



**MAYOR AND COUNCIL MEETING
MONDAY, APRIL 20, 2026
6:00 PM
DALTON CITY HALL - COUNCIL CHAMBERS**

A G E N D A

Call to Order

Pledge of Allegiance

Approval of Agenda

Public Commentary: *(Please Complete Public Commentary Contact Card Prior to Speaking for the Record - Limit of 3 Minutes/Person)*

Presentations:

1. Staff Reports
2. Georgia Cities Week Contest Winners - Candace Eaton

Minutes:

- [3.](#) Mayor & Council Meeting Minutes of March 30, 2026.

New Business:

- [4.](#) Reinhardt Drive - Traffic Control Change
- [5.](#) E. Morris Street & S. Fredrick Street - Traffic Control Change
- [6.](#) Fort Hill Circle - Traffic Control Change
- [7.](#) Geo-Hydro Engineers Proposal for Construction Material Testing and Special Inspection Services for the Temple Beth El Memorial Park Project
- [8.](#) Intergovernmental Rental Agreement with the Board of Regents of the University System of Georgia for the Dalton Freight Depot at 305 South Depot Street for the Bandy Heritage Center
- [9.](#) AIA Agreement with KRH Architects Inc. for the City Hall Window Replacement Project
- [10.](#) Contract with Integrated Builds LLC for the City Hall Window Replacement Project
- [11.](#) Resolution 26-11 Authorizing Municipal Property Purchase
- [12.](#) Resolution 26-12 Authorizing Acceptance of Bid for Sale of 1216 E. Morris Street Property
- [13.](#) Resolution 26-13 Resolution Authorizing Transfer of Real Property to Dalton-Whitfield County Land Bank Authority, Inc.

Supplemental Business

Announcements

Adjournment

THE CITY OF DALTON
MAYOR AND COUNCIL MINUTES
MARCH 30, 2026

The Mayor and Council held a meeting this evening at 6:05 p.m. at City Hall. Present were Mayor Annalee Sams, Councilmembers Julie Locke, Tyree Goodlett and Steve Farrow, Assistant City Administrator Todd Pangle and City Attorney Jonathan Bledsoe. Council member Dennis Mock and City Administrator Andrew Parker were absent.

CALL TO ORDER

Mayor Sams called the meeting of the Mayor and Council to order.

PLEDGE OF ALLEGIANCE

Councilmembers led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Councilmember Farrow, second Councilmember Goodlett, the Mayor and Council approved the agenda. The vote was unanimous in favor.

PUBLIC COMMENTARY

There were no public comments.

STAFF REPORTS

Special Events & Community Engagement Coordinator Candance Eaton stated that April 20th marks the start of Georgia Cities Week. Eaton stated this year, the City will combine Georgia Cities Week activities with the Downtown Beach Bash on Friday, April 24 which will feature Rubik's Groove, an '80s/'90s cover band known for performing in character. Eaton urged all city departments to participate and showcase their services additionally she stated that YETI has donated a cooler to be raffled among employees who attend, as a way to encourage staff engagement.

Eaton further reported that on Monday April 20th local students will be recognized for their entries in the coloring contest and the "If I Were Mayor for a Day" writing contest, with winners attending the Council meeting.

CVB Director Margaret Thigpen presented the economic impact for February stating February generated just over \$1.1 million in economic impact, with Dalton Parks contributing about \$475K and the Convention Center about \$473K. Thigpen stated that January's numbers were lower due to storm-related closures. Further reporting that Hotel-motel revenue remains slightly down, influenced by broader travel and gas-price trends.

MINUTES

The Mayor and Council reviewed the Regular Meeting Minutes of March 16, 2026. On the motion of Councilmember Goodlett, second Councilmember Farrow, the minutes were approved. The vote was unanimous in favor.

SECOND READING - ORDINANCE 26-05 BOND ORDINANCE FOR UTILITIES
REVENUE BOND, SERIES 2026

The Mayor and Council reviewed the Second Reading Ordinance 26-05 Bond Ordinance Providing for The Issuance of City of Dalton Combined Utilities Revenue Bond, Series 2026 In the Principal Amount Of \$130,000,000.00.

Dalton Utilities CEO John Thomas discussed several core points regarding the proposed bond-funded power generation project:

- Project necessity: The project is needed regardless of any data center activity. The community will require additional power supply either way.
- Cost certainty vs. market exposure: The community will spend significant dollars on power supply whether it owns a generating asset or continues to purchase wholesale power. Owning the asset provides long-term stability, while relying on contracts forces the utility back into the market every 10 years at uncertain prices.
- Projected savings:
 - Over the first 10 years (the bond period), the utility has high confidence in over \$1 million in annual cash-flow savings compared to current wholesale market rates.
 - Over the following 20 years, once the plant is paid off, savings could reach millions per month, potentially totaling nearly \$200 million in today's market conditions.

Board Position

Ed Anthony, Chair of the Water, Light & Sinking Fund Commission, confirmed the board has been thoroughly briefed for months and has unanimously approved the project. The board believes the project is financially sound and in the best interest of Dalton Utilities and its electric customers. He emphasized that the community must pay for power one way or another either through long-term contracts or by owning generation and that ownership is more favorable both in the medium and long term.

Note: Context on Local Power Production

Council asked about the decline in locally produced power. Utility leadership explained that as Georgia Power retired coal-based generating units in which Dalton Utilities held fractional ownership, the city's share of self-produced power decreased. This project would restore a portion of that lost self-generation capacity, increasing the percentage of power the community owns outright.

City Attorney Jonathan Bledsoe informed the Mayor and Council that two minor revisions were made to the ordinance since its publication on Friday:

- A clarification in Section 3D (page 5) to specify that accrued interest may also be paid during partial early redemption.
- The amortization schedule has been added as an exhibit.

Bledsoe stated the next procedural steps if the ordinance is approved, the bond will be validated by the Superior Court of Whitfield County which involves filing a validation action, public advertisement, and final approval by the Superior Court judge before the bonds can be issued to the market. On the motion of Council member Farrow, second Council member Locke, the Ordinance Providing for The Issuance of City of Dalton Combined Utilities Revenue Bond, Series 2026 In the Principal Amount Of \$130,000,000.00 was approved. . The vote was unanimous in favor. *Bond Attorney Jim Woodward attended this segment via zoom.

REVIEW OF (5) NEW 2026 NEW ALCOHOL BEVERAGE LICENSE APPLICATIONS

Assistant City Clerk Gesse Cabrera presented the following New Alcohol Beverage License Applications:

On the motion of Council member Goodlett, second Council member Farrow, the following application was approved:

Business Owner: Jay Ganesh 741, LLC
d/b/a: Mapco #848
Applicant: Raj Patel
Business Address: 741 Riverbend Rd.
License Type: Package Beer, Wine (Retail Store / Gas Station)
Disposition: New
PSC Recommendation: ☒ Approve
The vote was unanimous in favor.

On the motion of Council member Farrow, second Council member Goodlett, the following application was approved:

Business Owner: 1128 Dalton Food Mart, LLC
d/b/a: Dalton Food Mart
Applicant: Ashfaque Khan
Business Address: 1128 S. Thornton Ave.
License Type: Package Beer, Wine (Retail Store / Gas Station)
Disposition: New
PSC Recommendation: ☒ Approve
The vote was unanimous in favor.

On the motion of Council member Farrow, second Council member Goodlett, the following application was approved:

Business Owner: Al Mateen, LLC
d/b/a: Dalton Food Mart
Applicant: Imtiaz Hossain Rony
Business Address: 1002 Underwood St.
License Type: Package Beer, Wine (Retail Store)
Disposition: New
PSC Recommendation: ☒ Approve
The vote was unanimous in favor.

Review of (5) New 2026 New Alcohol Beverage License Applications
Continued

On the motion of Council member Goodlett, second Council member Farrow, the following application was approved:

Business Owner: Tacos el Cunao de Dalton, LLC
d/b/a: Tacos el Cunao de Dalton, LLC
Applicant: Hugo Benitez
Business Address: 1704 Abutment Rd.
License Type: Pouring Beer (Restaurant)
Disposition: New
PSC Recommendation: ☒ Approve
The vote was unanimous in favor.

On the motion of Council member Goodlett, second Council member Farrow, the following application was approved:

Business Owner: Renee Solis Torres
d/b/a: El Reventon Night Club
Applicant: Renee Solis Torres
Business Address: 600 MLK Jr. Blvd
License Type: Pouring Distilled Spirits (Bar)
Disposition: License Addition
PSC Recommendation: ☒ Approve
The vote was unanimous in favor.

MEMORANDUM OF UNDERSTANDING WITH THE CARTER HOPE CENTER

Assistant City Administrator Todd Pangle presented a renewal of last year's Memorandum of Understanding (MOU) with Carter Hope. Pangle stated the new MOU will formally sunset the previous agreement and extend the partnership for the coming year. Further stating the renewal totals \$74,000, funded entirely through the opioid settlement, which is a highly restricted revenue source. Staff noted that this was an appropriate and effective use of the funds last year and is expected to remain so. On the motion of Council member Goodlett, second Council member Farrow, the MOU was approved. The vote was unanimous in favor.

RESOLUTION 26-09 - RESOLUTION TO ACCEPT RIGHT OF WAY DEED

Public Works Director Chad Townsend presented Resolution 26-09 to accept a Right of Way Deed. Townsend stated the Resolution is to accept right-of-way from the Dalton-Whitfield Joint Development Authority for streets within the Hamilton Village development off South Hamilton Street. Townsend further stated the executed deed conveys right-of-way for Sorrel Drive, Flintwood Way, Jasmine Court, Sweetgum Street, Tulip Drive, Lantana Drive, and Camellia Street, as shown on the final subdivision plat prepared by Craig M. Cook & Associates dated March 11, 2026. On the motion of Council member Farrow, second Council member Goodlett, the Resolution was approved. The vote was unanimous in favor.

RESOLUTION 26-10 A RESOLUTION FOR A MORATORIUM ON THE OPENING OF CERTAIN BUSINESSES

Assistant City Administrator presented Resolution 26-10 for a Moratorium on the Opening of Certain Businesses. Pangle stated the Resolution is to extend the existing moratorium related to certain regulated activities. Further stating, the extension aligns with the recently adopted vape ordinance and will continue the pause on the remaining items covered under the moratorium for an additional three months. Pangle stated the extension will allow the city attorney and city staff more time to continue developing and refining the related ordinances.

Council member Farrow stated he would support the current three-month moratorium extension but expressed concern about continuing to extend moratoriums indefinitely emphasizing the need to either complete the related ordinances or avoid ongoing extensions.

On the motion of Council member Farrow, second Council member Goodlett, the Resolution was approved. The vote was unanimous in favor.

ANNOUNCEMENTS

City offices will be closed on Friday, April 3, 2026, in observance of the Good Friday holiday.

The Mayor and Council meeting scheduled for Monday, April 6, 2026, has been cancelled. The next Mayor and Council Meeting will be held April 20, 2026.

ADJOURNMENT

There being no further business to come before the Mayor and Council, on the motion of Councilmember Mock, second Councilmember Goodlett the meeting was adjourned at approximately 6:43 p.m.

Bernadette Chattam
City Clerk

Annalee Sams, Mayor

Recorded
Approved: _____
Post: _____



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Reinhardt Drive No Parking Traffic Control Change Request

DEPARTMENT

Public Works

REQUESTED BY

Jackson Sheppard

REVIEWED/APPROVED BY CITY ATTORNEY?

No

COST

N/A

FUNDING SOURCE IF NOT IN BUDGET

Click or tap here to enter text.

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

See attached traffic control change request for further information, which implements No Parking for both sides of Reinhardt Drive from 7:00 AM to 7:00 PM. This Traffic Control Change was reviewed and approved by the Public Works Committee.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722



TRAFFIC CONTROL CHANGE REQUEST

REINHARDT DRIVE NO PARKING

APRIL 20TH, 2026

THE PURPOSE OF THIS REQUEST IS TO IMPLEMENT NO PARKING ON BOTH SIDES OF THE STREET FOR REINHARDT DRIVE FROM ITS INTERSECTION WITH CITADEL STREET TO DAVIDSON DRIVE FROM 7:00 AM TO 7:00 PM. THIS REQUEST AROSE BECAUSE VEHICLES PARKED ON BOTH SIDES OF THE ROAD RESTRICT THE PUBLIC WORKS DEPARTMENT GARBAGE AND RECYCLING TRUCKS. MOREOVER, THE DALTON POLICE DEPARTMENT HAS DETERMINED THAT THE ROAD IS PERIODICALLY IMPASSABLE FOR EMERGENCY VEHICLES DUE TO DOUBLE PARKING. DUE TO THESE CONCERNS AND TO PROMOTE THE SAFETY OF ROAD USERS, THE PUBLIC WORKS COMMITTEE RECOMMENDS IMPLEMENTING NO PARKING FOR BOTH SIDES OF REINHARDT DR. FROM 7:00 AM TO 7:00 PM. FOLLOWING MAIL INVITATIONS, REINHARDT DR. RESIDENTS PROVIDED SIGNIFICANT INPUT AT THE APRIL 15TH PUBLIC WORKS COMMITTEE MEETING, AND THE RESIDENTS IN ATTENDANCE SUPPORT THIS TRAFFIC CONTROL CHANGE. PROVISION IS MADE TO ALLOW TEMPORARY PARKING FOR DELIVERY AND HOME MAINTENANCE SERVICE VEHICLES. SHOULD THIS REQUEST BE APPROVED, THE PUBLIC WORKS DEPARTMENT WILL INSTALL THE REQUIRED SIGNS FOR THE NO PARKING ZONE, AS DENOTED IN EXHIBIT 'A'.

MAYOR _____

DATE April 20th, 2026

PHONE

706-278-9500

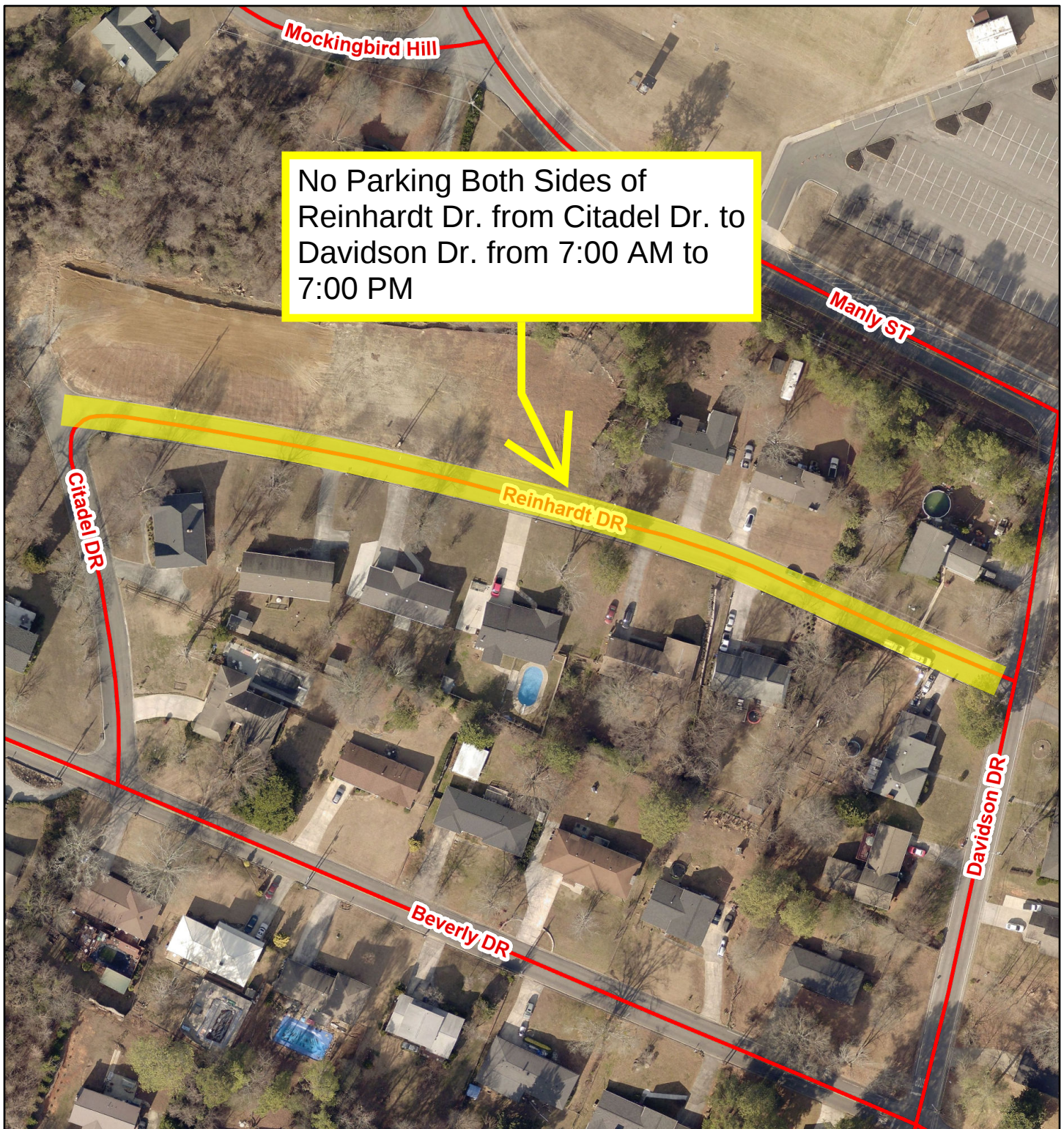
WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

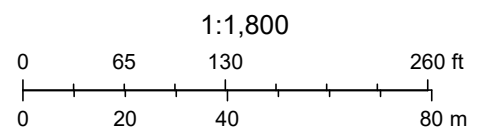
Exhibit 'A'



3/23/2026, 9:35:45 AM

Roads

— City Street





CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

E Morris St & S Fredrick St Traffic Control Change

DEPARTMENT

Public Works

REQUESTED BY

Jackson Sheppard

REVIEWED/APPROVED BY CITY ATTORNEY?

