAR's generation of any Phase II Construction Price Proposal, the Construction General Conditions Cost estimates may be converted to Lump Sum or Guaranteed Maximum Price amounts, as applicable, within the Phase II Construction Price and as may be agreed upon by the Owner and the CMAR.

1.14 Subcontractor Procurement for Phase II Work Not Self-Performed

During the Preconstruction Phase, the CMAR shall:

1.14.1 Actively "premarket" the Project with local trade Subcontractors, equipment vendors, and Material Suppliers to increase awareness and interest in submitting competitive bids and quotes.

1.14.2 Evaluate and prequalify trade Subcontractors and Material Suppliers according to state and local requirements.

1.15 Phase II Construction Price Proposal and Amendment

If the Owner and the CMAR can reach agreement on the Phase II Construction Price Proposal (herein defined), such agreement shall be evidenced by the Parties' execution of a Phase II Construction Price Amendment for the Project or applicable Bid Package in substantially the form of **Exhibit E** attached hereto and incorporated herein by this reference (each a "Phase II Construction Price Amendment").

1.15.1 Upon completion of Drawings and Specifications that, in the Engineer's professional judgment, are at least 75% complete, prepare and submit the following to the Owner prior to performing any portion of the Work: (a) a Procurement and Buyout Plan hereto identifying how the construction Work is to be procured, (b) the CMAR's plan for packaging the Work and which packages the CMAR proposes to self-perform, (c) a plan for satisfying any Project SBE, MBE, WBE, DBE, and LBE state or local contracting goals, if required, (d) a recommendation for receipt, opening, and evaluation of competitive bids and quotes in compliance with the Owner's procurement rules, and (e) a Risk Register and proposed basis for the CMAR's Contingency.

1.15.2 Upon completion of Task 1.15.1, and upon notification by the Owner, prepare a detailed Phase II Construction Price Proposal (each a "Phase II Construction Price Proposal") for the Work covered thereby with an open-book line-item cost breakdown on direct and indirect costs, Contingency (with its basis), and any Clarifications, Assumptions, qualifications, and exclusions based on the design milestone(s) specified herein.

1.15.2.1 The Phase II Construction Price Proposal shall remain valid for a minimum of 60 days after the Proposal, along with all required documentation, is received by the Owner.

1.15.3 Prepare and submit a cash-flow projection with the Phase II Construction Price Proposal.

1.15.4 After submission of the Phase II Construction Price Proposal, the CMAR and the Owner shall meet with the Owner to discuss and review the Phase II Construction Price Proposal and all supporting documentation in detail, negotiate in good faith, and attempt to reach agreement on the terms of the Phase II Construction Price Proposal. The CMAR shall include with each Phase II Construction Price Proposal a detailed written statement of its basis and the expiration date of the Phase II Construction Price Amendment, if any. If the Owner discovers any inconsistencies or inaccuracies in the information presented, the Owner shall promptly notify the CMAR, who shall make appropriate adjustments to the Phase II Construction Price Proposal, its basis, or both.

1.15.5 The CMAR shall include in each Phase II Construction Price Amendment (a) a final Project Construction Schedule, (b) a Phase II Construction Price summary and Construction General Conditions Cost summary, (c) a Schedule of Values, (d) a list of Allowances and alternates; (e) the Drawings and Specifications for the Work covered by such Phase II Construction Price Amendment, (f) all design, Owner, and construction Contingencies, (g) the CMAR’s list of qualifications, Assumptions, Clarifications, and exclusions, and (h) all sales, consumer, use, and similar taxes for the Work covered by such Phase II Construction Price Amendment that is performed by the CMAR and legally enacted at the time such Phase II Construction Price Amendment is executed.

1.15.6 The Phase II Construction Price for the Project, as reflected in each Phase II Construction Price Proposal and related Phase II Construction Price Amendment, shall be based on either a Lump Sum Phase II Construction Price or GMP.

1.15.7 In the event that agreement is not reached on any Phase II Construction Price Proposal or Phase II Construction Price Amendment, or any Cost Model or cost estimate exceeds the Owner’s Approved Budget for the Project and the Owner and the CMAR are unable to reach written agreement on the same, the Owner and the CMAR may each terminate the Agreement for convenience in accordance with Article 10 of the General Conditions. In the event of such termination for convenience, the CMAR shall be compensated for the portion of the CMAR’s Preconstruction or Construction Phase Services, if any, performed to the date of such termination, but the CMAR shall not be entitled to compensation for Work not performed. In such event, the CMAR shall have no obligation to perform the Scope of Work covered by such unexecuted Phase II Construction Price Amendment.

1.16 Schedule

As part of the CMAR’s Preconstruction Phase Services, no later than ten (10) days following the Engineer’s delivery to the Owner and the CMAR of a design for the Project that, in the Engineer’s professional judgment, is thirty percent (30%) complete or the Engineer’s delivery to the Owner and the CMAR of a design satisfying the percentage of completion requirements otherwise mutually agreed in writing by the Owner and the Engineer, as applicable, the CMAR shall prepare and maintain: (a) a baseline Critical Path Method (CPM) Project Construction Schedule satisfying the Project technical schedule requirements as set forth in **Exhibit G** attached hereto and incorporated herein by this reference, and (b) a Baseline Cost Model in accordance with Paragraph 1.4 hereof, in each case in form and content reasonably acceptable to the Owner (such acceptance not to be unreasonably withheld, delayed, or conditioned) based on the current progress of the design at the time of such Phase I Notice to Proceed.

1.16.1 The CMAR shall periodically update the Project Construction Schedule for the Owner’s acceptance. The Project Construction Schedule shall coordinate and integrate the CMAR’s services, the Engineer’s services, other Owner consultants’ services, and the Owner’s responsibilities and identify items that could affect the Project’s timely completion. The updated Project Construction Schedule shall include the following: (a) submission of Phase II Construction Price Proposal(s), (b) components of the Work, (c) times of commencement and completion required of each Subcontractor, (d) ordering and delivery of products, including those that must be ordered well in advance of construction, and (e) the occupancy requirements of the Owner.

1.16.2 The CMAR shall also, as part of its Preconstruction Phase Services, report on the actual versus planned progress of Preconstruction Phase Services on a biweekly basis and develop the Project Construction Schedule to a level of detail consistent with the Project’s design progression and submit Schedule updates on at least a biweekly basis and concurrently with each cost estimate.

(Remainder of page left intentionally blank.)

Exhibit C—Phase I Notice to Proceed

EXHIBIT C – NOTICE TO PROCEED

Dated: _____, 2024

TO CONTRACTOR: Archer Western Construction, LLC

ADDRESS: 2839 Paces Ferry Road, SE

Atlanta, GA 30339

CONTRACT: Cartersville WPCP Expansion to 25 MGD – PHASE I PRECONSTRUCTION SERVICES

OWNER's Contract No. XXX

You are hereby notified that the Contract Times under the above contract will commence to run on XXXXX. By that date you are to begin performing the Work and your obligations under the Contract Documents. The date of Completion for Phase I Services is XXXXX, unless modified by the Owner.

Before you may start any Work at the Site, you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must:
(add other requirements)

None.

CITY OF CARTERSVILLE

By: _____
(AUTHORIZED SIGNATURE)

(TITLE)

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Exhibit D—Phase I Early Work(s) Package(s)

To be negotiated by the Parties and incorporated through an appropriate change order.

Exhibit D.1—Phase I Early Work(s) Package(s) Amendment Form

To be negotiated by the Parties and incorporated through an appropriate change order.

Exhibit E—Phase II Construction Price Amendment

To be negotiated by the Parties and incorporated through the Phase II Construction Price Amendment.

Exhibit F—Initial Schedule of Work

To be negotiated by the Parties and incorporated through an appropriate change order.

Exhibit H—Preconstruction Phase Services Hourly Rate Schedule

EXHIBIT H

PRECONSTRUCTION PHASE SERVICES HOURLY RATE SCHEDULE

Labor Category	Hourly Rate	Preconstruction Personnel
Project Executive	\$0.00 (no charge)	David Walker
Project Manager	\$230.00	Jason Ray
Construction Manager	\$195.00	John Wilson
Superintendents	\$215.00	Scott Guentzel Joe Gustin
Preconstruction Manager	\$195.00	Greg Dills
Lead Estimator	\$175.00	Steve Cornett
Assistant Project Manager	\$175.00	Blake Barnhill
Estimators	\$150.00	Evan, Boone, Smoak
VDC Manager	\$150.00	Rhett Rutherford
Project Engineer/ Scheduler	\$125.00	Austin Alexander
Procurement Manager	\$135.00	Clay Strovinskas
Admin	\$ 70.00	Sandra Murphy