No

COST

N/A

FUNDING SOURCE IF NOT IN BUDGET

Click or tap here to enter text.

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

See attached traffic control change request for further information, which implements a no right turn on red when traveling west on E Morris & turning north onto Fredrick. This Traffic Control Change was reviewed and approved by the Public Works Committee.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722



TRAFFIC CONTROL CHANGE REQUEST

E MORRIS ST. & S FREDRICK ST. RIGHT TURN CONTROL

APRIL 20TH, 2026

THE PURPOSE OF THIS REQUEST IS TO IMPLEMENT A NO RIGHT TURN ON RED FOR WEST BOUND TRAFFIC ON E. MORRIS ST. TURNING NORTH ONTO S FREDRICK STREET. THE PUBLIC WORKS DEPARTMENT RECEIVED A REQUEST TO REVIEW THE INTERSECTION AND FOUND IMPROPER SITE DISTANCE FOR THE EXISTING CONDITIONS AND THE DEPARTMENTS RECOMMENDATION FOR SAFETY IMPROVEMENTS AT THE INTERSECTION WOULD BE TO IMPLEMENT THE NO RIGHT TURN ON RED AS DESCRIBED. ONCE APPROVED, THE PUBLIC WORKS DEPARTMENT WILL INSTALL THE REQUIRED SIGNS & STRIPING FOR THE TRAFFIC CONTROL CHANGE, AS DENOTED IN EXHIBIT 'A'.

MAYOR _____

DATE April 20th, 2026 _____

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

EXHIBIT A





CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Fort Hill Circle Traffic Control Change

DEPARTMENT

Public Works

REQUESTED BY

Jackson Sheppard

REVIEWED/APPROVED BY CITY ATTORNEY?

No

COST

N/A

FUNDING SOURCE IF NOT IN BUDGET

Click or tap here to enter text.

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

See attached traffic control change request for further information, which permits two way traffic on Fort Hill Circle. This Traffic Control Change was reviewed and approved by the Public Works Committee.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722



TRAFFIC CONTROL CHANGE REQUEST

FORT HILL CIRCLE CONVERT FROM ONE WAY STREET TO TWO WAY STREET

APRIL 20TH, 2026

THIS TRAFFIC CONTROL CHANGE CONSISTS OF THE FOLLOWING: TO CONVERT THE ONE-WAY APPROACH FOR TRAFFIC ON FORT HILL CIRCLE INTO A TWO-WAY STREET, TO SHIFT THE EXISTING STOP BAR FURTHER EAST LOCATED ON FORT HILL CIRCLE AT THE SPENCER STREET INTERSECTION, AND TO CONVERT THE NORTHEASTERN ENTRANCE OF FORT HILL CIRCLE INTO A TWO-WAY CORRIOR. THE PROPOSED TRAFFIC CONTROL CHANGE WILL ENHANCE INTERSECTION SIGHT DISTANCES AND THE FORT HILL CIRCLE'S APPROACH ALIGNMENT AT THE ALL WAY STOP INTERSECTION, AND ENABLE ACCESS TO THE RESIDENTIAL PROPERTIES LOCATED ON FORT HILL CIRCLE WITHOUT HAVING TO TRAVEL THROUGH THE PARKING LOT OF OLD THE FORT HILL SCHOOL FACILITY. TRAFFIC CONTROL DEVICES UTILIZED WILL COMPLY WITH CURRENT AASHTO & MANUAL FOR UNIFORM TRAFFIC CONTROL DEVICES STANDARDS. ATTACHED EXHIBIT "A" FOR REFERENCE.

MAYOR _____

DATE _____ April 20th, 2026

PHONE

706-278-9500

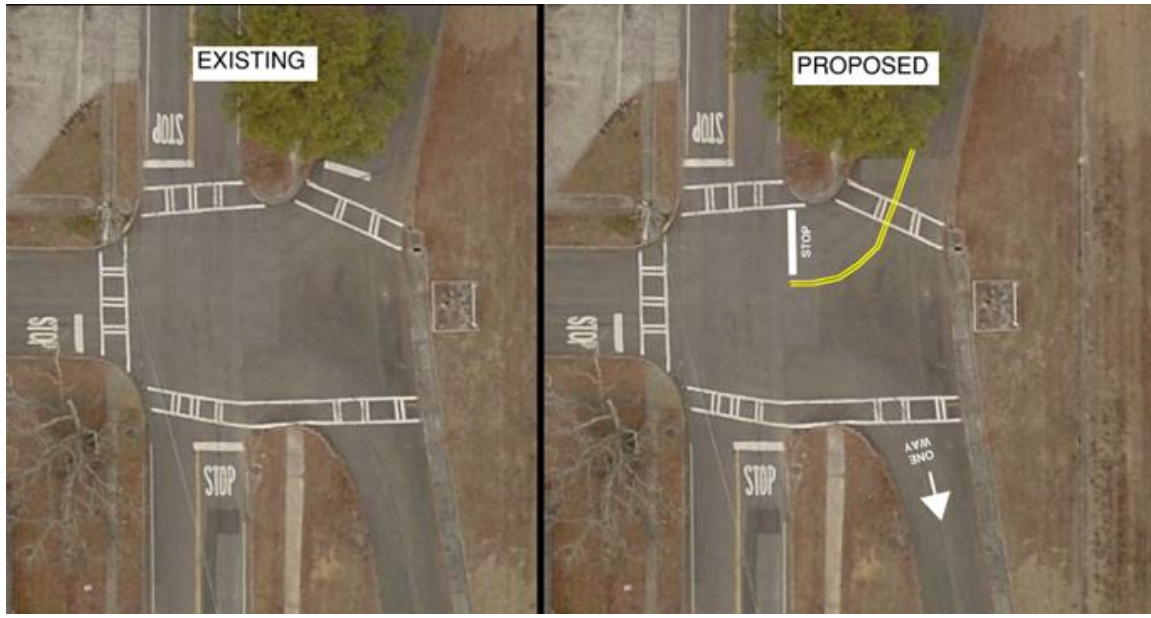
WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

EXHIBIT "A"





CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Geo-Hydro Engineers Proposal for Construction Material Testing and Special Inspection Services for the Temple Beth El Memorial Park Project

DEPARTMENT

Public Works

REQUESTED BY

Jackson Sheppard

REVIEWED/APPROVED BY CITY ATTORNEY?

No

COST

\$14,400.00

FUNDING SOURCE IF NOT IN BUDGET

BD 162 Temple Beth El Stormwater Account

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

The attached Geo-Hydro Engineers proposal is to perform geotechnical engineering services inclusive of providing construction material testing and special inspections for structural elements of the Temple Beth El Memorial Park. This proposal received a positive recommendation by the Public Works Committee, and will cost \$14,400.00.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

Mr. Chad Townsend
City of Dalton
535 North Elm Street
Dalton, Georgia 30721

March 11, 2026

**Fee Proposal to Provide Construction Materials Testing
And Special Inspections Services
Temple Beth-El Memorial Park
Dalton, Georgia
Geo-Hydro Proposal Number 261472.P0**

Mr. Townsend:

Geo-Hydro Engineers is very pleased to provide a proposal for special inspections and construction materials testing services for the above referenced project. We have received the construction plans dated June 2025, for review. We have based our proposal on our review of these documents and on our experience with similar projects.



We understand the project involves the addition of a retention basin, park hardscapes, viewing platform, and associated site work.

SCOPE OF WORK

Soils Density & Subgrade Evaluations

At-grade areas and areas to receive structural fill should be evaluated by proofrolling with a loaded dump truck, scraper, or other similar rubber-tired equipment. We will observe the proofrolling operations and provide recommendations for dealing with unstable soils if encountered. We will obtain bulk samples of proposed fill or backfill soils and conduct laboratory testing to determine the standard or modified Proctor maximum dry density.

We will observe fill soils placement and perform specified field density testing of fill or backfill soils. The frequency of our testing will be dictated by the requirements of the project specifications. We will coordinate our services with the project superintendent.

Foundation Bearing Surface Evaluations

The foundation system will consist of shallow foundations. Our representative will be on site to perform foundation bearing surface testing. Geo-Hydro's recommended approach to the testing of shallow foundation excavations bearing in soil is to perform hand auger and dynamic cone penetrometer testing at select locations. We will perform these tests in accordance with the general guidelines established in ASTM STP-399. If the required bearing capacity is not available based on our evaluations, remedial recommendations will be provided in a timely manner so as not to unnecessarily delay the construction process.

Cast-in-Place Concrete, Grout Testing and Reinforcing Steel Inspection

Geo-Hydro will be present to monitor, sample, and test during structurally significant concrete and grout placements. We will continuously monitor concrete placement techniques. Typically, for each sampling event we will verify use of the required design mix; perform physical tests to determine the slump, air content, and temperature; and we will cast test specimens for subsequent compressive strength testing. We will transport the specimens to our laboratory for moist-curing and compressive strength testing which will be performed at the required test intervals.

Our representatives will also be present to observe that concrete reinforcing steel is in compliance with the project documents for quantity, size, and location. Typically, our site representative will compare the as-built condition of the reinforcing steel to the approved structural and shop drawings. If any discrepancies are observed, they will be immediately brought to the attention of the field personnel so that appropriate corrections can be implemented.

Project Administration and Miscellaneous Consultation

We will provide our professional staff as necessary for project administration, data review and transmittal, preparation of letters, attending meetings, etc.

Limitations of Services

- Our presence at the job site and our performance of construction materials testing must not be construed as relieving the contractor of its responsibility to comply with the plans and specifications.
- Construction materials testing consists of a representative sampling of the construction materials. One must not interpret the test results as a guarantee that the entire work product is represented by the results.
- Our services and any observations or recommendations we make must not be construed in any way as relieving the contractor from his responsibilities relating to job site safety.
- Our representatives do not have the authority to supervise the work nor to direct the contractor's personnel.

FEE

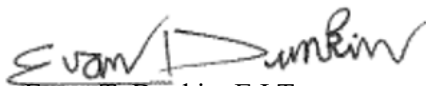
We have included a budgetary cost estimate based on preliminary scheduling information and our understanding of the scope of services required for this project. There is no precise way of determining our final costs since they will depend on the actual construction schedule, weather, and other factors beyond our control. Therefore, we will bill for all of our services on a unit-rate basis in accordance with the attached Schedule of Fees.

* * * * *

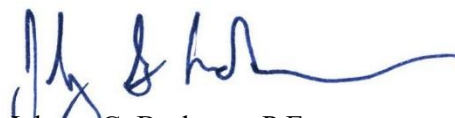
If this proposal is acceptable, please authorize our services by providing and executing your professional services agreement. We look forward to working with you on this project. Please contact us if you have any questions.

Respectfully,

Geo-Hydro Engineers, Inc.



Evan T. Dunkin, E.I.T
Project Manager
edunkin@geohydro.com



Johnny G. Beckman, P.E.
Senior Project Manager
jbeckman@geohydro.com

ETD\JGB\Temple Beth-El Memorial Park Proposal

Construction Materials Testing and Special Inspections Services
Temple Beth-El Memorial Park
Dalton, Georgia
Geo-Hydro Proposal Number 261472.P0

CONSTRUCTION MATERIALS TESTING/SPECIAL INSPECTIONS COST BREAKDOWN

Soils Density & Subgrade Evaluations

Subgrade Evaluations and Field Density Testing (Based on 5 trips at 8 hours per trip)

40 hours	Senior Engineering Technician	at	\$80.00 per hour	\$3,200.00
Project Management				
5 hours	Senior Project Manager	at	\$200.00 per hour	\$1,000.00
Travel				
10 trips	130 Miles per Trip	at	\$0.75 per mile	\$975.00
Subtotal				\$5,175.00

Foundation Testing & Observations

Shallow Foundation Evaluation (Based on 6 trips at 6 hrs. average per trip)

36 hours	Senior Engineering Technician	at	\$80.00 per hour	\$2,880.00
Project Management				
4 hours	Senior Project Manager	at	\$200.00 per hour	\$800.00
Travel				
6 trips	130 Miles per Trip	at	\$0.75 per mile	\$585.00
Subtotal				\$4,265.00

Cast-in-Place Concrete Reinforcing Steel Inspection

Concrete Testing (Based on 4 trips at 6 hrs. average per trip)

24 hours	Senior Engineering Technician	at	\$80.00 per hour	\$1,920.00
Cylinder Pickup (Based on 4 trips at 3 hrs. per trip)				
12 hours	Senior Engineering Technician	at	\$80.00 per hour	\$960.00
Laboratory Testing				
20 specimens	Concrete Cylinders	at	\$25.00 per specimen	\$500.00
Project Management				
4 hours	Senior Project Manager	at	\$200.00 per hour	\$800.00
Travel				
8 trips	130 Miles per Trip	at	\$0.75 per mile	\$780.00
Subtotal				\$4,960.00

ESTIMATED COST FOR CMT SERVICES	\$14,400.00
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Geotechnical Engineering Construction Materials Testing, Special Inspections, and Schedule of Fees

Temple Beth-El Memorial Park
Dalton, Georgia
Geo-Hydro Proposal Number 261472.P0

FIELD TESTING SERVICES

Soil, Concrete, and Miscellaneous Testing

Engineering Technician, per hour.....	\$ 75.00
Senior Engineering Technician, per hour.....	\$ 80.00
Special Inspection Technician, per hour.....	\$ 85.00

Steel Testing

Structural Steel Inspector, per hour	\$ 150.00
Skidmore-Wilhelm Bolt Tension Calibrator., per day	\$ 100.00
Ultrasonic Flaw Detector, per day	\$ 150.00

Coring - Pavement or Concrete

Equipment Rental (generator & coring machine), per day.....	\$ 200.00
Diamond Bit Usage, per inch diameter, per lineal inch.....	\$ 3.00
Coring Technician, per hour	\$ 85.00

Special Field Test Equipment

Floor Flatness Test Equipment, per day	\$300.00
Windsor Probe, per shot	\$ 50.00
Nuclear Density Gauge, per day	\$100.00
Pavement Quality Indicator (PQI) Non-Nuclear Density Gauge, per day.....	\$100.00
StructureScan Mini all-in-one high-resolution GPR, per day.....	\$500.00
Thermal Imaging Camera, per day	\$300.00

NOTE: Above special field test equipment requires an operator billed at the appropriate hourly rate.