Exhibit J—Key Personnel

Project Name		Catersville WPCP Expansion to 25 MGD													
Respondent Name		Archer Western Construction, LLC													
Staff Labor Category	Project Executive	Project Manager	Construction Manager	Superintendents	Preconstruction Manager	Lead Estimator	Assistant Project Manager	Estimators	VDC Manager	Project Engineer/Scheduler	Procurement Manager	Admin	LABOR	EXPENSES	SUBTOTAL
Preconstruction Key Personnel	David Walker	Jason Ray	John Wilson	Scott Guentzel - Joe Gustin	Greg Dills	Steve Cornett	Blake Bamhill	Evans - Boone - Smoak	Rhett Rutherford	Austin Alexander	Clay Strovinskaskas	Sandra Murphy			
Years of Experience	23	15	14	25-23	30	22	5	18-15-12	4	6	12	20			
Certifications (See resumes)	DBIA - OSHA 30	DBIA - PE - OSHA 30	DBIA - OSHA 30	OSHA 30	DBIA - OSHA 30	GA Utility License	OSHA 30	OSHA 30	OSHA 30	DBIA - EIT	OSHA 30	N/A			
Hourly Billing Rate	No Charge	\$230.00	\$195.00	\$215.00	\$195.00	\$175.00	\$175.00	\$150.00	\$150.00	\$125.00	\$135.00	\$70.00			
	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS			
Task 1 - Project Management/Key Personnel/Planning	240	480	240	240	480	240	480	120	120	120	120	240	\$512,400.00	\$40,000.00	\$552,400.00
1.1 General Period of Performance - 60 Weeks															
1.2 Monthly Project Report Requirements															
1.3 Meetings and Workshops (Every 2 weeks)															
1.4 Project Kickoff Meeting															
1.5 Onboarding Meetings (4 each)															
1.6 Develop Construction Management Plan															
1.7 Develop Emergency and Site Safety Plan															
1.8 Develop Environmental Management Plan															
1.9 Develop Document Management Plan															
1.10 Provide Input on Design Decision Plan															
1.11 Develop Cost Trending Plan															
1.12 Provide Input on Permitting Plan															
1.13 - Provide Input on Draft Commissioning Plan															
Task 2 - Existing Site and Facilities Conditions Review and Verification	40	80	40	40	40	0	80	0	80	40	0	0	\$73,600.00	\$5,000.00	\$78,600.00
2.0 Period of Performance - 60 Days (Concurrent w/ Task 3)															
2.1 General Review and Verification															
2.2 Review Underground Utilities and Structures Report															
2.3 Perform Topographic Drone Survey															
2.4 Review Geotechnical Investigation Report															
2.5 Review Hazardous Materials Survey															
2.6 Develop Existing Site Investigations Report															
Task 3 - Initial Design Baseline Deliverables	40	80	20	20	40	80	80	240	20	40	40	20	\$113,200.00	\$10,000.00	\$153,200.00
3.0 Period of Performance - 19 Weeks															
3.1 Develop Baseline Cost Model Submission															
3.2 Develop Baseline Schedule															
3.3 Initial Constructability Report															
3.4 Initial Value Engineering Report															
3.5 Develop Project Procurement Plan															
3.6 Provide input on Maintenance of Plant Operations															
3.7 Electrical/I&C Precon Support (Excel & M/R Systems)														\$30,000.00	
Task 4 - 30% Design	40	80	20	20	40	80	80	240	20	40	40	20	\$113,200.00	\$10,000.00	\$163,200.00
4.0 Period of Performance - 12 weeks															
4.1 30 Percent Design Workshops															
4.2 Develop Cost Model Submission															
4.3 Develop Schedule															
4.4 Value Engineering Report															
4.5 Constructability Report															
4.6 Update Project Procurement Plan															
4.7 Cost Model Review Workshop															
4.8 Develop Bid Packages and Early Works Packages															
4.9 Risk Register Update and Workshop															
4.10 Electrical/I&C Precon Support (Excel & M/R Systems)														\$40,000.00	

Project Name		Catersville WPCP Expansion to 25 MGD													
Respondent Name		Archer Western Construction, LLC													
Staff Labor Category	Project Executive	Project Manager	Construction Manager	Superintendents	Preconstruction Manager	Lead Estimator	Assistant Project Manager	Estimators	VDC Manager	Project Engineer/Scheduler	Procurement Manager	Admin	LABOR	EXPENSES	SUBTOTAL
Preconstruction Key Personnel	David Walker	Jason Ray	John Wilson	Scott Guentzel - Joe Gustin	Greg Dills	Steve Cornett	Blake Bamhill	Evans - Boone - Smoak	Rhett Rutherford	Austin Alexander	Clay Strovinskaskas	Sandra Murphy			
Years of Experience	23	15	14	25-23	30	22	5	18-15-12	4	6	12	20			
Certifications (See resumes)	DBIA - OSHA 30	DBIA - PE - OSHA 30	DBIA - OSHA 30	OSHA 30	DBIA - OSHA 30	GA Utility License	OSHA 30	OSHA 30	OSHA 30	DBIA - EIT	OSHA 30	N/A			
Hourly Billing Rate	No Charge	\$230.00	\$195.00	\$215.00	\$195.00	\$175.00	\$175.00	\$150.00	\$150.00	\$125.00	\$135.00	\$70.00			
	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS	HRS			
Task 5 - 60% Design	40	80	20	20	40	80	80	240	20	40	40	20	\$113,200.00	\$10,000.00	\$163,200.00
5.0 Period of Performance - 18 weeks															
5.1 60 Percent Design Workshop															
5.2 Develop Cost Model Submission															
5.3 Develop Schedule															
5.4 Value Engineering Report															
5.5 Constructability Report															
5.6 Update Project Procurement Plan															
5.7 Cost Model Review Workshop															
5.8 Update Bid Packages and Early Works Packages															
5.9 Risk Register Update and Workshop															
5.10 Electrical/I&C Precon Support (Excel & M/R Systems)														\$40,000.00	
Task 6 - Work Package 1 - 90% Design and GMP	40	120	30	30	60	120	120	360	40	60	60	40	\$172,000.00	\$15,000.00	\$187,000.00
6.0 Period of Performance - 90 Days (Concurrent w/ Task 7)															
6.1 90 Percent Design Workshop															
6.2 Develop GMP Submission															
6.3 Develop GMP Schedule															
6.4 Update GMP Risk Register															
6.5 GMP Review Workshop															
6.6 Prepare Final GMP Submission and Amendment															
Task 7 - Work Package 2-4 - 90% Design and GMP	80	160	40	40	80	160	160	480	40	80	80	40	\$226,400.00	\$20,000.00	\$246,400.00
7.0 Period of Performance - 18 Weeks															
7.1 90 Percent Design Workshop															
7.2 Develop GMP Submission															
7.3 Develop GMP Schedule															
7.4 Update GMP Risk Register															
7.5 GMP Review Workshop															
7.6 Prepare Final GMP Submission and Amendment															
Subtotal Hours	520	1080	410	410	780	760	1080	1680	340	420	380	380	8240.0		
Subtotal Cost	\$0.00	\$248,400.00	\$79,950.00	\$88,150.00	\$152,100.00	\$133,000.00	\$189,000.00	\$252,000.00	\$51,000.00	\$52,500.00	\$51,300.00	\$26,600.00	\$1,324,000.00	\$220,000.00	\$1,544,000.00
General Liability @ \$8/1000														\$25,000.00	
Payment & Performance Bond														\$16,000.00	

Required Input from Bidders:

1. Labor Staff Categories and associate hourly billing rates.
2. Years of relevant experience, certifications, and other qualifications.
3. Total labor hours mapped to proposed staff categories/billing rates.
4. Billing rates are valid for the first year of the contract.

CMAR Phase 1 Fee \$1,585,000.00

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Exhibit K—Additional Required Forms

Corporate Certificate

Contractor's License Certification

E-Verify Form

Security and Immigration Compliance Act Certification

Subcontractor Affidavit Under O.C.G.A. 13-10-91(b)(3)

Non-Collusion Affidavit of Bidder

Bid Bond

Certification of Contractor's Attorney

Certification of Owner's Attorney

CORPORATE CERTIFICATE

I, Matthew M. Walsh, certify that I am the Secretary of the Corporation named as Bidder in the foregoing Bid; that David Walker, who signed said Bid on behalf of the Contractor was then Vice President of said Corporation; that said Bid was duly signed for and on behalf of said Corporation by authority of its Board of Directors, and is within the scope of its corporate powers; that said Corporation is organized under the laws of the State of Illinois.

This 2nd day of May, 2024.

Corporate Secretary: 
(name signed)

Matthew M. Walsh, IV, Corporate Secretary
(name printed or typed)

Archer Western Construction, LLC



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CONTRACTOR'S LICENSE CERTIFICATION

Bidder/Contractor's Name: Archer Western Construction, LLC

Georgia General Contractor's License Number GCCO005835

Expiration Date of License: 6/30/2024

Georgia Utility Contractor's License Number: UC302167

Expiration Date of License: 4/30/2025

Attach copies of all current licenses.