StructureScan Mini all-in-one high-resolution GPR, half day.....	\$1,000.00
<i>(Includes travel, operator, and report)</i>	
StructureScan Mini all-in-one high-resolution GPR, full day	\$2,000.00
<i>(Includes travel, operator, and report)</i>	

NPDES SERVICES

NPDES Inspection, per trip	\$ 200.00
Monthly Monitoring Report, each	\$ 200.00
Automatic Storm Water Sampler, per month	\$ 300.00
Turbidity Analysis, each	\$ 50.00

PROFESSIONAL CONSULTING SERVICES

Principal Engineer/Geologist, per hour	\$ 250.00
Senior Project Manager/Senior Registered Engineer, per hour.....	\$ 200.00
Project Manager/Registered Engineer, per hour.....	\$ 160.00
Special Inspection Professional, per hour	\$ 115.00
Staff Professional, per hour	\$ 115.00
Engineering Aide, per hour	\$ 85.00
Administrative Assistant, per hour	\$ 65.00

Geotechnical Engineering Construction Materials Testing, Special Inspections, and Schedule of Fees

Temple Beth-El Memorial Park
Dalton, Georgia
Geo-Hydro Proposal Number 261472.P0

LABORATORY TESTING SERVICES

Soil-Cement/Cement Treated Base Mix Design Testing

Mix Design with up to Three Cement Amendment rates, each.....	\$ 3,000.00
Proctor Compaction Tests (ASTM D558), each.....	\$ 300.00
Soil-Cement Specimens, Compressive Strength, per specimen	\$ 30.00

Soil & Graded Aggregate Base Material

Proctor Compaction Tests	
Standard (ASTM D-698), each	\$ 200.00
Modified (ASTM D-1557), each	\$ 250.00
Atterberg Limits (ASTM D-4318), each	\$ 125.00
Soil Particle Size Analysis with Hydrometer (ASTM D-422), each	\$ 200.00
Particle Size Analysis of Coarse Aggregate (ASTM C-136), each	\$ 200.00

Concrete, Grout, Mortar, and Masonry

Cylinders, Compressive Strength (ASTM C-39), per cylinder	\$ 25.00
Beams, Flexural Strength (ASTM C-78), each.....	\$ 30.00
Concrete Cores, Lab Preparation and Compressive Strength Testing, (ASTM C-42), each	\$ 75.00
Cube Specimens (2" x 2"), Lab Preparation and Compressive Strength Testing (ASTM C-109), each.....	\$ 20.00
Masonry Grout Compressive Strength, Lab Preparation and Compressive Strength Testing, (ASTM C-1019), each	\$ 25.00
Masonry Prisms, Lab Preparation and Compressive Strength Testing, (ASTM C 1314), each.....	\$ 200.00
Concrete Masonry Unit (CMU) Lab Preparation and Compressive Strength Testing, (ASTM C 140), each	\$ 200.00

Bituminous Materials

Bitumen Content & Gradation (ASTM D-2172; GDT-83), each.....	\$ 350.00
Core Density and Thickness Determination, each.....	\$ 45.00
For cores which require splitting add, each	\$ 15.00
Theoretical Voidless Density Determination (AASHTO T-209), each.....	\$ 300.00

MISCELLANEOUS

Mileage, per mile.....	\$ 0.75
Authorized Ancillary Expenses	Cost + 15%

- Hourly rates are portal to portal. -All prices are quoted for services performed during a normal 8:00 a.m. to 5:00 p.m. work day (Monday through Friday). For services required outside of these hours or in excess of 8 hours per day (or on Saturday, Sundays and holidays), multiply unit rates by 1.5. A minimum charge of 4 hours will apply to all necessary weekend or holiday work.
- Unit prices/rates are subject to cost escalations of 6% every January 1 or six months from the date of the proposal (whichever is sooner).
- Expert witness testimony will be billed at a multiplier of 2.0 times the appropriate unit rate for all time spent in preparation, depositions, court appearances, etc.
- Prices are valid for 90 days from date of schedule.

CLIENT CONTRACT (Signature Page)

PROJECT NAME: Temple Beth-El Memorial Park

PROJECT LOCATION: Dalton, Georgia

PROPOSAL NUMBER: 261472.P0 **DATE:** March 11, 2026

This document memorializes the contractual understanding and agreement by and between Geo-Hydro Engineers, Inc. (***Geo-Hydro***) and the party as identified and defined below as "***Client***." Its content, along with the content of: (i) Client Terms & Conditions of Service issued and approved by Geo-Hydro, (ii) that certain proposal document involving the Project Name and Project Location identified above and with a Proposal Number and Proposal Date as identified above (the "***Proposal***"), and (iii) that and/or certain statement of work/s (***SOW***), project document/s, instruction document/s, and/or task order/s (each a "***Project Doc***") as are accepted and approved in writing by Geo-Hydro, constitute and comprise the terms, conditions and rights of the contractual agreement ("***Contract***") by and between Geo-Hydro and Client for the service project with the Project Name, Project Location, Proposal Number and Proposal Date as identified above (the "***Project***"), such Project Doc/s being the unique Contract for the Project.

By signing below, each party, acknowledges and agrees to the incorporation and applicability of, and to be bound by, this document, the Client Terms & Conditions of Service document, the Proposal, and each applicable Project Doc as the Contract for the Project. The "***Signature Date***" of this document is: .

GEO-HYDRO ENGINEERS, INC.
("Geo-Hydro")

Signature of Authorized Geo-Hydro Agent

Agent Printed Name

Agent Title

Client Name ("Client")

Signature of Authorized Agent

Agent Printed Name

Agent Title

Client is to complete and provide following information:

Billing Entity Name _____

Individual to Receive Invoices _____

Email address _____ Phone No. _____

Street Address _____

City, State, Zip Code: _____

TERMS & CONDITIONS OF SERVICE

A. CONTRACT

The provisions of this Terms & Conditions of Service document are incorporated as a part of that Client Contract ("**signature page**") document as well as that certain proposal document as identified on the signature page (the "**Proposal**") and/or that or those certain statement of work/s (**SOW**), project document/s and/or task order/s (each as "**Project Doc**") executed, accepted, and approved by Geo-Hydro Engineers, Inc. (**Geo-Hydro**) for each Geo-Hydro client Project. This document and all Project Docs that reference a unique Geo-Hydro client Project constitute and comprise a separate contractual agreement ("**Contract**") by and between Geo-Hydro and the other party Client to a Client Contract (signature page) document and such Project Docs.

B. GEO-HYDRO SERVICES

In consideration of Client: (i) paying Geo-Hydro in full all amounts due, (ii) providing Geo-Hydro and its representatives with access and information as they require, and (iii) complying otherwise with the terms and conditions of the Contract, and subject to the qualifications and limitations otherwise stated in this Contract, Geo-Hydro shall use commercially reasonable efforts to provide to Client the services ("**Services**") and deliverables ("**Deliverables**") as expressly set forth in the Proposal and each other applicable Project Doc that is in a writing executed by Geo-Hydro and Client so as to become a part of this Contract. Except to the extent otherwise expressly written as a part of the Contract, Services and Deliverables shall be provided in accordance with, and to, the standards established and determined by Geo-Hydro "Standard of Care" and shall not be required to exceed normal industry standards and specifications for the locale of the associated Geo-Hydro project for Client per the Contract. Nothing in this Contract limits or prevents Geo-Hydro from providing the same or similar services and/or deliverables to others. Geo-Hydro does not assume any responsibilities, duties, or obligations of Client or any other entity or individual. Geo-Hydro's performance shall not be considered to reduce, eliminate, abridge, or abrogate, any responsibilities, duties, or obligations of any other party. Geo-Hydro is not responsible for the design or construction of the project or the failure of any party to perform in accordance with the plans and specifications for the Projects or any of Geo-Hydro's recommendations or instructions.

C. FREEDOM TO REPORT.

It is contemplated that, during the course of its engagement, Geo-Hydro may be required to report on the past or current performance of others engaged, or being considered for engagement, directly or indirectly by Client and to render opinions and advice in that regard. Those about whom reports and opinions are rendered may, as a consequence, threaten, initiate, and/or bring claims, including (without limitation) for libel, slander and/or defamation, against Geo-Hydro and its present or former principals, officers, shareholders, directors, agents, representatives, subcontractors, successors, insurers, and attorneys (the "**Geo-Hydro Representatives**"). To help create an atmosphere in which Geo-Hydro's personnel feel free to express themselves candidly, Client agrees: (1) to waive any claim against the Geo-Hydro Representatives, and (2) to defend, indemnify, and hold harmless Geo-Hydro Representatives from any threat or actual claim for injury, damage, breach, failure, liability, damage, fine, penalty, cost, expense, and/or loss (collectively such individually being a

"**Claim**" and collectively "**Claims**") arising from or related to the Contract, its subject matter, the Project, the content of the Reports, and/or the professional opinions rendered by Geo-Hydro Representatives. Client further agrees to compensate Geo-Hydro Representatives for any time spent, or expenses incurred, by Geo-Hydro Representatives in defense of any such Claim, with compensation to be paid in accordance with Geo-Hydro prevailing fee schedule and expense reimbursement policy. Client acknowledges that Client and/or Geo-Hydro may be required by local, state, and/or federal statute and/or regulations to report the discovery of conditions, occurrence of events, and/or existence of hazardous materials, and Client authorizes Geo-Hydro to do so as Geo-Hydro deems to be required or otherwise appropriate notwithstanding any confidentiality obligation or other restriction or limitation as may apply. Client waives any cause of action, claim, suit, or demand associated with Geo-Hydro's compliance with its duties to report as required by local, state, and/or federal laws and regulations, and Client shall defend, indemnify, and hold harmless Geo-Hydro Representatives for any failure on the part of Client or its representatives breach any duty or obligation to report as required by local, state, and/or federal laws and regulations and for any inaccuracy and/or omissions from reports filed that is attributable to the information, data, and access that Client made available to Geo-Hydro Representatives.

D. ACCESS, ENTRY & SAFETY

Client shall, among other things: (a) provide Geo-Hydro, and its representatives and equipment, with access to Client's properties, sites, facilities, equipment, and/or systems (collectives, "**Sites**") as may reasonably be required for the purposes of Geo-Hydro performing the Services and producing the Deliverables; (b) respond promptly to any Geo-Hydro request for information, materials and/or approvals, and timely obtain, provide and make available the same to Geo-Hydro and/or its designees, as Geo-Hydro requires to perform its obligations pursuant to this Contract. Additionally, Client agrees that in accordance with applicable laws, ordinances, and generally accepted construction practice, it will be solely and completely responsible for working conditions at, on and near Sites, which obligations includes (without limitation) compliance with OSHA regulations and safety otherwise of all persons and property. These requirements will apply continuously and are not limited to normal working hours. Any monitoring and/or reporting of procedures conducted by Geo-Hydro does not include review of the adequacy of the safety measures at, in, on, adjacent to, or near the Site.

(i) ENTRY.

As a result of Geo-Hydro, and its representatives and equipment, accessing, entering and/or performing Services at or on a Site, damage may occur. Geo-Hydro will use commercially reasonable efforts to endeavor to minimize damage to a Site; with Client acknowledging that the vary nature of the Services and Deliverable are expected to cause damages and agreeing that Geo-Hydro is not under any duty or responsibility whatsoever to restore the Site to its condition prior to performance of the Services or provision of the Deliverables. Unless otherwise expressly stated in a Project Doc, Geo-Hydro's scope of Service contains no provision for backfilling boreholes, test pits, or other exploration holes created to facilitate testing. Client further agrees to waive any Claim against Geo-Hydro Representatives, and to hold harmless, indemnify, and defend Geo-Hydro Representatives, for any Claim alleging injury or damage as a consequence of unfilled exploration holes on the Site or any other disturbance to natural conditions of or any improvements on the Site. Should any costs of restoration be determined to apply to Geo-Hydro, then the amount

deemed to be due shall be added to the compensation Client is to pay Geo-Hydro using such price and terms as determined by Geo-Hydro.

(ii) FIELD MONITORING AND TESTING.

Whenever Geo-Hydro's personnel make on-site observations of materials and/or services provided by the Client or a contractor engaged by Client (the "**Contractor**"), Client agrees that Geo-Hydro is not responsible for the Client's or Contractor's means, methods, techniques, sequences or procedures of construction. Client acknowledges and agrees that the field services provided by Geo-Hydro shall not relieve the Contractor of its responsibilities for performing the work in accordance with the plans and specifications. The words "monitoring," "supervision," "inspection," or "control" mean the periodic observation of the work and the conducting of tests by Geo-Hydro to verify substantial compliance with the plans, specifications, and design concepts for the Project. Continuous or full-time monitoring does not mean that Geo-Hydro personnel are observing placement of all materials or that Geo-Hydro assumes any responsibility or liability for placing or directing placement of materials and Client shall indemnify Geo-Hydro for Claims relating to, or arising from, the placing or directing of the placement of, materials.

E. PAYMENTS

Client agrees to pay Geo-Hydro in full all amounts due on or before their due date, including (without limitation) those due for any Service or Deliverable. Time is of the essence regarding such payment of Geo-Hydro. Client shall be responsible for all sales, use, and excise taxes, as well as any other similar taxes, duties, and charges of any kind, imposed by any federal, state, or local governmental entity on the Contract, Services, Deliverables and/or amounts payable by Client to Geo-Hydro hereunder. Client's obligation to pay Geo-Hydro is not dependent upon Client's ability to obtain financing or the receipt of any approval of any governmental, regulatory agency, zoning board or other party or upon Client's successful completion of the Project. Geo-Hydro reserves the right to submit progress invoices to Client on a bi-monthly, monthly or milestone basis and a final invoice upon completion of Geo-Hydro's work. Each invoice is due and payable to Geo-Hydro, by Client, immediately upon presentation. All amounts due to Geo-Hydro and not paid within thirty (30) days of invoice presentation shall bear interest at the rate of eighteen percent (18%) per annum (or the maximum permissible rate allowed by law if such is less than 18%) until paid in full.

In addition to the amounts otherwise due per this Contract, and the interest due for past due amounts, Client shall pay Geo-Hydro for all Costs (as defined below) relating to a Legal Matter (as defined below) involving Client and Geo-Hydro. "Costs" are all amounts Geo-Hydro incurs to enforce its rights or Client's obligations as well as to defend its rights and itself from Claims made by Client or third parties, including (without limitation) the cost to Geo-Hydro for legal counsel, third-party collection agencies, and time spent by Geo-Hydro employees. "Legal Matters" are all actions taken that involve a contractual, tortious, fiduciary, or statutory subject matter, including (without limitation) demand letters, securitization of debts, lawsuits, administrative filings, arbitration, mediation, and/or other forms of judicial or administrative recourse or dispute resolution proceeding.

F. REPRESENTATIONS, WARRANTIES & DISCLAIMER.

Each party represents and warrants to the other party that: (a) it has the full right, power, and authority to enter into the Contract, to grant the rights and licenses granted hereunder and to perform its obligations hereunder; and (b) when executed and delivered by such party, this Contract will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms. In the event that there is to be a some entity other than the Client that is to be billed by, and is to pay, Geo-Hydro (such other party being the "**Billing Entity**"), Client represents, warrants and covenants that: (i) it has a legally binding, express commitment in writing from such Billing Entity to accept and pay (as and when due) all amounts owed Geo-Hydro per the Contracts, and (ii) it guarantees the payment obligations of the Billing Entity and will immediately pay whatever amounts not fully paid to Geo-Hydro by the Billing Entity as due upon being given notice by Geo-Hydro that it has not received payment in full from the Billing Entity for the amounts due but not paid by the Billing Entity. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GEO-HYDRO: (1) DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE EXISTING WITH REGARD TO THIS CONTRACT OR ITS SUBJECT MATTER, AND (2) MAKES NO WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, UNDER THIS CONTRACT AND WITH RESPECT TO GEO-HYDRO'S ACTIONS, OMISSIONS, REPORTS, FINDINGS, OPINIONS, COMMUNICATIONS, DELIVERABLES, AND/OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND/OR FITNESS FOR A PARTICULAR PURPOSE.

G. EXISTING CONDITIONS.

Client agrees that subsurface explorations and geotechnical or environmental engineering evaluations are subject to naturally occurring and/or man-made soil and other conditions which cannot always be discovered or anticipated and that a potential exists for such phenomena to impact the Project in ways for which Geo-Hydro cannot be responsible. Client shall disclose, at least 7 days before any scheduled inspections by Geo-Hydro, the presence and location of all known man-made or naturally occurring objects which could be affected by or affect field tests or borings to be performed by Geo-Hydro.

Client acknowledges and agrees that Geo-Hydro has neither created nor contributed to the creation or existence of any irritant, pollutant, or hazardous, radioactive, toxic, otherwise dangerous or harmful substance that may exist at the site, or dangerous conditions resulting therefrom. Client further acknowledges that Geo-Hydro's sole role is to provide a service intended to benefit Client and that Geo-Hydro is performing no function at or association with the site that would classify Geo-Hydro as a generator, disposer, treater, storer, coordinator, handler, or transporter of hazardous materials.