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

BIDDER: Archer Western Construction, LLC

By: 
(name signed)

David Walker
(name printed or typed)

Title: Vice President - East Water Group

Date: May 2, 2024

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STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
State Licensing Board for Residential and General Contractors
LICENSE NO. GCQA005832

Duane Michael Petersen
2839 Paces Ferry Road SE
Suite 1200
Atlanta GA 30339

Company Name: Archer Western Construction LLC
Company License NO: GCCO005835
General Contractor Qualifying Agent

EXP DATE - 06/30/2024 Status: Active
Issue Date: 02/12/2018

A pocket-sized license card is below. Above is an enlarged copy of your pocket card.
Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.
Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – www.sos.ga.gov/plb.
Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing
237 Coliseum Drive
Macon GA 31217
Phone: (404) 424-9966
www.sos.ga.gov/plb

Duane Michael Petersen
2839 Paces Ferry Road SE
Suite 1200
Atlanta GA 30339





STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
 Georgia Construction Industry Licensing Board
 LICENSE NO. UC302167
 Archer Western Construction LLC

2839 Paces Ferry Road SE
 Suite 1200
 Atlanta GA 30339

Utility Contractor

EXP DATE - 04/30/2025 Status: Active
 Issue Date: 07/21/2011

A pocket-sized license card is below. Above is an enlarged copy of your pocket card.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.

Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – www.sos.ga.gov/plb.

Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing
 237 Coliseum Drive
 Macon GA 31217
 Phone: (404) 424-9966
www.sos.ga.gov/plb

Archer Western Construction LLC
 2839 Paces Ferry Road SE
 Suite 1200
 Atlanta GA 30339



STATE OF GEORGIA
BRAD RAFFENSPERGER, Secretary of State
 Georgia Construction Industry Licensing Board
 License No. UC302167
 Archer Western Construction LLC

2839 Paces Ferry Road SE
 Suite 1200
 Atlanta GA 30339

Utility Contractor

EXP DATE - 04/30/2025 Status: Active
 Issue Date: 07/21/2011

E-Verify Form

Solicitation Name: Construction Manager at Risk Services for Pre-construction and Construction Services for Cartersville WPCP Expansion to 25 MGD, 102 Walnut Grove Road SE, Cartersville, GA 30120.

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with City of Cartersville 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 States Department of Homeland Security or any equivalent federal work authorization program operated by the United States 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 this contract with City of Cartersville, 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 substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the City of Cartersville at the time the subcontractor(s) is retained to perform such service.

The undersigned Contractor is using and will continue to use the federal work authorization program throughout the contract period.

413166
EEV/Basic Pilot Program* User Identification Number

David Walker
BY:
(Contractor Name)

David Walker 5/2/24
Authorized Officer or Agent Date

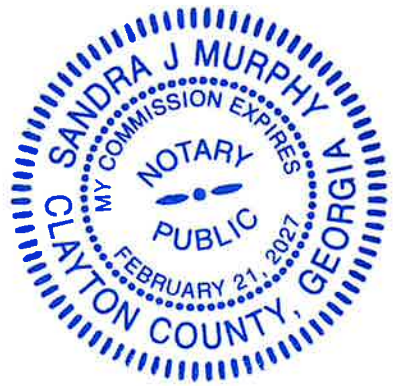
Archer Western Construction, LLC Vice President-East Water Group
Contractor/Entity Name Title of Authorized Officer or Agent of Contractor

2839 Paces Ferry Road, Suite 1200, Atlanta, GA 30339
Contractor Address

David Walker
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND
SWORN BEFORE ME
ON THIS THE
2nd DAY OF May, 2024

Sandra J. Murphy
Notary Public Sandra J. Murphy
My Commission Expires:
2/21/2027



* 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).

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SECURITY AND IMMIGRATION COMPLIANCE ACT CERTIFICATION

Pursuant to the Georgia Security and Immigration Compliance Act of 2006, Contractor understands and agrees that compliance with the requirements of OCGA 13-10-91 and Georgia Department of Labor Rule 300-10-1 et. seq. are conditions of Agreement.

By initialing in the appropriate line below, Contractor certifies that the following employee number category as identified in OCGA 13-10-91 is applicable to Contractor:

- 1. XX 500 or more employees;
- 2. _____ 100 or more employees;
- 3. _____ Fewer than 100 employees.

Contractor understands and agrees that, in the event Contractor employs or contracts with Subcontractor in connection with this Agreement, Contractor shall:

- 1. Secure from each Subcontractor an indication of the employee-number category as identified in OCGA 13-10-91; and
- 2. Secure from each Subcontractor not licensed as an Utility Contractor in the State of Georgia an attestation of Subcontractor's compliance with OCGA 13-10-91 and Georgia Department of Labor Rule 300-10-1-.02 by causing each Subcontractor to execute the attached Subcontractor Affidavit required by Georgia Department of Labor Rule 300-10-1-.08, or a substantially similar subcontractor affidavit. Contractor further understands and agrees that Contractor shall require the executed Subcontractor Affidavit, if applicable, to become a part of the agreement between Contractor and each Subcontractor. Contractor agrees to maintain records of each Subcontractor attestation required hereunder for inspection by Owner.

David Walker
 BY: Authorized Officer or Agent
Vice President-East Water Group
 Title of Authorized Officer or Agent if Contractor
David Walker
 Printed Name of Authorized Officer or Agent

May 2, 2024
 Date

Subscribed and Sworn Before Me on this 2nd day of May 2024

Sandra J. Murphy
 Notary Public Sandra J. Murphy
 My Commission Expires: 2/21/2027



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SUBCONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91(b)(3)

By executing this affidavit, the undersigned subcontractor verifies its compliance with 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 CITY OF CARTERSVILLE 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 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 subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor, the undersigned subcontractor will forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

52893
Federal Work Authorization User Identification Number
9/5/2007
Date of Authorization
Excel Electrical Technologies, Inc.
Name of Subcontractor
Cartersville WPCP Expansion to 25 mgd
Name of Project
City of Cartersville, GA
Name of Public Employer

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

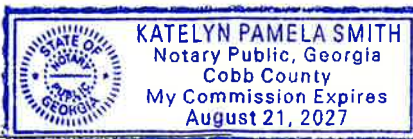
Executed on April, 30, 2024, Kennesaw, GA

[Signature]
Signature of Authorized Officer or Agent
Darren Lodge, Chief Operating Officer
Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE 30 DAY OF April, 2024.

KateLyn Pamela Smith
NOTARY PUBLIC

My Commission Expires: August 21st, 2027



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NON-COLLUSION AFFIDAVIT OF BIDDER

STATE OF GEORGIA

COUNTY OF CLAYTON

David Walker, being first duly sworn, deposes and says that:

He or she is Vice President-East Water Group of
(Owner, Partner, Officer, Representative or Agent)

Archer Western Construction, LLC, the Bidder that has submitted the attached Bid;

He or she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

Such Bid is genuine and is not a collusive or sham Bid;

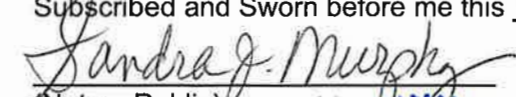
Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this Affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Cartersville or any person interested in the proposed Contract; and

The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this Affiant.

(Signed) 

(Title) Vice President - East Water Group

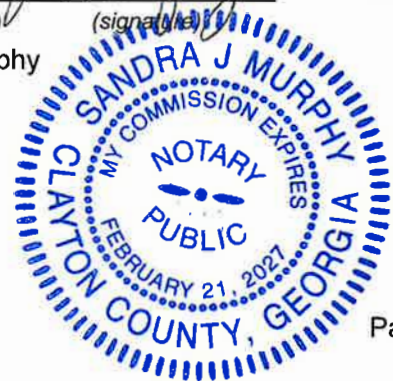
Subscribed and Sworn before me this 2nd day of May, 2024.


(Notary Public) *(signature)*

My Commission Expires: 2/21/2027

Sandra J. Murphy

(SEAL)



BID BOND

PENAL SUM FORM

BIDDER:

Archer Western Construction, LLC

SURETY:

Travelers Casualty and Surety Company of America

OWNER:

City of Cartersville
1 N. Erwin Street
Cartersville, Georgia, 30120

BID

PROPOSAL DUE DATE: May 2, 2024

PROJECT: Cartersville WPCP Expansion to 25 mgd

The Project will result in construction of facilities to expand the capacity of the WPCP from 15 to 25 mgd (maximum month basis). The project will include a new 55-mgd influent pump station and headworks facility, two 6-MG prestressed concrete equalization tanks, two new bioreactors, new blower building and blower equipment, two new 135-ft diameter clarifiers, two new tertiary filters, a new UV disinfection facility with Parshall flume and sodium hypochlorite feed system, new outfall line and diffuser, an additional belt filter press and associated equipment, provisions for a future dryer, new septage receiving station, additional alum storage and feed equipment, modifications to the existing RAS pump station, new electrical switchgear building, two new standby power generators, and all associated sitework, yard piping, stormwater, structural, mechanical, architectural, electrical, and instrumentation and control improvements.