(i) SURVEYING, SAMPLING & TESTING.

Unless otherwise stated, the fees in this proposal do not include costs associated with surveying of the site for the accurate horizontal and vertical locations of tests. Field tests described in a report or shown on sketches are based upon information furnished by others or estimates made in the field by Geo-Hydro's representatives. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated. Geo-Hydro may employ sampling procedures during the course of the Project, with Client acknowledging that such procedures indicate actual conditions only at the precise locations and elevations from which samples were

taken. Client further acknowledges that, in accordance with the generally accepted construction practice, Geo-Hydro shall make certain inferences based on the results of sampling and any related testing to form its opinion of conditions in areas beyond those from which samples were taken. Client acknowledges that despite proper implementation of sampling and testing procedures, and despite proper interpretation of their results, Geo-Hydro cannot, and does not, guarantee the existence or absence of conditions which it may infer to exist.

(ii) CONDITIONS & HAZARDOUS SUBSTANCES.

Client agrees to advise Geo-Hydro, in writing, of any hazardous substances on or near the site prior to Geo-Hydro coming onto the site; provided, however, if the hazardous conditions arise after Geo-Hydro is engaged, then such notice shall be within 24 hours after Client learns about the presence of such hazardous substances. In the event that test samples obtained contain substances hazardous to health, safety, or the environment, these samples shall remain the property of the Client. Likewise, any equipment which becomes contaminated and cannot be reasonably decontaminated shall become the property and responsibility of Client. Such samples or equipment will be delivered to Client. Client agrees to pay transportation costs for samples and equipment and the fair market value of such contaminated equipment upon request. Exploratory activities may expose soil and/or ground water considered to be hazardous by local and/or state and/or federal agencies. Geo-Hydro agrees to contain such materials in a manner approved by Geo-Hydro both during and at the completion of Geo-Hydro's field activities. Client understands and agrees that Client, and not Geo-Hydro, is responsible for the storage or disposal of hazardous materials or suspected hazardous materials brought to the surface during Geo-Hydro's exploratory activities.

(iii) DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. Client agrees that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. Client also agrees that the discovery of unanticipated hazardous materials could make it necessary for Geo-Hydro to take immediate measures to protect human health, safety, or the environment. Geo-Hydro agrees to notify Client as soon as practically possible should unanticipated hazardous materials or suspected hazardous materials be encountered. Client encourages Geo-Hydro to take any and all measures that in Geo-Hydro's professional opinion are justified to preserve and protect the health and safety of Geo-Hydro's personnel, and Client agrees to compensate Geo-Hydro for the additional cost of such work. In addition, Client waives any Claim against Geo-Hydro, and agrees to indemnify, defend, and hold Geo-Hydro harmless from any Claim arising from Geo-Hydro's encountering of unanticipated hazardous materials or suspected hazardous materials. Client acknowledges that discovery of hazardous materials or suspected hazardous materials may lead to a temporary or permanent diminution of property value, and/or may cause delays in or otherwise affect completion of the real estate transaction Client now contemplates.

H. AQUIFER CONTAMINATION.

Subsurface sampling may result in unavoidable contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated area, linking it to an aquifer, underground stream, or other hydrous body not previously contaminated and capable of spreading hazardous materials off-site. Because nothing can be done to eliminate the risk of such an occurrence, and when subsurface sampling is a part of the work which Geo-Hydro will perform on Client's behalf, Client hereby waives any Claim against Geo-Hydro, its officers, employees, subcontractors and other representatives ("*Geo-Hydro Indemnitees*"), and agrees to defend, indemnify and hold Geo-Hydro Indemnitees harmless from any Claim that may arise as a result of alleged cross-contamination caused by sampling. Client further agrees to compensate Geo-Hydro for any time spent or expenses incurred by Geo-Hydro in defense of such Claim, including, but not limited to, any attorneys' fees and expenses incurred by Geo-Hydro, in accordance with Geo-Hydro's prevailing fee schedule and expense reimbursement policy.

I. SAMPLES, DATA AND RECORDS.

Geo-Hydro shall be the sole owner of any and all data gathered by Geo-Hydro or its representative or reports prepared by Geo-Hydro. No entity or individual, other than Geo-Hydro, its representatives, or Client, may use or rely upon any data collected by Geo-Hydro or reports prepared by Geo-Hydro. Except as expressly set forth in this Contract, Geo-Hydro and Client do not intend the benefits of this Contract, including, but not limited to, the samples, data, and records created by Geo-Hydro, to inure to any third party, and nothing contained herein shall be construed as creating any right, claim or cause of action in favor of any such third party, against either Geo-Hydro or Client.

Routine test specimens will be discarded immediately upon completion of tests. Geo-Hydro shall retain drilling samples of soil or rock for a period of ninety (90) days following submission of Geo-Hydro's report to Client. If Client requests a longer period of storage, Geo-Hydro will retain test specimens or drilling samples for an agreed upon time period and fee. Records relating to services hereunder shall be maintained by Geo-Hydro for at least three (3) years following completion of Geo-Hydro's services.

J. TERMINATION.

Either party may terminate this Contract, or any Project Doc, either: (i) for convenience upon thirty (30) days prior written notice to the other party, or (ii) for cause upon the failure of the other party to cure any material breach of this Contract by it within fifteen (15) days of receiving notice of said breach. Additionally, Geo-Hydro may suspend Services, stop Deliverables, and is to have its obligations per the Contract and each applicable Project Doc deferred and adjusted as such are impacted by the suspension and stop, without liability or consequence to Client or any third party in the event that Client fails to cure any breach of this Contract within three (3) days of knowing of such breach.

Upon termination, (1) all Project Docs for the Contract also terminate, (2) Client shall immediately pay Geo-Hydro in full for all amounts due or are to come due as a result of termination, and (3) Geo-Hydro's obligation to perform further Services or complete and provide Deliverables under this Contract end immediately.

Notwithstanding, in the event that Client requests termination and such request is prior to the completion of Geo-Hydro's work, Geo-Hydro reserves the right to complete such analysis and records as are necessary to place Geo-Hydro's files in order and to complete a report on the work performed to date, with Client to pay Geo-Hydro for such additional work Geo-Hydro's then-current hourly rates. Additionally,

Client acknowledges and agrees that the amount of damages that Geo-Hydro will sustain in the event Client terminates this Contract prior to Geo-Hydro's completion of its work required by the proposal and this Contract will be uncertain or difficult to ascertain. As such, Client agrees that in the event Client terminates this Contract prior to Geo-Hydro's completion of the work required by the proposal and this Contract, Client shall be liable to Geo-Hydro for liquidated damages in the amount equal to thirty-five percent (35%) of all charges incurred as of the date of Client's termination of the Contract (the "**Liquidated Damages**"). Client acknowledges and agrees that the foregoing Liquidated Damages do not represent a penalty, but rather, represent a good faith pre-estimation by the parties of the damages that would be incurred by Geo-Hydro.

K. INSURANCE.

Upon notice from a party to this Contract to the other party, the receiving Party will furnish, or have on file with the other party, Certificates of Insurance indicating the applicable insurance coverage and limits as may have in place that pertain to the Contract, its subject matter, and/or the Project.

Should Client and/or other entities require to be provided additional insured status on Geo-Hydro's General Liability Insurance, Auto Liability Insurance, and/or Umbrella/Excess insurance, those entities must be listed below at the time of signing of the contract:

Additional Insured Entities:

L. INDEMNIFICATION.

Client shall indemnify and hold harmless Geo-Hydro and its officers, directors, agents, and employees from any and all Claims, including, but not limited to, Geo-Hydro's attorneys' fees and costs, resulting from, relating to, or arising out of the following: (i) subsurface conditions, damage to subsurface structures, whether owned by Client or any third party, the presence or location of which were not revealed to Geo-Hydro by Client in writing at least 7 days prior to the commencement of Geo-Hydro's performance; (ii) any alleged cross-contamination caused by Geo-Hydro's sampling; (iii) unanticipated hazardous materials discovered during the course of Geo-Hydro's work; (iv) any damage to Geo-Hydro's equipment or personnel as a result of actions engaged in by the Contractor.

M. CONFIDENTIALITY.

All non-public, confidential or proprietary information of either party ("**Confidential Information**"), including, but not limited to, information about such party's business affairs, products, services, methodologies, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"), whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, or otherwise learned by the Receiving Party in connection with this Contract is confidential, solely for use in performing this Contract and may not be disclosed or copied unless authorized by the Disclosing Party in writing. The Receiving Party shall protect and safeguard the confidentiality of the Disclosing Party's Confidential

Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care. Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of the Receiving Party's breach of this Contract; (b) is obtained by the Receiving Party on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; (c) the Receiving Party establishes by documentary evidence, was in its possession prior to the Disclosing Party's disclosure hereunder; or (d) was or is independently developed by the Receiving Party without using any of the Disclosing Party's Confidential Information. Additionally, the obligations and restrictions applicable to Confidential Information hereunder shall not apply in such instances where disclosure or use is required under applicable federal, state or local law, regulation or a valid order issued by a court or governmental agency of competent jurisdiction, which includes (without limitation) the use and disclosure of Confidential Information to provide notices required by law, regulation or ordinance or when complying with an order to provide information or data when such order is issued by a court, administrative agency, arbitrator, or other legitimate authority, or if disclosure is reasonably necessary for Geo-Hydro to defend itself from any legal action or claim. Either party may issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Contract, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols, or brand names, in each case, without the prior written consent of (or any accounting to) the other party. When referencing this arrangements and subject matters of the Contract.

The Receiving Party shall be responsible for any breach of this Section caused by any of its employees, contractors, agents, or representatives. On the expiration or termination of the Contract, and at any time during or after the term of this Contract at the Disclosing Party's written request, the Receiving Party shall promptly return to the Disclosing Party all originals and copies, whether in written, digital or other form, the Disclosing Party's Confidential Information; provided, however, a Receiving Party may retain a copy of the Disclosing Party's Confidential Information (and non-confidential information and materials) to the extent, and it may require, to comply with applicable law, regulation, ordinance or order and to perform its obligations and assert its rights as may arise from or relate to this Contract and its subject matter. Each party's obligations under this Section survive termination or expiration of this Contract.

N. NO THIRD PARTY BENEFICIARIES.

This Contract is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person, which includes (without limitation) the Billing Entity, any legal or equitable right, benefit, or remedy of any nature whatsoever, under, or by reason of, this Contract. In the event that any third party, including (without limitation) the Billing Entity, makes any Claim against Geo-Hydro Indemnitees, Client shall defend, indemnify and hold harmless each of the Geo-Hydro Indemnitees with regard to such Claims, including, but not limited to, Geo-Hydro's attorneys' fees and costs involving the Claims.

O. GOVERNING LAW; VENUE.

This Contract is to be governed by, and construed according to, the laws of the state in the USA where the Geo-Hydro project is located for which the services and deliverables are to be performed and provided, without reference to its conflicts-of-law rules of such state. Venue for any legal actions, claims, and/or disputes arising from the Contract or its subject matter, shall be in the state and superior courts

of Cobb County, Georgia and the Federal Courts for the Northern District of Georgia, Atlanta division.

Should a dispute arise,

(1) Geo-Hydro may elect to suspend its performance of this Contract without liability or consequence pending final resolution of any request for relief, cure, claim, appeal, modification, dispute, or action arising from this Contract, with all dates and deadlines per the Contract being tolled for the period that the Contract is suspended plus such number of additional days as Geo-Hydro determines it will reasonably require as a result of the suspension.

(2) Either party may request that each party have an authorized representative(s) conference or meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Within three (3) days prior to such conference or meeting between the representatives, the parties will exchange relevant information that will assist the parties to discuss resolving their dispute.

(3) If within fifteen (15) days, or such other period as both parties expressly agree upon in writing, after the meeting of authorized representatives the parties have not resolved the dispute on terms satisfactory to both parties, the parties shall submit within thirty (30) days of such period expiring the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules, with such rules to govern the mediation. Venue for such mediation shall be in Cobb County, GA at the law offices of Geo-Hydro.

(4) In the event that the parties do not resolve the dispute at mediation and such resolution is not memorialized in a writing executed by both parties, then either party may initiate litigation with regard to the dispute in the Contract's designated Venue

P. SEVERANCE; SURVIVAL.

If any provision of this Contract is held to be illegal, invalid or unenforceable under any present or future law, and if the rights or obligations of any party hereto under this Contract will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Contract will be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Contract will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance here from and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Contract a legal, valid, and enforceable provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible.

Q. NOTICES.

All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth on the signature page of this Contract (or to such other address that may be designated by the receiving party from time to time in accordance with this Section). All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission)

or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Contract, a Notice is effective only (a) upon receipt by the receiving party; and (b) if the party giving the Notice has complied with the requirements of this Section.

R. FORCE MAJEURE.

Except for any obligations to make payments to the other party hereunder, no party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Contract, for any failure or delay in fulfilling or performing any term of this Contract, when and to the extent such failure or delay is caused by, or results from, events outside of the party's reasonable control ("**Force Majeure Events**"), including but not limited to: (a) acts of God; (b) flood, rain, water, fire, smoke, earthquake, hurricane, storm, wind, tornado or some form of other natural event or disaster, (c) war, invasion, explosions, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order or law; (e) actions, embargoes, or blockades in effect on or after the date of this Contract; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances; (i) epidemic, pandemic or other form of healthcare concern or hazardous condition; and (i) shortage of adequate power or transportation facilities. The affected party shall resume performance under this Contract as soon as reasonably practicable after the Force Majeure Event has been resolved or terminated.

S. INTELLECTUAL PROPERTY.

All reports, documents and other materials prepared or furnished by Geo-Hydro pursuant to the Contract are instruments of Geo-Hydro's Services, with Geo-Hydro exclusively retaining ownership and all property interest therein as well as exclusive ownership in, under and to all Intellectual Property Rights in the same as well as in all data, know-how, methodologies, software, and other materials provided by or used by Geo-Hydro in performing the Services and developed or acquired by the Geo-Hydro prior to, as a result of, or after the Contract (collectively, "**Geo-Hydro Materials**"). Upon payment in full for the Services rendered and Deliverables prepared or provided, Geo-Hydro grants Client a limited, revocable, non-transferable, non-sublicensable, non-exclusive license to use, display, reproduce, such Geo-Hydro Materials to the extent incorporated in, or otherwise necessary for, the use of the Deliverables for their intended purpose with the Project. All other rights in and to the Geo-Hydro Materials are expressly reserved by Geo-Hydro. For the purposes of this Contract, "**Intellectual property Rights**" mean any and all rights in, to and under copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how, and other confidential information, trade dress, trade names, logos, corporate names and domain names and other forms of intellectual property rights, together with all of the goodwill associated therewith, derivative works and all other rights. Reuse, misuse, unintended use, distribution or modification of any such Geo-Hydro Materials by Client, without Geo-Hydro's express, prior, written permission, is at Client's sole risk, with Client to indemnify, defend and hold harmless the Geo-Hydro Indemnities from all Claims, including (without limitation) attorneys' fees and legal costs, arising out of such reuse, misuses, unintended use, distribution or modification by Client or by others acting through Client.

T. LIMITATION & EXCLUSIONS OF LIABILITY.

GEO-HYDRO SERVICES AND DELIVERABLES PER THE CONTRACT ARE EXCLUSIVELY PROVIDED ONLY TO, AND FOR THE BENEFIT OF, CLIENT AND MAY NOT BE RELIED UPON, OR ENFORCED BY, ANY OTHER PARTY. GEO-HYDRO SHALL NOT BE LIABLE TO CLIENT, OR ANY OTHER PARTY,

FOR ANY INJURIES OR DAMAGES THAT MAY OCCUR FOR GEO-HYDRO'S NOT PERFORMING SERVICES THAT WERE NOT EXPRESSLY INCLUDED IN THE PROPOSAL OR PROJECT DOCS PARTICULAR TO THE CONTRACT. EXCEPT FOR OBLIGATIONS TO MAKE PAYMENT, INDEMNIFICATION OBLIGATIONS, AND/OR LIABILITY FOR BREACH OF CONFIDENTIALITY, IN NO EVENT WILL GEO-HYDRO BE LIABLE TO THE CLIENT FOR: (A) ANY LOSS OF USE, DATA, REVENUE, OR PROFIT OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (B) DIRECT DAMAGES OF MORE THAN THE GREATER OF: (I) AN AGGREGATE OF \$50,000.00, AND (II) THE AMOUNT OF THE TOTAL FEE PAID TO GEO-HYDRO IN THE SIX (6) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

U. INDEPENDENT CONTRACTORS.

The parties are independent contractors, and nothing contained in this Contract shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between them. Neither party shall be authorized to contract for or bind the other party in any manner whatsoever.

V. SIGNATURES.

By having executed the signature page associated with this document, or by having executed any Project Doc that expressly references and incorporates this document as part of a Contract, this document, and the Proposal and any applicable written, executed Project Docs that reference this document, constitutes the entire, and fully integrated, Contract by and between Client and Geo-Hydro regarding its subject matter, and it supersedes all other prior and contemporaneous negotiations, representations, arrangements, agreements, and understandings, whether written or oral with regard to such subject matter except to the extent otherwise expressly noted in this Contract. This Contract may not be modified, altered, or amended except in a subsequent written instrument executed by each of the parties which refers to this Contract and specifies the amendment made. No waiver of any breach of this Contract shall be deemed or considered a waiver of any other or subsequent breach. Paragraph headings are used to facilitate reference to the various provisions and do not affect the meaning or construction of any provision. This Contract binds, and the benefits hereunder inure to, the respective parties, their legal representatives, executors, administrators, successors, and assigns. The parties hereto have executed this Contract as of the dates shown below, and it may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute together one and the same document.



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Intergovernmental Rental Agreement with the Board of Regents of the University System of Georgia for the Dalton Freight Depot at 305 South Depot Street

DEPARTMENT

Administration

REQUESTED BY

Andrew Parker

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

\$1.00 plus \$1,000/month

FUNDING SOURCE IF NOT IN BUDGET

n/a

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

Intergovernmental Rental Agreement with the Board of Regents of the University System of Georgia for the Dalton Freight Depot at 305 South Depot Street to operate the Bandy Heritage Center.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

INTERGOVERNMENTAL RENTAL AGREEMENT

THIS INTERGOVERNMENTAL RENTAL AGREEMENT hereinafter referred to as "Agreement", is made and entered into and effective as of the date of the last party signing below, by and between the **CITY OF DALTON, GEORGIA**, a municipal corporation of the State of Georgia, whose address for purposes of this Agreement is P.O. Box 1205, Dalton, Georgia 30722, Attention: City Administrator, party of the first part, hereinafter referred to as "Landlord", and the **BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA**, whose address for purposes of this Agreement is 270 Washington Street, Seventh Floor, Atlanta, Georgia, 30334, party of the second part, hereinafter referred to as "Tenant" for the use and benefit of Dalton State College, a unit of the University System of Georgia, hereinafter referred to as "Institution."

WITNESSETH THAT:

WHEREAS, Landlord is the owner of certain real property located at 305 South Depot Street, Dalton, Georgia 30720 (the "Property"), which is improved with a one-story building encompassing approximately 5,177 square feet known as the Dalton Freight Depot (the "Building"); and

WHEREAS, Landlord has made available approximately 2,253 square feet of space located in the Building available for lease by Tenant for Institution's use, said space being hereinafter referred to as the "Premises" and more particularly described as the area marked in red on that certain floor plan marked EXHIBIT "A" attached hereto; and

WHEREAS, Institution, as an adjunct to its educational degree programs, has a requirement to operate the Bandy Heritage Center (the "Program") and thus requires a facility from which to operate the Program; and

WHEREAS, Institution has determined the Premises are suitable for the purpose of operating the Program; and

WHEREAS, Landlord has duly authorized and approved this rental of transaction at its regular meeting on _____; and

WHEREAS, pursuant to Board of Regents Policy Manual Section 9.10, Tenant has administratively approved the Agreement; and

WHEREAS, Landlord and Tenant are empowered to enter into this agreement pursuant to 1983 Ga. Const. Art. IX, Sec. III, Para. I, as an intergovernmental agreement not exceeding 50 years;

NOW THEREFORE, for and in consideration of the sum of ONE DOLLAR (\$1.00) and for other good and valuable consideration, in hand paid at and before the execution and delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1.
PROPERTY RENTED

For and in consideration of the mutual promises and of the terms and conditions hereinafter set forth to be kept by Tenant, Landlord hereby grants and rents the Premises unto Tenant, and Tenant does hereby take and hire the Premises from Landlord, on the promises and on the terms and conditions hereinafter set forth. This Agreement creates the relationship of Landlord and Tenant between the parties hereto, and no estate shall pass from Landlord to Tenant under this Agreement. Tenant has, by virtue of this Agreement, only a usufruct as that word is set forth and used in O.C.G.A. Ch. 44-7.

2.
TERM AND EXTENSIONS

2.1 This Agreement shall be for the term beginning on the date of the last signature of the parties below (the "Commencement Date") and ending at 11:59 p.m., prevailing legal time in Atlanta, Georgia, on June 30, 2026 (the "Initial Term") unless sooner terminated as hereinafter provided.

2.2 Should Tenant cease to operate the Program on the Premises for a period of ninety (90) days, or the Premises be otherwise abandoned, this Agreement shall be terminated.

2.3 Landlord, in consideration of the Premises and of the covenants, agreements, provisions and stipulations herein agreed to be mutually kept and performed by the parties hereto this Agreement does hereby give and grant unto Tenant the exclusive right, privilege and option of renewing or extending this Agreement at the expiration of the Initial Term on a year-to-year basis for four (4) consecutive years (each, a "Renewal Term"), ending June 30, 2030. Said Renewal Term shall be upon the same terms, conditions, covenants, provisions, stipulations and agreements as herein set forth and at the same monthly rate of rental herein; provided, however, that notice of Tenant's desire, through the President or Vice President of Fiscal Affairs of Dalton State College, a unit of the University System of Georgia, to exercise such option shall be given to Landlord at least sixty (60) days prior to the expiration date of the Initial Term or of any Renewal Term. It is further provided that this option may be exercised by Tenant only in the event all rents have been fully paid and that all covenants, agreements, provisions, stipulations, terms and conditions of this Agreement on the part of Tenant to be performed, kept and observed, have been fully and faithfully performed, kept and observed.

2.4 Any and all references to the "Term" of the Agreement contained within this Agreement shall include not only the Initial Term but also any subsequent Renewal Term.

2.5 Whenever a period of time is herein prescribed for action to be taken by Tenant there shall be excluded from the computation for any such period of time an event of "Force Majeure," for up to a maximum of one hundred twenty (120) days which shall be detailed in a written notification from Tenant to Landlord. As used in the Agreement, the term "Force Majeure" shall include strikes, public health emergencies, pandemics, riots, acts of God, war, or governmental laws, regulations and restrictions, or any other cause of any kind whatsoever which is beyond the reasonable control of Tenant. Said Force Majeure provision may be exercised only once during the Term of this Agreement, and any extension of time provided as a result of this provision shall cease the sooner of the end of the event of Force Majeure or one hundred twenty (120) days from the written notification from Tenant to Landlord described in this paragraph.

3.
RENT

Tenant agrees to pay Landlord, at the above-stated address, or at such other address or addresses as may be designated in writing from time to time by Landlord, a total fixed annual rental equal to \$12,000.00 payable in equal monthly installments of \$1,000.00 per month, which are due and payable on the first day of each month and to undertake the maintenance obligations for the Building as set out in Paragraph 5 below. If such rental is not received by the fourth day of each month, Tenant shall pay an additional five percent (5%) late fee. All payments of rent shall be delivered to Landlord at Dalton City Hall, 300 West Waugh Street, Dalton, Georgia 30720. In the event the Term is extended, for each successive Renewal Term, rental payments shall remain the same unless Landlord provides notice of increased rental at least ninety (90) days prior to the commencement of any such Renewal Term.

4.
OCCUPANCY AND USE OF PREMISES

Tenant shall occupy the Premises continuously throughout the Term and, subject to an event of Force Majeure, will not desert, surrender, abandon or cease using the Premises during the Term. Tenant shall use the Premises solely for the purposes herein set forth and for the purpose of fulfilling the requirements of the Program or other purposes of Tenant or the Institution. Tenant's use of the Premises shall be subject to and in accordance with the existing and future rules, regulations, and policies of Landlord. Without limitation of the foregoing, Tenant shall not: (a) use the Premises for any illegal purpose, or for any purpose inimical to the health, safety and welfare of the public; (b) commit, or suffer to be committed, any waste in or on the Premises; or (c) create, or permit to be created, any nuisance in or on the Premises.

5.
OPERATIONS AND MAINTENANCE

5.1 Maintenance. Landlord shall, at its own expense, maintain and keep in good repair the Property (including the Building and the Premises) throughout the Term. Tenant shall, at its own expense, be responsible for routine, non-capital maintenance of the Premises, such as the replacement of light bulbs in the space.

5.2 Utilities and Other Operational Expenses. Landlord shall furnish and pay for all water and sewer service to the Building, including the Premises. Landlord shall make electrical service available to the Building. As consideration for the nominal rent amount payable to Landlord for the Premises, Tenant agrees to pay for the cost of the electric power supplied to the Building by the local utility provider, and shall also provide for, and pay expenses related to, janitorial service and waste disposal for the Building. Tenant, at its expense, will be responsible its own hardline telephone and internet if Tenant requires such services for its operation of the Premises. Tenant shall not commit waste upon the Premises.

6.
NO COVENANT OF TITLE; QUIET ENJOYMENT

Tenant hereby acknowledges that it has fully inspected the Premises, and the Premises is considered to be in satisfactory condition for the use intended. Tenant further acknowledges that no representation or warranty as to the title to, condition of, or terrain of the Premises has been made by Landlord, its members, officers,

employees, representatives or agents, or by any other person whomsoever, and Landlord makes no warranty whatsoever as to the title to, present condition of, or terrain of the Premises.

Notwithstanding the foregoing, Landlord agrees that Tenant, upon paying the rents and keeping the stipulations, provisions, covenants, terms, agreements, and conditions herein contained, shall lawfully, quietly and peacefully have, hold, use, possess, enjoy, and occupy said Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof for and during said Term, without any suit, hindrance, interruption, inconvenience, eviction, ejection, or molestation by the Landlord or by any other person or persons whatsoever claiming under Landlord. If for any reason whatever, Tenant is deprived of its right to lawfully, quietly and peacefully have, hold, use, possess, enjoy and occupy said Premises hereby rented, with all the improvements, tenements, appurtenances, and each and every part and parcel thereof, for and during the Term, without any suit, hindrance, interruption, inconvenience, eviction, ejection or molestation by Landlord or by any other person or persons whatsoever, and Landlord fails to cure such deprivation within thirty (30) days of Tenant's written notice therefor, or such longer time period as may be required so long as Landlord has commenced curative action and is then diligently prosecuting same, then upon Landlord's failure to cure as provided herein, this Agreement may be immediately canceled and terminated at the option of Tenant by giving Landlord notice thereof, but Landlord shall in no way be liable to Tenant for any damages arising out of or related to Tenant's inability to use the Premises; instead, Tenant agrees that its sole remedy is the option to terminate the Agreement.

7.

AMERICANS WITH DISABILITIES ACT

In performing renovations, Tenant shall be responsible for all costs and compliance with Title III of the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., (hereinafter the "ADA"). Notwithstanding any provision of this agreement to the contrary, Landlord is and shall be solely responsible for assuring that the Premises and all common areas are at all times in compliance with the ADA and all regulations promulgated thereunder, provided that Tenant shall not cause or contribute to any failure to comply with the ADA. Landlord shall not charge Tenant for, or seek reimbursement from Tenant for, any expenditures associated with ADA and regulatory compliance, except for modifications which arise out of or are related to any action or inaction of Tenant which cause or contribute to a failure to comply with the ADA.

8.

MUTUAL APPROVAL OF PLANS

All plans for facility modifications shall be subject to the approval of the Landlord, which approval shall be in writing and will not be unreasonably withheld. Any construction and improvements of the Premises by Tenant shall conform to "state minimum standard codes", as defined in O.C.G.A. Title 8, Part 2, entitled "State Building, Plumbing, Electrical, Etc., Codes." Tenant shall be responsible for any and all costs associated with such modifications.

9.

TERMINATION BY LANDLORD

In the event Landlord shall require the Premises for public purposes of the Landlord, Landlord may terminate this Agreement upon ninety (90) days written notice.

10.
NO ASSIGNMENT OR SUBLETTING

These Premises are leased for the sole use of the Tenant, the Institution, and units of the University System of Georgia, to be used under the terms of this Agreement, and said Premises are not to be assigned, sublet or otherwise made available to third parties without the express written consent of Landlord.

11.

[Intentionally Deleted]

12.
COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW

Tenant shall, at all times, obey and be in strict compliance with all applicable federal, state or local laws, regulations and ordinances.

13.
TRADE FIXTURES

Tenant may remove all of Tenant's personal property and Tenant's trade fixtures from the Premises on or before the expiration or termination time and date of this Agreement. Tenant shall repair all damage to the Premises resulting from the removal of Tenant's personal property and Tenant's trade fixtures. Tenant agrees that all of Tenant's personal property and trade fixtures in or on the Premises are located there at Tenant's risk and Landlord shall not be liable for any damage thereto or loss thereof.

14.
INSPECTION

For the purpose of inspecting the Premises and facilities, Tenant shall permit Landlord, upon reasonable prior notice, to enter in and on the Premises and within the facilities during either Landlord's regular business hours or Tenant's regular business hours. No inspection, review or approval of plans or Premises of Tenant by Landlord shall be deemed to be for Tenant's benefit or the Institution's benefit. Any such inspection, review, approval or other act by Landlord shall be deemed for the Landlord's own benefit and purposes only.

15.
INSURANCE

15.1 Third Party Liability: The Tenant shall be responsible to the extent and coverage of the Georgia Tort Claims Act, O.C.G.A. §50-21-20 *et seq.*, from the time of the signing this agreement or from the effective date, whichever shall be later, for third party liability of any kind resulting from its occupancy or any construction work undertaken by Tenant or on Tenant's behalf. Tenant shall be responsible for obtaining insurance (including self-insurance) through commercial insurance or state cooperative insuring programs for its personal property and trade fixtures on the Premises. Landlord shall be responsible for providing insurance covering third party liability resulting from the acts or omissions of its officers and employees, and any landowner liability not due to the acts or omissions of Tenant or Tenant's officers, employees, or persons covered by the Tort Claims Act.

15.2 Fire and Hazard Insurance: The Landlord shall maintain a fire and all risks hazard insurance coverage upon the improvements on the Premises, such insurance to be in an amount not less than the full replacement cost of improvements, exclusive of excavations and foundations. Tenant shall be an additional insured on such policy as its interests may appear. Such insurance shall be primary insurance and shall pay all claims to its limits of liability before any payments are made by the State of Georgia Operational Hazard Reserve or Tort Claims Funds. In the event of any damage or loss, Tenant shall notify Landlord immediately.

16.

DEFAULT BY TENANT

If Tenant defaults in the payment of rent and remains in default for seven (7) calendar days following notice of the same, or if Tenant defaults in the performance or observance of any other provision of this Agreement which is required to be kept by Tenant and remains in default for thirty (30) calendar days after the date of service of notice of such default by Landlord, Landlord may proceed to terminate the Agreement and Tenant's rights thereunder and pursue all other lawful remedies, including but not limited to declaring the entire remaining balance for the Initial Term or then current Renewal Term due pursuant to the Agreement; provided, however, if the default is not reasonably curable within thirty (30) calendar days, Tenant shall not be considered in default if Tenant commences to cure such failure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.

17.

NOTICES

All notices, statements, reports, demands, requests, consents, approvals, waivers and authorizations, hereinafter collectively referred to as "notices," required by the provisions of this Agreement to be secured from or given by either of the parties hereto to the other shall be in writing (whether or not the provision hereof requiring such notice specifies written notice) and the original of said notice shall be sent by nationally recognized express delivery service such as Federal Express or United Parcel Service, or the United States Postal Service via 1) Priority Mail or 2) Certified Mail Return - Return Receipt Requested, postage prepaid and addressed to the recipient party at the addresses below. Any notice so mailed, the text of which is reasonably calculated to apprise the recipient party of the substance thereof and the circumstances involved, shall be deemed sufficient notice under this Agreement. Either party hereto may from time to time, by notice to the other, designate a different person or title, or both if applicable, or address to which notices to said party shall be given.