BOND

BOND NUMBER 5676997

DATE: (Not later than Proposal Due Date): May 2, 2024

PENAL SUM: 5 PERCENT OF PHASE I FEE

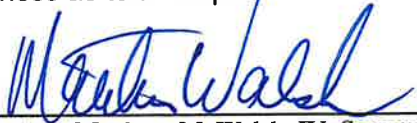
IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the following terms hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

TERMS OF BID BOND

1. Bidder and Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Request for Proposals (RFP) Documents the executed Agreement required by the Bidding Documents, any Performance and Payment Bonds, and Certification of Insurance required by the RFP Documents and Contract Documents.
3. This obligation shall be null and void if:
 - a. Owner accepts Bidder's Proposal and Bidder delivers within the time required by the RFP Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the RFP Documents, any Performance and Payment Bonds and Certification of Insurance required by the RFP Documents and Contract Documents, or
 - b. All proposals are rejected by Owner, or
 - c. Owner fails to issue a Notice of Award to Bidder within the time specified in the RFP Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the time for issuing Notice of Award including extensions shall not in the aggregate exceed 60 days from the Proposal Due Date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one year after Proposal Due Date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

- 9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.
- 10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirements of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
- 11. The term "bid" as used herein includes a bid, offer or proposal as applicable.

Witness as to Principal:


 (signature) Matthew M. Walsh, IV, Secretary


Archer Western Construction, LLC

Principal


By:  (SEAL)
 (signature) Daniel P. Walsh

Title: President

Witness as to Surety:


 (signature) Ron Phillips, Witness

Travelers Casualty and Surety Company of America
Surety

By:  (signature) Joshua Smith,
 Attorney-in-Fact Attorney-in-Fact

929 W. Adams Street

Chicago, IL 60607

Address of Attorney-in-Fact

Note: Surety companies executing Bonds must be in good standing according to the latest published United States Treasury Circular 570 and be authorized to transact business in the state where the Project is located.



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint Joshua Smith of CHICAGO, Illinois, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026



[Signature]
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 2nd day of May, 2024.



[Signature]
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached

CERTIFICATION OF CONTRACTOR’S ATTORNEY

The undersigned Contractor hereby certifies one of the following:

_____ (initial) Prior to execution and delivery of the contract contained herein, the attorney has examined the attached contract, any applicable performance and payment bonds and the manner of execution thereof, as well as all other documents attached hereto and is of the opinion that upon the execution and delivery of these documents, same will constitute a valid and legally binding obligation of the undersigned contractor in accordance with the terms, conditions and provisions thereof.

Typed Name of Attorney

Signature of Attorney

Date: _____

_____ (initial) The undersigned contractor has an attorney but has not obtained any legal opinion regarding the execution and delivery of these documents.

_____ (initial) The undersigned contractor does not have an attorney and has elected not to engage an attorney regarding the execution and delivery of this contract and attached documents.

CONTRACTOR

Name of Contractor: _____

By: _____

Title: _____

Attest: _____

Title: _____

[SEAL]

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CERTIFICATION OF OWNER’S ATTORNEY

I, the undersigned _____, the duly authorized and acting legal representative of CITY OF CARTERSVILLE, do hereby certify as follows:

Prior to execution and delivery thereof by City of Cartersville, I have examined the attached contract and any applicable performance and payment bonds and the manner of execution thereof, and I am of the opinion that upon the correction of any matters noted hereon, the foregoing contract will be ready for execution and upon execution and delivery will constitute a valid and legally binding obligation of City of Cartersville in accordance with the terms, conditions, and provisions thereof.

Date: _____

Typed Name

Signature

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CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Resolutions
DEPARTMENT NAME:	Electric
AGENDA ITEM TITLE:	MEAG Power Election Committee Delegates
DEPARTMENT SUMMARY RECOMMENDATION:	Municipal Electric Authority of Georgia (MEAG Power) is requesting that the City name their selections for the 2024 MEAG Power Membership Election Committee by Resolution. It is our recommendation that we name Matthew J. Santini as our Voting Delegate and Tom McKee as our Alternate Voting Delegate.
LEGAL:	N/A

TO: Municipal Electric Authority of Georgia (MEAG Power) Participants (Key Contacts List) and Election Committee Members

FROM: John Howard, City of Monroe, Election Committee Chairperson

DATE: June 27, 2024

RE: Second Notice of 2024 MEAG Power Annual Election

This memo is a second notice that the 2024 MEAG Power Annual Election will be held on Tuesday, **July 30, 2024**, at **8:00 a.m.** in the Plaza 2 Ballroom of The Ritz-Carlton Resort on Amelia Island. Please note that the Election is once again is being held at the location of the MEAG Power Annual Meeting prior to MEAG Power’s Annual Board Meeting, which is scheduled for July 31, 2024.

The Election is for the three expiring, three year term board member positions currently held by Terrell Jacobs, Steve Tumlin and Bill Yearta.

Attached is a list of the Election Committee delegates and alternates for each Participant. **If your delegate or alternate is different** from the names on the attached list or **no delegate or alternate is listed** for your community, a certified copy of a resolution naming the delegate and alternate for MEAG Power Elections should be sent to the following address **to be received by July 22nd:**

MEAG Power
1470 Riveredge Pkwy.
Atlanta, Georgia 30328
Attn: Peter M. Degnan, Sr. V.P. & General Counsel
pdegnan@meagpower.org

If you would like to nominate a person to one of the positions to be filled, have a delegate participate in the Annual Election and prepared to do so. You are still free to contact other members of the Election Committee prior to the Election advising them of persons you plan to nominate. Please note that members of the Election Committee are not eligible to run for election to the MEAG Power board. Accordingly, if you would like to nominate a current member of the Election Committee to run for one of the positions to be filled, please have the resolution mentioned above adopted and returned as indicated appointing a new delegate or alternate, as applicable, in lieu of such current member of the Election Committee.

Also, enclosed is a list showing the distribution of votes for this Election. Please contact Peter M. Degnan at 770-661-2893 or pdegnan@meagpower.org with any questions. Thank you

A RESOLUTION

BE IT RESOLVED by the Mayor and City Council of the City of _____ that _____ is hereby appointed to serve as this City's voting delegate on the Municipal Electric Authority of Georgia's Election Committee, with authority to cast all votes to which this City is entitled. _____ is appointed as alternate voting delegate.

This _____ day of _____, 2024.

CITY OF _____

ATTEST:

Mayor

Clerk

Councilmember *

Councilmember *

[SEAL]

* Additional council signatures optional.



Distribution of Votes - For the Election Year 2024 Based on the Power Supply Year 2023