If to Landlord:

City Administrator
City of Dalton City Hall
300 West Waugh Street Dalton, GA 30720

and

City Administrator City of Dalton
P.O. Box 1205
Dalton, GA 30722-1205

If to Tenant:

Vice President for Fiscal Affairs
Dalton State College
650 College Drive
Dalton, Georgia 30720-3797

With a copy to:

Assistant Vice Chancellor for Real Estate
Board of Regents of the University System of Georgia
270 Washington Street, SW
Atlanta, Georgia 30334

18.

TIME OF THE ESSENCE

Time is of the essence of this Agreement.

19.

HOLDING OVER

Tenant shall not use and shall promptly vacate possession of the Premises upon the expiration or any termination of the Term. Any holding over or continued use or occupancy of the Premises by Tenant after the expiration or termination of the Term, without consent of Landlord, shall not constitute a Tenancy-At-Will in Tenant, but Tenant shall be a Tenant-At-Sufferance and shall be required to vacate the Premises immediately without notice. There shall be no renewal or extension of the Term by operation of law and in no event, without a new written Agreement, shall the occupancy extend beyond fifty (50) years.

20.

NO JOINT VENTURE

Nothing contained in this Agreement shall make, or be construed to make, Landlord, Institution or Tenant partners in, of, or joint venturers with each other, nor shall anything contained in this Agreement render, or be construed to render, either Landlord or Tenant liable to a third party for the debts or obligations of the other.

21.

NON WAIVER

No failure at either party hereto to exercise any right or power given to said party under this Agreement, or to insist upon strict compliance by the other party hereto with the provisions of this Agreement, and no custom or practice of either party hereto at a variance with the terms and conditions of this Agreement, shall constitute a waiver of either party's right to demand exact and strict compliance by the other party hereto with the terms and conditions of this Agreement.

22.

RIGHTS CUMULATIVE

All rights, powers and privileges conferred by this Agreement upon Landlord and Tenant shall be cumulative of, but not restricted to, those given by law.

23.
SEVERABILITY

If any provision of this Agreement, or any portion thereof, should be ruled void, invalid, unenforceable or contrary to public policy by any court of competent jurisdiction, then any remaining portion of such provision and all other provisions of this Agreement shall survive and be applied, and any invalid or enforceable portion shall be construed or reformed to preserve as such of the original words, terms, purpose and intent as shall be permitted by law.

24.
BINDING EFFECT

Each of the terms and conditions of this Agreement shall apply, extend to, be binding upon, and inure to the benefit or detriment of the parties hereto and to their successors and assigns. Subject to the foregoing, whenever a reference to the parties hereto is made, such reference shall be deemed to include the successors and assigns of said party, the same as if in each case specifically expressed.

25.
INTERPRETATION

Should any provision of this Agreement require judicial interpretation, it is agreed and stipulated by and between the parties hereto that the court interpreting or construing the same shall not apply a presumption that the provisions hereof shall be more strictly construed against one party by reason of the rule of construction that an instrument is to be construed more strictly against the party who prepared the same.

26.
GEORGIA AGREEMENT

This Agreement shall be governed by, construed under, performed, and enforced in accordance with the laws of the State of Georgia.

27.
SECTION HEADINGS

The brief headings or titles preceding each section herein are merely for purposes of section identification, convenience, and ease of reference, and shall be completely disregarded in the construction of this Agreement.

28.
COUNTERPARTS

This Agreement may be executed in multiple counterparts including the use of electronic signatures (e.g. DocuSign), each of which is deemed an original of equal dignity with the other and which is deemed on and the same instrument as the other.

29.
SPECIAL STIPULATIONS

The Special Stipulations attached hereto as EXHIBIT "B" are incorporated by reference herein. In the event of any conflict between the provisions herein and the Special Stipulations, the Special Stipulations shall control.

30.
ENTIRE AGREEMENT

This Agreement supersedes all prior negotiations, discussions, statements, and agreements between the Landlord and Tenant and constitutes the full, complete and entire agreement between Landlord and Tenant with respect to the Premises and Tenant's use and occupancy thereof; no member, officer, employee, representative or agent of Landlord or Tenant 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 shall be binding on either party hereto unless such modification or amendment shall be properly authorized, in writing, properly signed by both Landlord and Tenant and incorporated in and by reference made a part hereof.

IN WITNESS WHEREOF, Landlord and Tenant, acting by and through their duly authorized representatives, have caused these presents to be signed, sealed, and delivered all as of the date hereof.

LANDLORD:

CITY OF DALTON, GEORGIA

By: _____

Name:

Title:

Date:

Attest: _____

Name:

Title:

Date:

Signatures Continue on the Following Page

Signatures Continued from the Previous Page

TENANT:

BOARD OF REGENTS OF THE UNIVERSITY
SYSTEM OF GEORGIA

By: _____

J. Frank Smith

Vice Chancellor for Real Estate and Facilities

Date:

Attest: _____

Mark T. Haldane

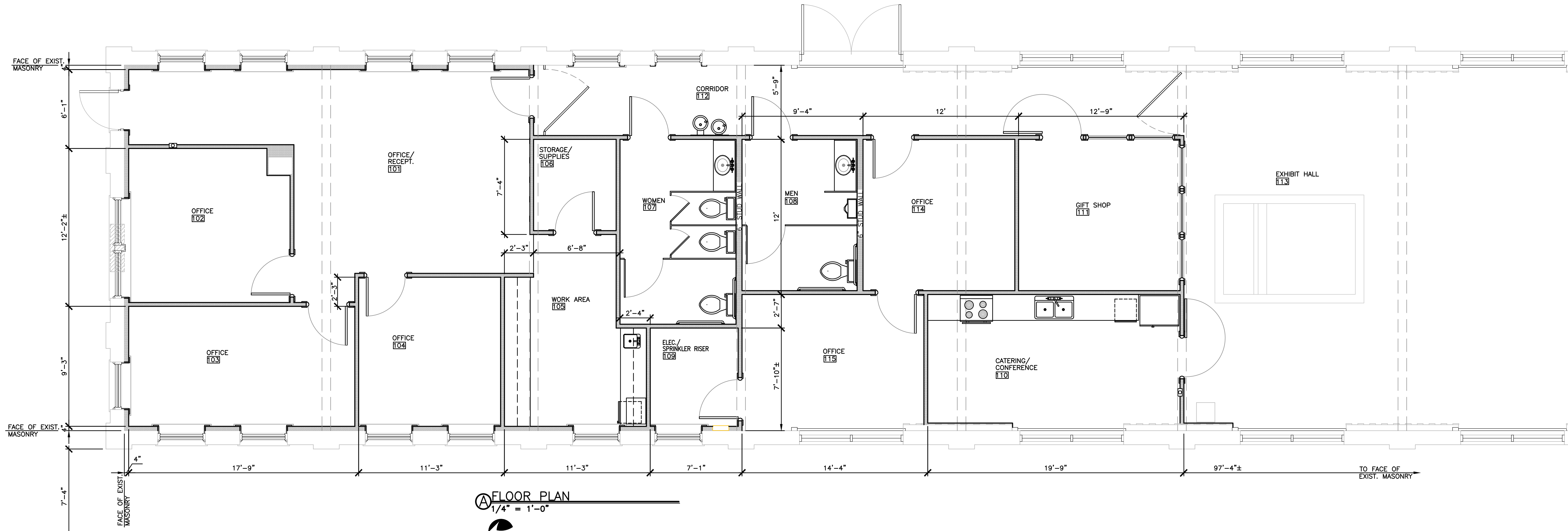
Assistant Vice Chancellor for Real Estate

Date:

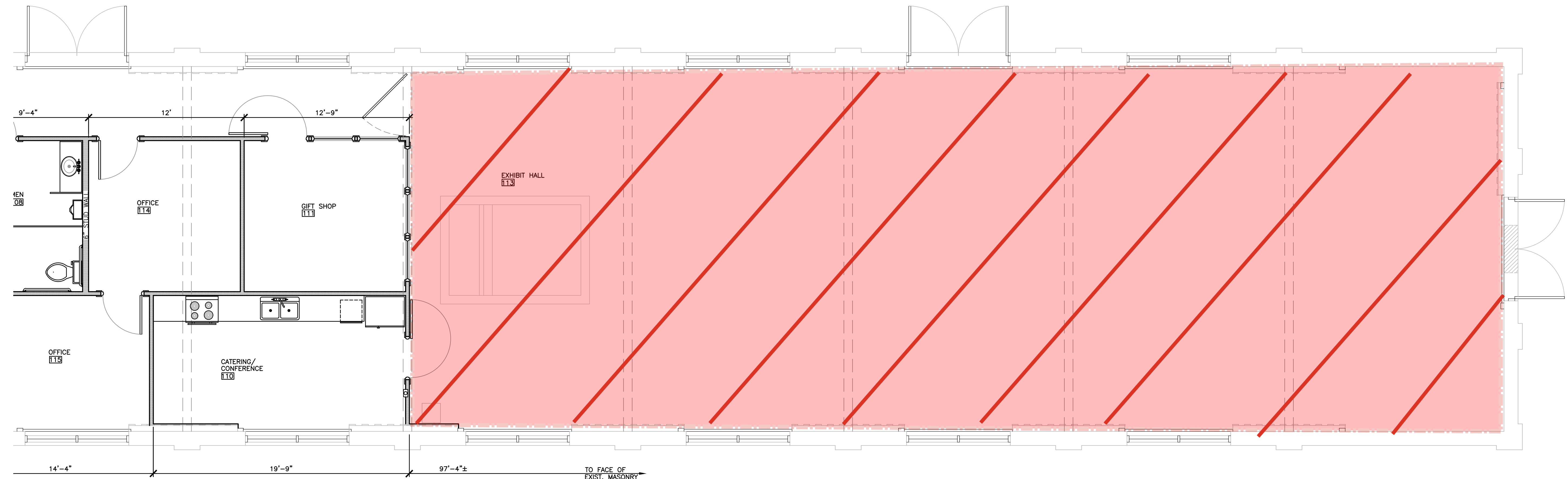
EXHIBIT "A"

The "Premises"

Attached.



A FLOOR PLAN
1/4" = 1'-0"



B FLOOR PLAN
1/4" = 1'-0"



THESE CONTRACT DOCUMENTS ARE THE PROPERTY OF ARCHITECTURAL DESIGNS INC.. THEY HAVE BEEN PREPARED AS AN INSTRUMENT OF SERVICE AND SHALL NOT BE REPRODUCED IN ANY FORM WITHOUT WRITTEN PERMISSION OF THE ARCHITECT.

CARLSON & CARLSON
ARCHITECTS
311 N. Hamilton Street
Dalton, Georgia 30720
Ph: (706) 275-8139

No.	Revision/Issue	Date

DALTON FREIGHT DEPOT - PHASE TWO
INTERIOR BUILD-OUT
305 SOUTH DEPOT STREET
Dalton, Georgia 30720

Project No :	
Date :	3-19-09
Scale :	AS SHOWN
Sheet :	A2.1
Title:	FLOOR PLANS

EXHIBIT "B"
SPECIAL STIPULATIONS

1. Shared Building Spaces. The restrooms, gift shop, train viewing platform, and hallway shall constitute common areas of the Dalton Freight Depot for the joint use of the Tenant, the Landlord, the Dalton-Whitfield Convention and Visitor's Bureau, Inc. and the Downtown Dalton Development Authority.
2. Parking: At no additional cost to Tenant, public parking adjacent to the Property for Tenant's staff, students and visitors to the Premises shall continue to be made available, which shall be unassigned and will be available on a first-come, first-served basis.
3. Signage: Pursuant to Section 8 of this Agreement, following notice to and written approval of Landlord, Tenant may be permitted to install certain signage at the following locations: on the Premises and in any other location jointly mutually agreeable to Landlord and Tenant. All such signage will be installed at Tenant's sole cost.

END OF EXHIBIT "B"



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

AIA Agreement with KRH Architects Inc. for the Window Replacement Project at Dalton City Hall

DEPARTMENT

Administration

REQUESTED BY

Todd Pangle

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

Six (6.00) % of the Owner’s budget for the Cost of the Work

FUNDING SOURCE IF NOT IN BUDGET

Click or tap here to enter text.

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

AIA Agreement with KRH Architects Inc. for the Window Replacement Project at Dalton City Hall

PHONE
706-278-9500

WEBSITE
www.daltonga.gov

ADDRESS
300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twentieth day of April in the year Two Thousand Twenty-Six

(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Dalton
300 West Waugh Street, Dalton, GA 30720

and the Architect:
(Name, legal status, address and other information)

KRH Architects Inc.
855 Abutment Road Suite 4
Dalton, Ga. 30721

for the following Project:
(Name, location and detailed description)

Window Replacement for Dalton City Hall

Design documents to facilitate the replacement of the wood windows with new aluminum clad exterior / wood interior windows.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Replace existing windows with aluminum clad exterior / wood interior windows.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The existing wood windows will be removed and replaced with new windows. The exterior will be aluminum clad and the interior will be stained to match the existing millwork.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

\$400,000

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

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Completion of Contract Documents 1/1/2026

.2 Construction commencement date:

March 2026

.3 Substantial Completion date or dates:

Summer / Fall 2026

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Request for Proposals

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

NA

(Paragraph Deleted)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

(List name, address, and other contact information.)

Annalee Sams - Mayor - City of Dalton
300 West Waugh Street, Dalton, GA 30720

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address, and other contact information.)

Andrew Parker, City Administrator, City of Dalton

§ 1.1.9 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Kenneth R. Harles - KRH Architects
Inc.
855 Abutment Road Suite 4
Dalton, GA 30720

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

§ 1.1.11.2 Consultants retained under Supplemental Services:

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§ 1.1.12 Other Initial Information on which the Agreement is based:

NA

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) for each occurrence and Two Million Dollars and Zero Cents (\$ 2000000.00) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such

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primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than Five Hundred Thousand Dollars and Zero Cents (\$ 500000.00) each accident, Five Hundred Thousand Dollars and Zero Cents (\$ 500000.00) each employee, and Five Hundred Thousand Dollars and Zero Cents (\$ 500000.00) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2000000.00) per claim and Three Million Dollars and Zero Cents (\$ 3000000.00) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the

further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	

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§ 4.1.1.6	Building Information Model management responsibilities	
§ 4.1.1.7	Development of Building Information Models for post construction use	
§ 4.1.1.8	Civil engineering	
§ 4.1.1.9	Landscape design	
§ 4.1.1.10	Architectural interior design	
§ 4.1.1.11	Value analysis	
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13	On-site project representation	
§ 4.1.1.14	Conformed documents for construction	
§ 4.1.1.15	As-designed record drawings	
§ 4.1.1.16	As-constructed record drawings	
§ 4.1.1.17	Post-occupancy evaluation	
§ 4.1.1.18	Facility support services	
§ 4.1.1.19	Tenant-related services	
§ 4.1.1.20	Architect's coordination of the Owner's consultants	
§ 4.1.1.21	Telecommunications/data design	
§ 4.1.1.22	Security evaluation and planning	
§ 4.1.1.23	Commissioning	
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25	Fast-track design services	
§ 4.1.1.26	Multiple bid packages	
§ 4.1.1.27	Historic preservation	
§ 4.1.1.28	Furniture, furnishings, and equipment design	
§ 4.1.1.29	Other services provided by specialty Consultants	
§ 4.1.1.30	Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

Init.

- .2 Twenty (20) visits to the site by the Architect during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope

of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its 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 this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

Init.

[] Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

\$0

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

\$0

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests

the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

.2 Percentage Basis
(Insert percentage value)

Six (6.00) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Init.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Architect \$125/hr Project Manager \$100/hr

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (10.00%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Forty	percent (	40	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category	Rate (\$0.00)
Architect	\$125
Project Manager	\$100
Engineer	\$125

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services

and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Zero percent (0.00 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

1 % monthly

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

Sections of this contract shall be modified as described in the Final Change letter from the City Attorney to KRH Architects Inc. Dated July 11, 2023

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)

NA

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

[NA] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

[Exhibit A attached] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

- .4 Other documents:
(List other documents, if any, forming part of the Agreement.)

NA

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

Annalee Sams, Mayor
(Printed name and title)

ARCHITECT (Signature)

Kenneth R. Harless, President
(Printed name, title, and license number, if required)

Init.