Pursuant to the Official Code of GA. ANN.
Section 46-3-117(B)
Using YES versions

	Power Supply Year 2023			Composition of Electoral Votes				Comparison to Previous Power Supply Year		
	Total Delivered Energy	SEPA	Net Bulk	Fixed Vote	% of Bulk Power Energy	Fractional Vote	Total Vote	2024	2023	% Difference
1 Adel	182,424,780	-	182,424,780	1.00	1.605%	0.78645	1.786	1.786	2.150	-16.93%
2 Albany	890,510,782	98,148,119	792,362,663	1.00	6.969%	3.41481	4.415	4.415	4.411	0.09%
3 Barnesville	88,642,220	4,251,532	84,390,688	1.00	0.742%	0.36358	1.364	1.364	1.504	-9.31%
4 Blakely	74,348,503	-	74,348,503	1.00	0.654%	0.32046	1.320	1.320	1.336	-1.20%
5 Brinson	1,733,232	251,936	1,481,296	1.00	0.013%	0.00637	1.006	1.006	1.006	0.00%
6 Buford	216,684,972	3,801,185	212,883,787	1.00	1.873%	0.91777	1.918	1.918	1.978	-3.03%
7 Cairo	140,685,401	10,089,066	130,596,335	1.00	1.149%	0.56301	1.563	1.563	1.560	0.19%
8 Calhoun	361,800,778	12,359,074	349,441,703	1.00	3.074%	1.50626	2.506	2.506	2.580	-2.87%
9 Camilla	136,397,233	9,796,668	126,600,565	1.00	1.114%	0.54586	1.546	1.546	1.549	-0.19%
10 Cartersville	590,941,909	27,674,118	563,267,792	1.00	4.955%	2.42795	3.428	3.428	3.526	-2.78%
11 College Park	587,204,057	25,103,879	562,100,178	1.00	4.945%	2.42305	3.423	3.423	3.422	0.03%
12 Commerce	58,459,094	7,189,880	51,269,214	1.00	0.451%	0.22099	1.221	1.221	1.228	-0.57%
13 Covington	464,160,644	15,137,516	449,023,128	1.00	3.950%	1.93550	2.936	2.936	2.951	-0.51%
14 Crisp County	352,434,024	29,152,429	323,281,595	1.00	2.844%	1.39356	2.394	2.394	2.593	-7.67%
15 Doerun	7,832,268	1,014,911	6,817,357	1.00	0.060%	0.02940	1.029	1.029	1.031	-0.19%
16 Douglas	354,037,684	16,425,246	337,612,438	1.00	2.970%	1.45530	2.455	2.455	2.249	9.16%
17 East Point	477,463,853	54,031,787	423,432,066	1.00	3.725%	1.82525	2.825	2.825	2.904	-2.72%
18 Elberton	151,955,528	18,469,426	133,486,102	1.00	1.174%	0.57526	1.575	1.575	1.536	2.54%
19 Ellaville	25,756,783	1,510,292	24,246,490	1.00	0.213%	0.10437	1.104	1.104	1.107	-0.27%
20 Fairburn	99,732,635	2,902,450	96,830,184	1.00	0.852%	0.41748	1.417	1.417	1.424	-0.49%
21 Fitzgerald	191,217,525	-	191,217,525	1.00	1.682%	0.82418	1.824	1.824	2.179	-16.29%
22 Forsyth	91,090,420	6,002,009	85,088,410	1.00	0.748%	0.36652	1.367	1.367	1.486	-8.01%
23 Fort Valley	137,493,294	15,194,299	122,298,995	1.00	1.076%	0.52724	1.527	1.527	1.545	-1.17%
24 Grantville	11,900,444	758,410	11,142,034	1.00	0.098%	0.04802	1.048	1.048	1.050	-0.19%
25 Griffin	431,813,088	29,296,018	402,517,070	1.00	3.541%	1.73509	2.735	2.735	2.838	-3.63%
26 Hogansville	28,077,894	-	28,077,894	1.00	0.247%	0.12103	1.121	1.121	1.120	0.09%
27 Jackson	46,204,311	3,335,175	42,869,136	1.00	0.377%	0.18473	1.185	1.185	1.294	-8.42%
28 LaFayette	133,403,641	10,660,159	122,743,483	1.00	1.080%	0.52920	1.529	1.529	1.539	-0.65%
29 LaGrange	528,605,040	27,584,049	501,020,991	1.00	4.407%	2.15943	3.159	3.159	3.213	-1.68%
30 Lawrenceville	339,589,125	7,736,822	331,852,303	1.00	2.919%	1.43031	2.430	2.430	2.425	0.21%
31 Mansfield	7,337,540	611,558	6,725,982	1.00	0.059%	0.02891	1.029	1.029	1.030	-0.10%
32 Marietta	967,942,998	59,975,055	907,967,943	1.00	7.986%	3.91314	4.914	4.914	5.029	-2.29%
33 Monroe	156,243,577	13,565,872	142,677,704	1.00	1.255%	0.61495	1.615	1.615	1.629	-0.86%
34 Monticello	24,932,920	2,962,497	21,970,423	1.00	0.193%	0.09457	1.095	1.095	1.225	-10.61%
35 Moultrie	202,379,514	24,976,607	177,402,906	1.00	1.561%	0.76489	1.765	1.765	1.781	-0.90%
36 Newnan	364,639,397	11,121,600	353,517,797	1.00	3.110%	1.52390	2.524	2.524	2.619	-3.63%
37 Norcross	101,929,038	2,801,286	99,127,752	1.00	0.872%	0.42728	1.427	1.427	1.440	-0.90%
38 Palmetto	42,652,874	1,489,406	41,163,467	1.00	0.362%	0.17738	1.177	1.177	1.171	0.51%
39 Quitman	54,422,583	7,144,192	47,278,391	1.00	0.416%	0.20384	1.204	1.204	1.215	-0.91%
40 Sandersville	723,908,358	8,062,508	715,845,850	1.00	6.297%	3.08553	4.086	4.086	3.042	34.32%
41 Sylvania	585,159,584	-	585,159,584	1.00	5.147%	2.52203	3.522	3.522	4.120	-14.51%
42 Sylvester	74,438,290	6,376,645	68,061,645	1.00	0.599%	0.29351	1.294	1.294	1.292	0.15%
43 Thomaston	122,309,623	12,402,803	109,906,820	1.00	0.967%	0.47383	1.474	1.474	1.509	-2.32%
44 Thomasville	549,292,412	40,422,186	508,870,226	1.00	4.476%	2.19324	3.193	3.193	3.087	3.43%
45 Washington	564,895,347	-	564,895,347	1.00	4.969%	2.43481	3.435	3.435	2.134	60.97%
46 West Point	139,401,443	7,556,031	131,845,412	1.00	1.160%	0.56840	1.568	1.568	1.407	11.44%
47 Whigham	5,746,389	514,963	5,231,425	1.00	0.046%	0.02254	1.023	1.023	1.023	0.00%
48 Oxford	18,561,893	738,830	17,823,064	1.00	0.157%	0.07693	1.077	1.077	1.078	-0.09%
49 Acworth	101,627,233	3,715,685	97,911,548	1.00	0.861%	0.42189	1.422	1.422	1.435	-0.91%
TOTAL	12,010,422,174	642,314,181	11,368,107,992	49.00	100.000%	49.00	98.000	98.000	98.000	0.00%

MEMBERS
MEAG MEMBERSHIP ELECTION
COMMITTEE as of 06/24/2024

Meeting: July 18, 2024 Item 14.

Participant	Delegate	Alternate
Acworth	Timothy E. Richardson	James Albright
Adel	Luther L. Duke, III	Mark Barber
Albany	Kisa Collier	Brenda Battle
Barnesville	Timothy T. Turner	Tammy M. York
Blakely	Mayor Travis Wimbush	Melinda Crook
Brinson	James Earp	Hardy Powell
Buford	Stacy Rolin	Bryan Kerlin
Cairo	Julian Brown	Rod Prince
Calhoun	James F. Palmer	Ray Denmon
Camilla	Dennis Stroud	Kelvin Owens
Cartersville	Matthew J. Santini	Derek Hampton
College Park	Jamelle McKenzie	Hugh Richardson
Commerce	J. Clark Hill	Mark Fitzpatrick
Covington	Joel Smith	Tres Thomas
Crisp County	Warren Ray Hughes	Alissa Wilkerson
Doerun	Kevin Branch	Mike Campbell
Douglas	Tony L. Paulk	Robert Moore
East Point	Myron B. Cook	Shawn Dowe
Elberton	R. Daniel Graves	Lanier Dunn
Ellaville	Lynne McChargue	David Theiss
Fairburn	Elizabeth Carr-Hurst	Hiram Alex Heath
Fitzgerald	Terrance Paulk	Robert Levenson
Forsyth	Mike Dodd	Greg Goolsby
Fort Valley Utility Commission	Alrè Horton	Clay Walker
Grantville	Richard Proctor	Casey Evans
Griffin	Douglas S. Hollberg	Jennifer Freeman
Hogansville	Mayor Jacob Ayers	Lisa Kelly
Jackson	Mayor Carlos Duffey	Sylvia Redic
LaFayette	Phillip A. Arnold	Ben Bradford
LaGrange	Jim Arrington	Nathan Gaskin
Lawrenceville	Huston Gillis	Chuck Warbington
Mansfield	G.W. Davis, Jr	Blair Northen
Marietta	Andy Morris	Ron Mull
Monroe	John S. Howard**	Larry A. Bradley
Monticello	Larry Thurman	
Moultrie	Cecil Barber	Marci Meadows
Newnan	Rhodes Shell	Dustin Koritko
Norcross	Craig Newton	Eric Johnson
Oxford	David S. Eady	James Windham
Palmetto	J. Clark Boddie	Laura Mullis
Quitman	Mayor Zinda McDaniel	Mark DeVane
Sandersville	James W. Andrews	Judy McCorkle
Sylvania	Stacy F. Mathis	Preston Dees
Sylvester	Harold Proctor, Jr.	Autron Hayes
Thomaston	J.D. Stallings	Russell Thompson

MEMBERS
MEAG MEMBERSHIP ELECTION
COMMITTEE as of 06/24/2024

Meeting: July 18, 2024 Item 14.

Thomasville	Chris White	Sheryl Sealy
Washington	Maceo Mahoney	Charles Wagner
West Point	Ed Moon	A. Drew Ferguson IV
Whigham	Jimmie Laing	Jim Sellers
**John Howard - Chairman - MEAG Power Election Board		



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Award/Purchases
DEPARTMENT NAME:	FiberCom
AGENDA ITEM TITLE:	Office 365 Renewal #1
DEPARTMENT SUMMARY RECOMMENDATION:	The FiberCom Department requests the purchase of Microsoft Office 365 renewal. This is the system used for office productivity applications as well as email communications. The total amount is \$14,064.00 from Converge Technology Solutions. This is a budgeted item, and we recommend this purchase for your approval.
LEGAL:	N/A



130 Technology Parkway, Peachtree Corners, GA 30092

Meeting: July 18, 2024 Item 15.