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Construction Contract with Integrated Builds LLC for the City Hall Window Replacement Project

DEPARTMENT

Administration

REQUESTED BY

Todd Pangle

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

\$393,475.00

FUNDING SOURCE IF NOT IN BUDGET

CIP

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

Construction Contract with Integrated Builds LLC for the City Hall Window Replacement Project

PHONE
706-278-9500

WEBSITE
www.daltonga.gov

ADDRESS
300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

SECTION 00090
THE CONTRACT FOR CONSTRUCTION
AND INCORPORATED GENERAL CONDITIONS

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THE CONTRACT FOR CONSTRUCTION AND INCORPORATED GENERAL CONDITIONS

This Contract is made by and between the City of Dalton, GA (the "Owner") and Integrated Builds, LLC (the "Contractor") under seal for construction of "Renovations to Dalton City Hall Windows" (the "Project"). The Owner and the Contractor hereby agree as follows:

ARTICLE 1. THE CONTRACT AND THE CONTRACT DOCUMENTS

1.1 The Contract

1.1.1 The Contract between the Owner and the Contractor, of which this Contract is a part, consists of the Contract Documents. It shall be effective on the date this Contract is executed by the last party to execute it.

1.2 The Contract Documents

1.2.1 The Contract Documents consist of this Contract, the Specifications, the Drawings, Supplemental Conditions, all Change Orders and Field Orders issued hereafter, any other amendments hereto executed by the parties hereafter, together with the following (if any):

1.2.2 The Contractor shall have a continuing duty to read, carefully study and compare each of the Contract Documents, the Shop Drawings and the Product Data, and shall give written notice to the Owner and the Architect of any inconsistency, ambiguity, error, or omission that the Contractor discovers regarding these documents before proceeding with the affected Work. The issuance or the express or implied approval by the Owner or the Architect of the Contract Documents, Shop Drawings, or Product Data shall not relieve the Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the Contractor's compliance with this Contract. The Owner has requested the Architect to only prepare documents for the Project, including the Drawings and Specifications, which are accurate, adequate, consistent, coordinated and sufficient for construction. HOWEVER, THE OWNER MAKES NO REPRESENTATION OR WARRANTY OF ANY NATURE WHATSOEVER TO THE CONTRACTOR CONCERNING SUCH DOCUMENTS. By the execution hereof, the Contractor acknowledges and represents that it has received, reviewed, and carefully examined such documents, has found them to be complete, accurate, adequate, consistent, coordinated and sufficient for construction, and that the Contractor has not, does not, and will not rely upon any representation or warranties by the Owner concerning such documents as no such representation or warranties have been or are hereby made.

1.2.3 The Contractor herein acknowledges and represents that prior to the submission of its bid, and prior to its execution of this Contract, it visited and carefully examined the Project site and any and all structures located thereon, and it thoroughly correlated the results of such visit and examination with the requirements of the Contract Documents. The Contractor further acknowledges that it has become familiar with the local conditions

under which the Work is to be performed, and the cost of properly addressing such conditions during performance of the Work is included in the Contract Price.

1.2.4 Neither the organization of any of the Contract Documents into divisions, sections, paragraphs, articles, or other categories nor the organization or arrangement of the Design shall control the Contractor in dividing the Work or in establishing the extent or scope of the Work to be performed by Subcontractors. Unless otherwise provided herein, a reference to "Article" or "Section" shall include all sections, subsections, and other subdivisions of such Section or Article.

1.3 Ownership of Contract Documents

1.3.1 The Contract Documents, and each of them, shall remain the property of the Owner. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project. However, in no event shall Contractor use, or permit to be used, any or all of such Contract Documents on other projects without the Owner's prior written authorization.

1.4 Hierarchy of Contract Documents

1.4.1 In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following hierarchy shall control: (a) as between figures given on Drawings and the scaled measurements, the figures shall govern; (b) as between large scale drawings and small scale drawings, the large scale shall govern; (c) as between Drawings and Specifications, the requirements of the Specifications shall govern; (d) as between the Contract for Construction and Incorporated General Conditions and the Specifications, the requirements of the Contract for Construction and Incorporated General Conditions shall govern; (e) as between any Supplemental Conditions and the Contract for Construction and Incorporated General Conditions, the requirements of the Supplemental Conditions shall govern. As set forth hereinabove, any and all conflicts, discrepancies, or inconsistencies shall be immediately reported to the Owner and the Architect in writing by the Contractor.

ARTICLE 2. THE WORK

2.1 The Contractor shall perform all of the Work required, implied or reasonably inferable from, this Contract.

2.2 The term "Work" shall mean whatever is done by or required of the Contractor to perform and complete its duties under this Contract, including the following: (i) construction of the whole or a designated part of the Project; (ii) furnishing of any required surety bonds and insurance; and (iii) the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of the Contractor. Fuel, heat, light, cooling and all other utilities as required by this Contract shall also be deemed part of the Work. The Work to be performed by the Contractor is generally described as follows:

ARTICLE 3. CONTRACT TIME

3.1 Time and Damages for Delay

3.1.1 The Contractor shall commence the Work on 4/20/2026 and shall achieve Substantial Completion of the Work no later than 9/11/2026. The number of calendar days from the date on which the Work is permitted to proceed, through the date set forth for Substantial Completion, shall constitute the "Contract Time."

3.1.2 The Contractor shall pay the Owner the sum of **\$200** per day for each and every calendar day of delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion of the Work. Any sums due and payable under this Section shall be payable not as a penalty but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Substantial Completion will be delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to cover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Notwithstanding any other provision of this Section, the Owner and the Contractor expressly agree that the liquidated damages set forth herein do not contemplate, nor do they cover, any Funding Delay Damages as identified in Section 5.6.1.2. Any such Funding Delay Damages shall be in addition to the liquidated damages allowed pursuant to this Section.

3.2 Substantial Completion

3.2.1 "Substantial Completion" shall mean that stage in the completion of the Work when the Work is sufficiently complete in accordance with this Contract such that the Owner can enjoy beneficial use and occupancy of the Work, can utilize the Work for its intended purpose, and a Certificate of Occupancy has been issued allowing full and complete occupancy of the entire Project. Additionally, the Work shall not be deemed to be Substantially Complete until all nonconforming Work specifically rejected by the Architect has been properly completed as required by the Contract and until all operational manuals, "marked-up" drawings, and similar required documents are delivered to the Architect for transmission to the Owner. However, the mere issuance of a Certificate of Occupancy will not, by itself, constitute Substantial Completion. Ordinary and customary punchlist items shall be completed after Substantial Completion as provided by Section 5.5. Partial use or occupancy of the Project shall not result in the Project being deemed Substantially Complete, and such partial use or occupancy shall not be evidence of Substantial Completion.

3.2.2 In addition to the requirements for Substantial Completion as set forth in Section 3.2.1, as an express condition for Substantial Completion, the Contractor shall furnish to

the Owner and the Architect, in writing, a detailed list of all incomplete and deficient Work which must be completed and corrected prior to Final Completion of the Project. THIS LIST SHALL BE IN ADDITION TO ALL PUNCHLISTS REQUIRED ELSEWHERE BY THIS CONTRACT. Furthermore, notwithstanding any other provision of this Contract, an express condition for Substantial Completion is the submission by the Contractor to Owner and Architect of any warranties, manuals, drawings, forms, or other documents or things, of any kind or nature, as may be required for Substantial Completion by any of the Contract Documents. In the event the Contract Documents require the submission of any such documents or things in order for the Project to be considered Substantially Complete, receipt of same by Owner and Architect is an express condition precedent to any duty by Owner to make any payment otherwise due Contractor upon Substantial Completion.

3.3 Time is of the Essence

3.3.1 All limitations of time set forth in the Contract Documents are of the essence of this Contract.

ARTICLE 4. CONTRACT PRICE

4.1 The Contract Price

4.1.1 The Owner shall pay, and the Contractor shall accept, as full and complete payment for all of the Work, the fixed sum of \$393,475.00. The sum set forth in this Section shall constitute the Contract Price and shall not be modified except by Change Order as provided in this Contract. The fixed sum includes a \$50,000 Owner's construction contingency to be used for additional work as directed by the Owner and Architect.

ARTICLE 5. PAYMENT OF THE CONTRACT PRICE

5.1 Schedule of Values

5.1.1 Within ten (10) calendar days after the effective date hereof, the Contractor shall submit to the Owner and to the Architect a Schedule of Values allocating the Contract Price among the various portions of the Work. The Contractor's Schedule of Values shall be prepared in such form, with such detail, and supported by such data as the Architect or the Owner may require to substantiate its accuracy. The Contractor shall not imbalance the Schedule of Values or artificially inflate any element thereof. The violation of this provision by the Contractor shall constitute a material breach of this Contract. The Schedule of Values shall be used only as a basis for the Contractor's Applications for Payment and shall only constitute such basis after it has been acknowledged in writing by the Architect and the Owner. Receipt of the Schedule of Values as required herein is a condition precedent to payment of any sums due the Contractor.

5.1.2 In the event any Work is to be performed under a unit-price agreement, the Contractor acknowledges and represents that it has not imbalanced or artificially inflated the unit prices, and if requested by the Owner or the Architect, the Contractor shall provide such data and supporting documentation as may be requested to support the reasonableness and accuracy of such unit prices. Unit prices establish the complete and total sum to be paid for the unit price work, and such unit prices include any and all applicable overhead, profit, and mark-up of every kind and nature.

5.2 Payment Procedure

5.2.1 The Owner shall pay the Contract Price to the Contractor as provided in Section 5.2.

5.2.2 Progress Payments. Based upon the Contractor's Applications for Payment submitted to the Architect and upon Certificates for Payment subsequently issued to the Owner by the Architect, the Owner shall make progress payments to the Contractor on account of the Contract Price.

5.2.2.1 On or before the 5th day of each month after commencement of the Work, the Contractor shall submit an Application for Payment for the period ending the 30th day of the preceding month to the Architect in such form and manner, and with such supporting data and content, as the Owner or the Architect may require.

5.2.2.2 Each Application for Payment may request payment for ninety-five percent (95%) of that portion of the Contract Price properly allocable in the Schedule of Values to Contract requirements properly performed and labor, materials, and equipment properly incorporated in the Work plus ninety-five percent (95%) of that portion of the Contract Price properly allocable in the Schedule of Values to materials or equipment properly stored on-site for subsequent incorporation in the Work, less the total amount of previous payments. Payment for stored materials and equipment shall be conditioned upon the Contractor's proof satisfactory to the Owner, that the Owner has title to such materials and equipment, and shall include proof of required insurance.

5.2.2.3 Each Application for Payment shall be signed by the Contractor, which shall constitute the Contractor's representation that the Work has progressed to the level for which payment is requested in accordance with the Schedule of Values, that the Work has been properly installed or performed in full accordance with this Contract, and that the Contractor knows of no reason why payment should not be made as requested.

5.2.2.4 The Architect will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Contract. Based on the Architect's evaluations of the Contractor's Application for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment for such amounts.

5.2.2.5 The amount of each partial payment shall be the amount certified for payment by the Architect less such amounts, if any, otherwise owing by the Contractor to

the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Architect's certification of an Application for Payment shall not preclude the Owner from the exercise of any of its rights as set forth in Section 5.3, and the Architect shall have the right to amend or withdraw any previously executed Certification of Payment if it determines that such amendment or withdrawal is necessary to protect the interest of the Owner under this Contract.

5.2.2.6 The Owner shall make partial payments on account of the Contract Price to the Contractor within thirty (30) days following the Architect's certification of the amount due thereunder.

5.2.2.7 When the Contractor reaches Substantial Completion, the Contractor may submit in writing to the Owner a request for release of retainage, and the Owner shall, within 30 days after submission of Contractor's pay application and other appropriate documentation as may be required by the Contract Documents are provided, pay the retainage to the Contractor. If at that time there are any remaining incomplete items of Work, an amount equal to 200 percent (200%) of the value of each item, as determined by the Architect, shall be withheld until such item or items are completed. The retainage shall be shared by the Contractor and Subcontractors as their interests may appear. At the discretion of the Owner, and with the approval of the Contractor, the retainage of any Subcontractor may be released separately as the Subcontractor completes its work. The rights of the Owner set forth herein to retainage are in addition to all the other rights and remedies of the Owner set forth in this Contract. Notwithstanding any other provisions herein, the Contractor shall not request, nor shall it be entitled to receive, any reduction in retainage, or any cessation in the withholding of retainage, so long as any Work has been rejected by the Architect and such Work has not been corrected or otherwise performed in accordance with all requirements of the Contract Documents.

5.2.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interest, or other encumbrances in favor of the Contractor or any other person or entity.

5.2.4 The Contractor shall promptly pay each Subcontractor, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which such Subcontractor is entitled and shall furnish proof of such payment to the Owner and Architect. The Contractor shall also procure and furnish to the Owner and Architect such affidavits of payment, proofs of payment, and lien waivers from Subcontractors, suppliers, laborers and materialmen as the Owner or Architect may require.

5.2.5 The submission of any Application for Payment by the Contractor to the Architect shall constitute a representation by the Contractor to both the Architect and the Owner that such Application includes any and all sums due the Contractor as of the date of such Application. Payment by the Owner to the Contractor of any sums certified by the Architect pursuant to an Application for Payment shall constitute full and complete

payment to the Contractor, save and except for any unpaid retainage, of all sums due the Contractor from the Owner as of the date of such Application.

5.2.6 No progress payment, nor any use or occupancy of the Project by the Owner, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Contract.

5.3 Withheld Payment

5.3.1 The Owner may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to the Contractor, to protect the Owner from loss because of:

- (a) Work rejected by the Architect or other defective Work not remedied by the Contractor or, in the opinion of the Owner, not likely to be remedied by the Contractor;
- (b) Work which requires further testing or inspection to verify that it has been installed in accordance with the requirements of the Contract Documents;
- (c) Claims of third parties against the Owner or the Owner's property;
- (d) Failure by the Contractor to pay Subcontractors or others in a prompt and proper fashion;
- (e) Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
- (f) Evidence that the Work will not be completed within the time required for Substantial Completion or Final Completion;
- (g) Persistent failure to carry out the Work in accordance with the Contract;
- (h) Damage to the Owner or a third party to whom the Owner is, or may be, liable.

5.3.2 If the Owner makes written demand upon the Contractor for amounts previously paid by the Owner as contemplated in this Section 5.3, the Contractor shall promptly comply with such demand within 10 days.

5.4 Unexcused Failure to Pay

5.4.1 If the Owner, without cause or basis hereunder, fails to pay the Contractor any amount then due and payable to the Contractor within forty-five (45) days after the date established for payment, then the Contractor may after seven (7) additional days' written notice to the Owner and the Architect, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from the Owner have been received. Any payment not made within forty-five (45) days after the

date due shall bear interest at the rate of four percent (4%) per annum. No other interest shall be due Contractor.

5.5 Process For Substantial Completion

5.5.1 When the Contractor believes that the Work is Substantially Complete, the Contractor shall submit in writing to the Architect a list of items to be completed or corrected. When the Architect, on the basis of an inspection, determines that the Work is in fact Substantially Complete, the Architect will prepare a Certificate of Substantial Completion, which shall establish the date of Substantial Completion and shall state the responsibilities of the Owner and the Contractor for Project security, maintenance, heat, utilities, damage to the Work, and insurance. The Contractor shall have **30 Days** after the date of Substantial Completion to complete the items listed therein. The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of the responsibilities assigned to them in such certificate.

5.5.2 Upon Substantial Completion of the Work, and execution by both the Owner and the Contractor of the Certificate of Substantial Completion, and upon submission to the Owner of a complete set of record drawings illustrating the as-built condition of the Work (including the location of all utilities) along with all maintenance manuals and warranties required by the Contract Documents, the Owner shall pay the Contractor an amount sufficient to increase total payments to the Contractor to one hundred percent (100%) of the Contract Price less two hundred percent (200%) of the reasonable cost as determined by the Owner and the Architect for completing all incomplete Work, correcting and bringing into conformance all defective and nonconforming Work, and handling all unsettled claims. No further payments shall be made until Final Completion is achieved.