INVOICE

Page: 1

Mailing Address
Converge Technology Solutions US, LLC
6 Blackstone Valley Place
Suite 205
Lincoln, RI 02865
United States

Invoice Number: PSI-CTS077707
Sales Order No. SO-CTS044275
Invoice Date: 07/01/2024
Due Date 7/30/2024

Bill
To: CITY OF CARTERSVILLE
PO BOX 1390
1 NORTH ERWIN ST
CARTERSVILLE, GA 30120
United States

Ship
To: CITY OF CARTERSVILLE
PO BOX 1390
1 NORTH ERWIN ST
CARTERSVILLE, GA 30120
United States

P.O. Number	Ship Via	Terms	SalesPerson
MONTHLY CSP		Net 30	Tennessee Lockman

Product	Description	Qty	Unit Price	Amount	Tax Amt
4C33-AE11-D54F7A54CE	Exchange Online (Plan 1) for GCC (CSP GCC 1YR ANN)	50	48.00	2,400.00	
	Start Date: 06/14/24 End Date: 06/14/25				
48DC-B12B-297A175422	Office 365 G3 GCC (CSP GCC 1YR ANN)	39	276.00	10,764.00	
	Start Date: 06/14/24 End Date: 06/14/25				
8DC7-5C29EAC40AC5	Visio Plan 2 for GCC (CSP GCC 1YR ANN)	5	180.00	900.00	
	Start Date: 06/14/24 End Date: 06/14/25				

Converge Technology Solutions US, LLC

Updated details as of September 2022
PO Box 23623 New York, NY 10087-3623

Amount Subject to Sales Tax USD 0.00
Amount Exempt from Sales Tax 14,064.00

ACH: 072000326 Wire: 021000021 Acct: 862561872
ACQ-REMIT@convergetp.com

Subtotal:	14,064.00
Freight:	0.00
Sales Tax:	0.00
Total USD:	14,064.00

382



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Award/Purchases
DEPARTMENT NAME:	FiberCom
AGENDA ITEM TITLE:	Office 365 Renewal #2
DEPARTMENT SUMMARY RECOMMENDATION:	The FiberCom Department requests the purchase of a Microsoft Office 365 yearly renewal. This is the system used for office productivity applications as well as email communications and system security. The total amount is \$88,037.95 from CDWG. This is a budgeted item, and we recommend this purchase for your approval.
LEGAL:	N/A



Thank you for choosing CDW. We have received your quote.

Meeting: July 18, 2024 Item 16.

Hardware Software Services IT Solutions Brands Research Hub

QUOTE CONFIRMATION

STEVEN GRIER,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NWTM869	5/15/2024	ANNUAL PAYMENT	11372497	\$88,037.95

IMPORTANT - PLEASE READ

Special Instructions: ANNUAL PAYMENT DUE 7/28/2024
EA 53454982
TERMS 8/1/2024 7/31/2025

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Microsoft Defender for Endpoint Plan 2 - subscription license - 1 user Mfg. Part#: 7KB-00001-12-SLG TERMS 8/1/2024 7/31/2025 Electronic distribution - NO MEDIA Contract: State of Georgia Software (99999-SPD-SPD0000060-0004)	265	6706236	\$56.95	\$15,091.75
MS EA 0365 E3 GCC P USER Mfg. Part#: AAA-11894-12-SLG TERMS 8/1/2024 7/31/2025 Electronic distribution - NO MEDIA Contract: State of Georgia Software (99999-SPD-SPD0000060-0004)	250	3753337	\$246.11	\$61,527.50
Microsoft Audio Conferencing Select Dial Out - subscription license - 1 lic Mfg. Part#: NYH-00001-12-SLG TERMS 8/1/2024 7/31/2025 Electronic distribution - NO MEDIA Contract: MARKET	250	6976615	\$0.00	\$0.00
Microsoft Defender for Endpoint Server - subscription license - 1 license Mfg. Part#: 7JI-00001-12-SLG TERMS 8/1/2024 7/31/2025 Electronic distribution - NO MEDIA Contract: State of Georgia Software (99999-SPD-SPD0000060-0004)	60	6398425	\$56.95	\$3,417.00
Microsoft Exchange Online Plan 1 - subscription license - 1 user Mfg. Part#: 3MS-00001-12-SLG TERMS 8/1/2024 7/31/2025 Electronic distribution - NO MEDIA Contract: State of Georgia Software (99999-SPD-SPD0000060-0004)	16	3083170	\$38.65	\$618.40

QUOTE DETAILS (CONT.)

MS EA O365 E3 GCC P USER 30 3753337 \$246.11 \$7,383.30
 Mfg. Part#: AAA-11894-12-SLG
 TERMS 8/1/2024 7/31/2025
 Electronic distribution - NO MEDIA
 Contract: State of Georgia Software (99999-SPD-SPD0000060-0004)

SUBTOTAL	\$88,037.95
SHIPPING	\$0.00
SALES TAX	\$0.00
GRAND TOTAL	\$88,037.95

PURCHASER BILLING INFO	DELIVER TO
Billing Address: CITY OF CARTERSVILLE ACCTS PAYABLE 1 N ERWIN ST CARTERSVILLE, GA 30120-3121 Phone: (770) 387-5621 Payment Terms: Net 30 Days-Govt State/Local	Shipping Address: CITY OF CARTERSVILLE ATTN:STEVEN GRIER 1 N ERWIN ST CARTERSVILLE, GA 30120-3121 Phone: (770) 387-5621 Shipping Method: ELECTRONIC DISTRIBUTION
	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515



Sales Contact Info

Aaron McDonald | (866) 902-9456 | aaron.mcdonald@cdwg.com

LEASE OPTIONS			
FMV TOTAL	FMV LEASE OPTION	BO TOTAL	BO LEASE OPTION
\$88,037.95	\$2,523.17/Month	\$88,037.95	\$2,885.00/Month

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

Why finance?

- Lower Upfront Costs. Get the products you need without impacting cash flow. Preserve your working capital and existing credit line.
- Flexible Payment Terms. 100% financing with no money down, payment deferrals and payment schedules that match your company's business cycles.
- Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.
- Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term and choose to return or purchase the equipment at end of lease.
- Bundle Costs. You can combine hardware, software, and services into a single transaction and pay for your software licenses over time! We know your challenges and understand the need for flexibility.

General Terms and Conditions:

This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a d from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

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My Account



Support



Call 800.800.4239

Apple Terms and Conditions

Customer's use of iCloud, the Products or either of their incumbent software or functionality is subject to compliance with all end user licenses agreements ("EULAs"), Product terms and conditions, and iCloud terms and conditions (available at www.apple.com/legal/internet-services/icloud/en/terms.html) and any other terms and conditions provided by Apple. Customer shall not use the Products, iCloud Storage APIs and iCloud service, or any component or function thereof, (i) to create, receive, maintain, or transmit protected health information (as defined at 45 C.F.R § 160.103); or (ii) in any manner that would make Apple or any other third-party distributor, supplier, or provider of those technologies a business associate, as defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") at 45 C.F.R. § 160.103, of the Reseller or any third party. If Customer is purchasing AppleCare, Customer agrees to the following terms and conditions: (i) Service Plan Terms and Conditions. Customer agrees to the Service Plan Terms and Conditions available at www.apple.com/legal/sales-support/applecare/os-reseller-support/; (ii) Customer Responsibilities. Customer must be actively enrolled in AppleCare for Enterprise in order to purchase a Support Incident and receive Support Services thereunder. Customer will cooperate with Reseller when seeking Support Services by providing information necessary to assist Reseller in diagnosing an issue. Customer is responsible for any and all restoration or reconstruction of lost or altered files, data or programs. Customer will maintain and implement a complete data backup and disaster recovery plan. Customer is solely responsible for any and all security of confidential, proprietary or classified information of Customer and any third parties whose data Customer possesses or processes. Customer will not disclose to Reseller confidential, proprietary or any information that is subject to intellectual property rights that may expose Reseller to liability; and (iii) Data Protection. Customer agrees and understands that it is necessary for Reseller to collect, process and use Customer data in order to perform the service and support obligations under the Support Incident. This may include transferring Customer data to affiliated companies, service providers, and/or Apple.

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This order is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdw.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager.

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CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Award/Purchases
DEPARTMENT NAME:	FiberCom
AGENDA ITEM TITLE:	Laserfiche Renewal
DEPARTMENT SUMMARY RECOMMENDATION:	This item is a budgeted annual renewal for our Laserfiche document imaging system. This is a cloud-based system that we use for document retention. The total amount is \$9,886.00 from MCCi and it is recommended for your approval.
LEGAL:	N/A



Bill To: City of Cartersville Attention: Steven Grier PO Box 1390 Cartersville, GA 30120	Invoice Number RN18508 Invoice Date 7/1/2024 PO Number Payment Terms Net 30 Customer ID CARTERGA01 End Customer ID Cartersville
Reference: Annual Billing for 2024-2025	

Laserfiche Cloud Renewal Coverage Period: 9/12 - 9/11

Description	Extended Amount
Subscription-Cloud (LF)	
Product Group Total	\$8,500.00
Supplemental Support Subscription (LF)	
Product Group Total	\$1,386.00
Subtotal	\$9,886.00
Downpayment Applied	-\$0.00
Sales Tax	\$0.00
Total Due	\$9,886.00

Electronic Payment Information: MCCI, LLC c/o Enterprise Bank ABA: 081006162 Account: 1293909 (800) 342-2633	Thank you for your business.	Mail-in Payment Information MCCI, LLC c/o Enterprise Bank P.O. Box 790379 St. Louis, MO 63179-0379 (800) 342-2633
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3717 Apalachee Parkway, Suite 201
Tallahassee, FL 32311



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Award/Purchases
DEPARTMENT NAME:	FiberCom
AGENDA ITEM TITLE:	Mimecast Renewal
DEPARTMENT SUMMARY RECOMMENDATION:	This item is a budgeted annual support renewal for our Mimecast email security solution. This service provides cloud-based email threat protection for the City of Cartersville. The total amount is \$38,878.04 from SHI and it is recommended for your approval.
LEGAL:	N/A



Pricing Proposal
 Quotation #: 24944483
 Created On: 6/6/2024
 Valid Until: 6/30/2024

GA City of Cartersville

**Inside Public Sector
 Account Executive**

Steven Grier
 P.O. Box 1390
 Cartersville, GA 30120
 United States
 Phone: 770.387.5608
 Fax:
 Email: sgrier@cartersvillega.gov

Nicholas Furciato
 290 Davidson Ave
 Somerset, NJ 08873
 Phone: 800-527-6389 ext x.555-XXXX
 Fax:
 Email: Nicholas_Furciato@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Mimecast M3R Mimecast - Part#: M_M3R_250_A Contract Name: Open Market Contract #: Open Market Coverage Term: 9/10/2024 – 9/10/2025 Note: Mimecast M3R	350	\$75.48	\$26,418.00
2 Cybergraph for SEG Mimecast - Part#: M_CYBERG-SEG_A Contract Name: Open Market Contract #: Open Market Coverage Term: 9/10/2024 – 9/10/2025 Note: Mimecast Cybergraph	350	\$22.57	\$7,899.50
3 Add On- Secure Messaging Mimecast - Part#: M_SM_A Contract Name: Open Market Contract #: Open Market Coverage Term: 9/10/2024 – 9/10/2025 Note: Mimecast Secure Messaging	10	\$40.61	\$406.10
4 Advanced Support Mimecast - Part#: M_ADV-SP_A Contract Name: Open Market Contract #: Open Market Coverage Term: 9/10/2024 – 9/10/2025 Note: Mimecast Support	1	\$4,154.44	\$4,154.44
		Total	\$38,878.04

Additional Comments

This manufacturer has the potential for auto-renewal. You will receive an automated notification prior to the cancellation deadline informing you of the upcoming renewal date. If SHI doesn't receive written confirmation to cancel the renewal within the

manufacturer's required time period prior to the renewal date, SHI will automatically be invoiced against the original PO. If your company requires a new PO, please be sure to provide that prior to invoicing.

Mimecast has a no returns policy.

Please Note: all MIMICAST maintenance/subscriptions are auto-renewed and require cancellation prior to 90 days of the executed renewal date.

SHI SPIN: #143012572

SHI-GS SPIN (For Texas customers ONLY): #143028315

For E-rate SPI orders, applicant shall be responsible for payment of any outstanding or ineligible costs if USAC rejects reimbursement claim in whole or in part.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are Open Market and resold in accordance with the terms and conditions at [SHI Online Customer Resale Terms and Conditions](#).



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Award/Purchases
DEPARTMENT NAME:	Administrative Department
AGENDA ITEM TITLE:	Painting and Drywall Repair
DEPARTMENT SUMMARY RECOMMENDATION:	This item is for repainting and drywall repair in the City Manager’s Office Basement. The quote for this repair is \$10,800.00 from Scott Edwards Painting LLC. This item is not budgeted; however, funds are available, and it is recommended for approval.
LEGAL:	N/A

Jul 16

Meeting: July 18, 2024 Item 19.



Scott Edwards Painting LLC

ESTIMATE

6/13/24

Company Address: 20 Gaddis Rd. NW, Cartersville GA. 30120
 Phone Number • 404-391-0773
 Email Address • Scotte1020@gmail.com

BILL TO	SHIP TO
City of Cartersville	
City Hall Building	

DESCRIPTION	QTY	LABOR/ MATERIALS	AMOUNT
Interior Basement: 2 Stairwell, Paint all walls/ceiling with SW Super Paint flat/satin. Paint all steps with SW Pro Classic oil base satin.			
Trim: Paint all trim with SW Pro Classic oil base satin			
All Walls: Paint all walls with SW Super Paint flat/satin			
Trim includes the following: Doors, Door Frames, Baseboards if needed, Sheet-Molding if needed, Handrails			
NOTE: Drywall repairs as needed			
Cost including labor and materials			

Subtotal	\$10,800
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* can start wk of Aug 22nd

Discounts	0.00
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Total	\$10,800
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CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Bid Awards/Purchases
DEPARTMENT NAME:	Administration
AGENDA ITEM TITLE:	Annual Membership in the Northwest GA Regional Commission
DEPARTMENT SUMMARY RECOMMENDATION:	<p>The annual membership for Northwest Georgia Regional Commission is due for renewal.</p> <p>It is a budgeted expense of \$24,937.00 for the fiscal year July 1, 2024, through June 30, 2025.</p>
LEGAL:	N/A

July 1, 2024

Honorable Matt Santini
Mayor of Cartersville
P.O. Box 1390
Cartersville, GA 30120-1390

The Northwest Georgia Regional Commission serves 15 counties and 48 municipalities, and includes the second-largest population in the state with nearly 1 million residents. We are pleased to have Mayor of Cartersville among the local governments we serve.

We consider ourselves an extension of our local government members, and stand ready to assist you in any way possible. We are willing to make a county-specific presentation to your governing body or local civic club(s) detailing the programs NWGRC administers.

Our purpose is to serve our member local governments. Please let us know if you have any questions, or need assistance.

Your FY2025 annual dues statement is enclosed. The fiscal year begins July 1. Thank you for your continued support. Please call if we may be of assistance to you.

Sincerely,



Greg Hogan, Chair
Murray County Commissioner



Boyd Austin, Executive Director

Enclosure

cc: Mr. Tom Rhinehart, City of Cartersville Finance Director

Rome Office: PO Box 1798 | Rome, GA 30162

Dalton Office: 503 West Waugh Street | Dalton, GA 30720

*An Equal Opportunity Employer
Programs/Auxiliary Aids/Services Available Upon Request to Individuals with Disabilities*



706.295.6485
nwgrc.org

Northwest Georgia Regional Commission

PO Box 1798
 Rome, Georgia 30162-1798
 (706) 295-6485

INVOICE

DATE: 7/01/2024
NUMBER: 3664

TO:
 City of Cartersville
 PO Box 1390
 Cartersville, GA 30120

FOR:
 Membership and participation in the
 Northwest Georgia Regional Commission

Description	Amount
<p>Annual assessment for the Fiscal Year July 1, 2024 through June 30, 2025</p> <p style="text-align: right;">Population x Dues Rate 24,937 x 1.00</p> <p>Source: U.S. Census Bureau, Population Division Population Estimates as of July 1, 2022</p> <p>Please make payment to: Northwest Georgia Regional Commission P.O. Box 1798 Rome, GA 30162-1798</p>	<p>24,937.00</p>
<p>DUE UPON RECEIPT</p>	<p>Invoice Total 24,937.00 Amount Paid 0.00 Balance Due 24,937.00</p>



CITY COUNCIL ITEM SUMMARY

MEETING DATE:	July 18, 2024
SUBCATEGORY:	Monthly Financial Report
DEPARTMENT NAME:	Finance
AGENDA ITEM TITLE:	May 2024 Financial Report
DEPARTMENT SUMMARY RECOMMENDATION:	Attached are the financial reports for May 2024.
LEGAL:	N/A

MONTHLY SUMMARY
As of May 31, 2024

	FY 2022-23	FY 2023-24	FY 2022-23	FY 2023-24	100.00% OF BUDGET (Year to Date)
	MONTH OF May-23	MONTH OF May-24	Year to Date May-23	Year to Date May-24	
<i>GENERAL FUND excluding SPLIST, DDA & School System Property Tax Revenue & Expenditures</i>					
REVENUE	\$2,340,074	\$2,656,774	\$36,614,011	\$56,759,013	142.35%
EXPENDITURE	\$2,241,717	\$6,720,728	\$28,970,100	\$36,217,908	90.83%
Gen. Fund Net Profit (Loss)	\$98,357	(\$4,063,954)	\$7,643,911	\$20,541,105	
<i>WATER & SEWER</i>					
REVENUE	\$2,351,125	\$2,537,524	\$29,309,376	\$30,573,014	68.24%
EXPENDITURE	\$2,171,273	\$3,943,460	\$19,643,662	\$33,098,031	73.88%
Wtr. & Svr. Fund Net Profit (Loss)	\$179,852	(\$1,405,936)	\$9,665,714	(\$2,525,017)	
<i>As of May 31, 2024 a total of \$2,359,007 in capital expenses were funded with Series 2018 Water and Sewer Bond proceeds</i>					
<i>GAS</i>					
REVENUE	\$1,844,269	\$2,050,924	\$42,091,881	\$31,171,961	64.29%
EXPENDITURES	\$1,953,208	\$2,372,841	\$35,175,672	\$25,036,266	51.64%
Gas Fund Net Profit (Loss)	(\$108,939)	(\$321,917)	\$6,916,209	\$6,135,695	
<i>ELECTRIC</i>					
REVENUE	\$4,229,654	\$4,951,251	\$51,886,094	\$56,050,327	89.04%
EXPENDITURES	\$4,470,650	\$4,980,942	\$51,417,649	\$54,739,731	86.96%
Electric Fund Net Profit (Loss)	(\$240,996)	(\$29,691)	\$468,445	\$1,310,596	
<i>STORMWATER</i>					
REVENUE	\$136,466	\$151,508	\$1,472,060	\$1,640,173	103.68%
EXPENDITURE	\$74,821	\$115,369	\$1,158,612	\$1,107,587	70.01%
Stormwater Fund Net Profit (Loss)	\$61,645	\$36,139	\$313,448	\$532,586	
<i>SOLID WASTE</i>					
REVENUE	\$283,294	\$346,403	\$3,524,329	\$3,844,776	109.88%
EXPENDITURE	\$206,327	\$274,046	\$2,823,778	\$2,965,152	84.74%
Solid Waste Fund Net Profit (Loss)	\$76,967	\$72,357	\$700,551	\$879,624	
<i>FIBER OPTICS</i>					
REVENUE	\$226,209	\$233,044	\$3,404,149	\$2,481,518	94.70%
EXPENDITURE	\$203,268	\$233,215	\$2,194,148	\$2,268,264	86.56%
Fiber Fund Net Profit (Loss)	\$22,941	(\$171)	\$1,210,001	\$213,254	

	Description	5/31/2024	FY 2024 Budget	% of Monthly Totals to Budget
General Fund	Total Revenues	\$56,759,013	\$39,874,050	142.35%
	GO Bond Proceeds from School	\$0	\$0	#DIV/0!
	Property Taxes-City Portion Only	\$6,328,772	\$6,422,485	98.54%
	Local Option Sales Tax (LOST)	\$7,714,814	\$7,208,530	107.02%
	Other Taxes	\$9,734,956	\$11,006,185	88.45%
	Building Permit & Inspection Fees	\$1,108,605	\$400,000	277.15%
	Fines and Forfeitures	\$822,610	\$400,000	205.65%
	Operating Transfers In-City Utilities	\$4,108,704	\$4,619,200	88.95%
	Other Revenues	\$24,005,752	\$5,848,050	410.49%
	School Bonds	\$2,934,800	\$3,969,600	73.93%
	Total Expenditures	\$36,217,909	\$39,874,050	90.83%
	Personnel Expenses	\$20,084,776	\$21,597,240	93.00%
	Operating Expenses	\$9,244,975	\$9,881,120	93.56%
	Capital Expenses	\$3,483,858	\$4,105,390	84.86%
	GO Bond Expense for School	\$2,934,800	\$3,819,600	76.84%
	Library Appropriations	\$469,500	\$470,700	99.75%
Water & Sewer Fund	Total Revenues	\$30,573,014	\$44,800,765	68.24%
	Water Sales	\$16,958,464	\$16,950,000	100.05%
	Sewer Sales	\$9,612,132	\$8,900,000	108.00%
	Bond Proceeds	\$0	\$2,000,000	0.00%
	Use of Reserves	\$0	\$12,740,000	0.00%
	Prior Year Capacity Fees	\$0	\$2,650,000	0.00%
	Other Revenues	\$4,002,418	\$1,560,765	256.44%
	Total Expenditures	\$33,098,031	\$44,800,765	73.88%
	Personnel Expenses	\$4,011,377	\$4,441,615	90.31%
	Operating Expenses	\$4,400,941	\$5,334,125	82.51%
	Capital Expenses	\$16,198,265	\$26,452,180	61.24%
Capital Expenses (Bond Funds)	\$2,359,007	\$2,000,000	117.95%	
Transfer To General Fund	\$2,707,485	\$2,953,620	91.67%	
Debt Payments	\$3,420,956	\$3,619,225	94.52%	
Gas Fund	Total Revenues	\$31,171,961	\$48,484,010	64.29%
	Gas Sales	\$27,620,620	\$36,355,020	75.97%
	Gas Commodity Charge	\$1,383,559	\$1,495,800	92.50%
	Bond Proceeds	\$0	\$0	#DIV/0!
	Proceeds from Capital Leases	\$0	\$0	#DIV/0!
	Other Revenues	\$2,167,782	\$960,115	225.78%
	Use of Reserves	\$0	\$9,673,075	0.00%
	Contributions from Other Funds	\$0	\$0	#DIV/0!
	Total Expenses	\$25,036,266	\$48,484,010	51.64%
	Personnel Expenses	\$2,383,675	\$2,494,780	95.55%
	Operating Expenses	\$1,430,062	\$1,782,945	80.21%
	Purchase of Natural Gas	\$13,724,304	\$25,500,000	53.82%
	Transfer to General Fund	\$3,632,370	\$3,958,105	91.77%
Debt Service	\$814,172	\$819,300	99.37%	
Capital Expenses	\$3,051,683	\$13,928,880	21.91%	

	Description	5/31/2024	FY 2024 Budget	% of Monthly Totals to Budget	
Electric Fund	Total Revenues	\$56,050,327	\$62,949,910	89.04%	
	Electric Sales	\$51,928,561	\$59,339,880	87.51%	
	Other Revenues	\$4,121,766	\$1,760,030	234.19%	
	Use of Reserves	\$0	\$1,850,000		
	Total Expenses	\$54,739,732	\$62,949,910	86.96%	
	Personnel Expenses	\$2,726,615	\$2,896,230	94.14%	
	Operating Expenses	\$1,582,260	\$1,956,170	80.89%	
	Purchase of Electricity	\$42,465,094	\$46,938,660	90.47%	
	Capital Expenses	\$4,676,804	\$7,570,895	61.77%	
	Transfer to General Fund	\$3,288,959	\$3,587,955	91.67%	
Stormwater Fund	Total Revenues	\$1,640,173	\$1,582,000	103.68%	
	Stormwater Revenues	\$1,502,623	\$1,568,000	95.83%	
	Mitigation Grant Revenue	\$0	\$0	#DIV/0!	
	Other Revenues	\$65,801	\$14,000	470.01%	
	Proceeds from Capital Leases	\$71,749	\$0	#DIV/0!	
	Use of Reserves	\$0	\$0	#DIV/0!	
	Stormwater Improvement Funds	\$0	\$0	#DIV/0!	
	Total Expenses	\$1,107,587	\$1,582,000	70.01%	
	Personnel Expenses	\$684,589	\$853,120	80.25%	
	Operating Expenses	\$351,249	\$456,570	76.93%	
Capital Expenses	\$71,749	\$272,310	26.35%		
Solid Waste Fund	Total Revenues	\$3,844,776	\$3,499,000	109.88%	
	Refuse Collections Revenues	\$3,250,416	\$3,470,000	93.67%	
	Other Revenues	\$103,601	\$29,000	357.24%	
	Proceeds From Capital Leases	\$490,759	\$0	#DIV/0!	
	Total Expenses	\$2,965,152	\$3,499,000	84.74%	
	Personnel Expenses	\$1,264,457	\$1,437,430	87.97%	
	Operating Expenses	\$1,498,756	\$1,814,735	82.59%	
	Capital Expenses	\$201,939	\$246,835	81.81%	
	Fiber Optics Fund	Total Revenues	\$2,481,518	\$2,620,325	94.70%
		Fiber Optics Revenues	\$2,264,431	\$2,410,525	93.94%
GIS Revenues		\$104,375	\$115,500	90.37%	
Proceeds from Capital Leases		\$0	\$0	#DIV/0!	
Other Revenues		\$112,712	\$94,300	119.52%	
Total Expenses		\$2,268,264	\$2,620,325	86.56%	
Personnel Expenses		\$900,068	\$1,017,985	88.42%	
Operating Expenses		\$1,115,588	\$1,012,070	110.23%	
MEAG Telecom Statewide Pymt		\$0	\$0	0.00%	
Debt Payment		\$4,985	\$5,725	0.00%	
Capital Expenses	\$51,011	\$370,060	13.78%		
Transfers to General Fund	\$196,612	\$214,485	91.67%		

Cash Position

	6/30/23	7/31/23	8/31/23	9/30/23	10/31/23	11/30/23	12/31/23
Total Unrestricted Cash Balance	\$86,014,423.75	\$83,843,178.12	\$84,297,670.05	\$84,090,744.34	\$87,776,683.79	\$88,725,501.76	\$88,746,327.86
Total Restricted Cash Balance	\$201,845,990.22	\$203,713,010.57	\$203,372,292.15	\$202,519,636.22	\$202,616,905.95	\$204,165,891.34	\$203,912,318.14
Cash Position		1/31/24	2/28/24	3/31/24	4/30/24	5/31/24	6/30/24
Total Unrestricted Cash Balance		\$92,696,326.08	\$110,009,321.63	\$108,724,348.64	\$116,665,233.82	\$108,186,749.06	
Total Restricted Cash Balance		\$203,779,673.63	\$203,583,096.97	\$201,912,555.74	\$202,584,018.27	\$206,613,167.67	

Highlights for the Month of May 2024:

Unrestricted cash decreased due to increases in the Water, Gas, Solid Waste, and Stormwater Funds, while decreases occurred in the General, Electric, Grant, Fiber, Insurance, and Garage funds.

Restricted cash increased due to increases in the DEA, TPD, GO Parks & Rec Bond, SPLOST 2020, Debt Service, Hotel-Motel Tax, and Motor Vehicle Tax Funds, while decreases occurred in the ARPA Fund and the MEAG Generation Trust Account (monthly billing adjustments for May).

SPLOST Account Balances	
SPLOST 2014	\$231,991.10
SPLOST 2020	\$12,464,167.84