5.5.3 In the event the Contractor fails or refuses to complete the incomplete Work, or correct and bring into conformance the defective Work, or resolve any unsettled claims, the Owner, without limitation on any of its other rights or remedies, may complete the Work, remedy any defects in the Work, and resolve any unsettled claims relating to the Work, and the Contractor shall be liable to the Owner's damages including the cost of same. If the Work is completed or corrected by employees of the Owner, the Contractor shall be liable for the reasonable value of the completion or correction based upon the reasonable commercial cost of such Work as if performed by an independent contractor. To the extent the amount due the Owner hereunder exceeds the retainage held by the Owner, the balance due shall be paid by the Contractor within ten (10) days after receipt of an invoice or demand for payment from the Owner.

5.5.4 With respect to any and all Work performed by the Contractor after Substantial Completion of the Project or after any occupancy of the Project, in whole or in part, by the Owner, absent prior written consent of the Owner, such Work shall not be performed (a) during normal operating hours of the Owner's activities at the Project; (b) during the installation of any fixtures, furniture, or equipment by the Owner, or (c) during any cleaning, waxing, or other work by the Owner. Furthermore, any such Work shall only be performed in accordance with a detailed schedule indicating the proposed nature and area where the Work will be performed, the specific date and time of the Work, and, the

identity of each Subcontractor who will be performing any of the Work. SUCH WORK SHALL NOT COMMENCE UNLESS THE OWNER FIRST APPROVES THE PROPOSED SCHEDULE. All such Work shall be under the supervision of the Contractor, and the Contractor shall be, and shall remain, on the Project site during the performance of the Work. If any such Work requires or necessitates the presence of the Owner or the Architect, the Contractor shall be responsible for the cost thus incurred by the Owner or Architect. Each day the area where such Work is located, and any adjacent area impacted by the Work, shall be carefully cleaned by the Contractor and any construction debris shall be properly removed. All such areas shall be left by the Contractor in full operating condition.

5.5.5 Notwithstanding any other provision of this Contract, a condition precedent for Substantial Completion of the Project is the successful performance of an operational test on each of the following Project systems: the electrical system; the mechanical system; the fire alarm system; the lighting control system; the sound system; and the energy management system. Each such test shall be conducted in strict accordance with all requirements of the Specifications, and each such system must operate in full conformity with all requirements of said Specifications for not less than fifteen (15) consecutive calendar days prior to the date of Substantial Completion. Before the initiation of the operational test for each such system, and before the commencement of such operational testing period, Contractor shall first give the Owner and the Architect not less than three (3) days' prior written notice.

5.6 Final Completion and Final Payment

5.6.1 When the Contractor believes that all of the Work has reached Finally Completion and the Contractor is ready for a final inspection, it shall notify the Owner and the Architect thereof in writing. Thereupon, the Architect will make final inspection of the Work and, if the Work is complete in full accordance with this Contract and this Contract has been fully performed, the Architect will promptly declare the Work to have reached "Final Completion" and will issue a final Certificate for Payment certifying to the Owner that the Project is complete and the Contractor is entitled to the remainder of the unpaid Contract Price, less any amount withheld pursuant to this Contract. All warranties and guarantees required by the Contract shall commence on the date of Final Completion of the Work. If the Architect is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, the Contractor shall bear the cost of repeat final inspections, which cost may be deducted by the Owner from the Contractor's final payment.

5.6.1.1 If the Contractor fails to achieve Final Completion within the time fixed therefor by the Architect in its Certificate of Substantial Completion, the Contractor shall pay the Owner the sum of \$200.00 per day for each and every calendar day of unexcused delay in achieving Final Completion beyond the date set forth herein for Final Completion of the Work. Any sums due and payable hereunder by the Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Final Completion will be

inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by the Owner to be adequate to cover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving Final Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages. Notwithstanding any other provision of this Section, the Owner and the Contractor expressly agree that the liquidated damages set forth herein do not contemplate, nor do they cover, any Funding Delay Damages as identified in Section 5.6.1.2. Any such Funding Delay Damages shall be in addition to the liquidated damages allowed pursuant to this Section.

5.6.1.2 The Contractor recognizes and acknowledges that delay in achieving Substantial Completion, Final Completion, or final close-out of the Project could jeopardize the Owner's state or federal funding or other financial support for the Project. Among other things, any such delay could cause the forfeiture of unspent funds; the cost and expense of premature bond redemption; or other cost, expense, liability, loss, or damage arising out of or relating to the impairment of Project funding (any and all such potential losses and damages are referred to as "Funding Delay Damages"). The Contractor and the Owner furthermore expressly recognize, acknowledge, and agree that the liquidated damages established in Sections 3.1.2 and 5.6.1.1 do not contemplate or cover Funding Delay Damages, and that in the event any such Funding Delay Damages are suffered or sustained by the Owner as the result of any Project delays caused by the Contractor, or for which the Contractor is otherwise responsible under this Contract, the Owner shall be entitled to recover such Funding Delay Damages from the Contractor, and the Contractor shall be liable to the Owner for same. Nothing contained herein shall preclude the recovery by the Owner of the liquidated damages set forth elsewhere in this Contract.

5.6.2 The Contractor shall not be entitled to final payment unless and until it submits to the Architect and Owner all documents required by the Contract, including but not limited to its affidavit that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which the Owner, or the Owner's property might be responsible, have been fully paid or otherwise satisfied; releases and waivers of lien from all Subcontractors of the Contractor and of any and all other parties required by the Architect or the Owner; if Owner so elects in its sole discretion, consent of Surety, if any, to final payment; and all required warranties, maintenance and operation manuals, record and as-built drawings. If any third party fails or refuses to provide a release of claim or waiver of lien as required by the Owner, the Contractor shall furnish a bond satisfactory to the Owner to discharge any such lien or indemnify the Owner from liability. **FULL AND COMPLETE COMPLIANCE WITH ALL TERMS AND CONDITIONS OF THIS SECTION IS A CONDITION PRECEDENT TO FINAL PAYMENT.**

5.6.3 Subjection to the conditions precedent in Section 5.6.2, the Owner shall make final payment of all sums due the Contractor within thirty (30) days of the Architect's execution of a final Certificate for Payment.

5.6.4 Acceptance of final payment shall constitute a waiver of all claims against the Owner by the Contractor except for those claims previously made in writing against the Owner by the Contractor, pending at the time of final payment, and identified in writing by the Contractor as unsettled at the time of its request for final payment.

5.6.5 The Owner and the Contractor expressly agree that the terms of payment, payment periods, and rates of interest herein shall control to the exclusion of any provisions set forth in the Georgia Prompt Pay Act, O.C.G.A. § 13-11-1 *et seq.*, and the provisions of said Act are herein waived.

ARTICLE 6. THE OWNER

6.1 Information, Services and Things Required from Owner

6.1.1 If the Contractor requests in writing, the Owner shall furnish to the Contractor, prior to the execution of this Contract, any and all written and tangible documentation in its possession concerning conditions below ground at the site of the Project. Such documentation is furnished to the Contractor only to make complete disclosure of such material and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy in whole or in part, implicitly or explicitly, or at all, and shall have no liability therefor. The Owner shall also furnish surveys, legal limitations, utility locations (if known), and a legal description of the Project site. To the extent the Owner furnishes any information concerning utility locations, the Owner makes no representations or warranties concerning same and shall have no liability to Contractor in the event such information contains discrepancies or is otherwise inaccurate. Nothing contained herein shall limit the Contractor's duties and representations as set forth in Section 1.2.3 hereinabove.

6.1.2 Excluding permits and fees normally the responsibility of the Contractor and those set forth in Section 7.2.2, the Owner shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

6.2 Right to Stop Work

6.2.1 In the event of an emergency threatening injury to person or property, the Owner may order the Contractor to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or the Owner orders that Work be resumed. In such event, the Contractor shall immediately comply with such order.

6.3 Owner's Right to Perform Work

6.3.1 If the Contractor has installed defective or deficient Work which is not in conformity with the requirements of the Contract Documents, or if the Contractor fails or refuses to perform any portion of the Work, then the Owner may, without prejudice to any other rights or remedies the Owner may have against the Contractor, proceed to carry out the

subject Work. In such a situation, the Contract Price shall be reduced by the cost of performing the subject Work, plus compensation for the Architect's additional services and expenses necessitated thereby, if any. If such Work is performed by employees of the Owner, the Contract Price reduction shall reflect the reasonable value of such Work based upon the reasonable commercial cost of such Work as if performed by an independent contractor. If the unpaid portion of the Contract Price is insufficient to cover the amount due the Owner, the Contractor shall pay the difference to the Owner within ten (10) days of receipt of demand from the Owner.

ARTICLE 7. THE CONTRACTOR

7.1 Contractor's General Duties.

7.1.1 The Contractor shall comply with the requirements of Sections 1.2.2 and 1.2.3. The Contractor shall perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data, or Samples for such portion of the Work. If the Contractor performs any of the Work for which it knows or should have known the Contract Documents contain an error, inconsistency, or omission without notice to the Architect, then the Contractor shall be responsible for such performance and shall pay the cost of correction.

7.1.2 The Contractor shall perform the Work strictly in accordance with this Contract.

7.1.3 The Contractor shall supervise and direct the Work using the Contractor's best skill, effort, and attention. The Contractor shall be responsible to the Owner for any and all acts or omissions of the Contractor, its employees, its Subcontractors, and others engaged in the Work on behalf of the Contractor.

7.2 Warranty

7.2.1 The Contractor warrants to the Owner that all labor furnished to progress the Work under this Contract will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Contract, and that the Work will be of good quality, free from faults and defects, and in strict conformance with this Contract for a period of one (1) year after Final Completion of the Work. All Work not conforming to these requirements may be considered defective.

7.2.2 The Contractor shall obtain and pay for all permits, inspections, fees, and licenses necessary and ordinary for the Work. The Contractor shall comply with all lawful requirements applicable to the Work, and shall give and maintain any notices required by applicable law, ordinance, or regulation pertaining to the Work. The duties and obligations of the Contractor arising hereunder include but are not limited to the full and strict compliance of the Contractor with all rules, regulations and legal mandates of the United States Department of Labor; the United States Immigration and Naturalization Service; the Georgia Department of Labor; the United States Department of Environmental Protection; and the Georgia Environmental Protection Division of the

Department of Natural Resources. The Contractor shall furthermore comply with any and all applicable federal, state and local tax laws, unemployment compensation acts, and workers' compensation acts, and upon request of the Owner to the Contractor shall furnish written proof of such compliance. The Contractor shall defend, indemnify and hold the Owner harmless from any and all fines or citations issued against Owner, or any other damages, arising out of, or relating to, any violations by the Contractor of any law, rule, regulation or ordinance of any governmental authority. This duty of indemnification specifically includes, but is not limited to, the duty to indemnify and hold the Owner harmless from any and all attorneys' fees, court costs, expert witness fees, and other expenses arising out of any such fine or citation or otherwise resulting from any such violation by the Contractor.

7.3 Supervision

7.3.1 The Contractor shall employ and maintain at the Project site only competent supervisory personnel. Any supervisory or other personnel reasonably objectionable to the Owner shall be removed from the Project. Absent written instruction from the Contractor to the contrary, the superintendent shall be deemed the Contractor's authorized representative at the site and shall be authorized to receive and accept any and all communications from the Owner or the Architect. The Contractor shall attend any job site or other Project meetings as may be requested by the Owner or the Architect and shall have available in person such management personnel at any such meetings as the Owner or the Architect may require.

7.3.2 Key supervisory personnel assigned by the Contractor to this Project are as follows:

<u>Name</u>	<u>Function</u>
TBD	Senior Project Manager
TBD	Project Superintendent

All supervisory personnel are subject to approval by the Owner. So long as the individuals named above remain actively employed or retained by the Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assumes one or more of those functions listed above, the Contractor shall be bound by the provisions of this Section as though such individuals had been listed above. Within ten (10) days after commencement of the Work, the Contractor shall furnish the Owner and the Architect with the current home and office address of each of the individuals listed above along with their home, office, mobile, pager, and facsimile telephone numbers and with their respective email addresses. Any change in such information shall be immediately furnished in writing to the Owner and the Architect.

7.4 Schedules

7.4.1 The Contractor, within ten (10) days of commencing the Work, shall submit to the Owner and the Architect for their information the Contractor's schedule for completing the Work. Said schedule shall be based on the required dates for Substantial Completion and Final Completion and shall include any milestone dates set forth in the Contract Documents. Additionally, within ten (10) days of commencing the Work, the Contractor shall submit to the Owner and the Architect a separate shop drawing and submittal schedule detailing the schedule for the submission to the Architect of all shop drawings, submittals, product data and other similar documents. Each of the schedules required herein shall be revised no less frequently than monthly (unless the parties otherwise agree in writing) and shall be revised to reflect conditions encountered from time-to-time and shall be related to the entire Project. Each such revision shall be furnished to the Owner and the Architect. The schedules and all revisions shall be in such form, and shall contain such detail, as the Owner or the Architect may require. THE PARTIES SPECIFICALLY AGREE THAT ANY FLOAT CONTAINED IN THE SCHEDULES SHALL BELONG TO THE PROJECT AND IN NO EVENT SHALL THE CONTRACTOR MAKE CLAIM FOR ANY ALLEGED DELAY, ACCELERATION, OR EARLY COMPLETION SO LONG AS THE PROJECT IS COMPLETED WITHIN THE CONTRACT TIME. Strict compliance with the requirements of this Section is a condition precedent for payment to the Contractor, and failure by the Contractor to strictly comply with said requirements shall constitute a material breach of this Contract.

7.4.2 In addition to the schedules and revisions required in Section 7.4.1, with the submission of each Application for Payment, the Contractor shall submit a 30-day look-ahead schedule setting forth in detail the Work to be performed during the next 30 days and shall also submit a 30-day look-back schedule setting forth in detail the Work actually performed during the preceding 30 days, as compared to the Work scheduled during such period. The look-ahead and look-back schedules shall be in such form as the Owner may require, and the timely receipt of such schedules shall be a condition precedent to the Owner's duty to make payment to the Contractor.

7.4.3 Without limitation on any other rights or remedies of the Owner in the event Contractor fails or refuses to progress the Work, or any portion thereof, in accordance with the requirements of the Project schedule, the Owner or Architect may order or direct the Contractor to take one or more of the following actions:

- (a) Increase the labor force of Contractor and its Subcontractors;
- (b) Implement overtime operations;
- (c) Increase the number or duration of shifts;
- (d) Supplement its Project management;
- (e) Furnish additional equipment to its forces;
- (f) Accelerate delivery of material and supplies; or

- (g) Take such other action as the Owner reasonably believes necessary to increase the rate of progress.

7.4.4 The Contractor shall proceed with any action ordered or directed by Owner or Architect under Section 7.4.3 within forty-eight (48) hours of receipt of such order or direction. UNDER NO CIRCUMSTANCES SHALL CONTRACTOR MAKE CLAIM FOR, OR BE ENTITLED TO RECOVER, ANY COST, EXPENSE, LOSS OR DAMAGE ARISING OUT OF, OR RELATING TO, ANY SUCH ORDER OR DIRECTION OF OWNER OR ARCHITECT OR ANY ACTION TAKEN IN RESPONSE THERETO.

7.5 Shop Drawings, Product Data and Samples

7.5.1 Shop Drawings, Product Data, Samples, and other submittals from the Contractor do not constitute Contract Documents. Their purpose is merely to demonstrate the manner in which the Contractor intends to implement the Work in conformance with information received from the Contract Documents.

7.5.2 In no event shall the Contractor submit any Shop Drawings, Product Data, or Sample which is not in conformity with the requirements of the Contract Documents, and the Contractor shall not perform any portion of the Work requiring submittal and review of Shop Drawings, Product Data, or Samples unless and until same shall have been approved by the Architect. Approval by the Architect, however, shall not be evidence that the Shop Drawings, Product Data, or Sample, or Work installed pursuant thereto, conforms to the requirements of this Contract.

7.5.3 The Contractor shall continuously maintain at the site, for the benefit of the Owner and the Architect, one record copy of this Contract marked to record on a current basis changes, selections, and modifications made during construction. Additionally, the Contractor shall maintain at the site for the Owner and Architect the approved Shop Drawings, Product Data, Samples, and other similar required submittals. Upon Final Completion of the Work, all of these record documents shall be delivered to the Owner.

7.6 Cleaning the Site and the Project

7.6.1 The Contractor shall keep the site reasonably clean to the satisfaction of the Owner and Architect during performance of the Work. Upon Final Completion of the Work, the Contractor shall clean the site and the Project and remove all waste, together with all of the Contractor's property therefrom.

7.7 Access to Work

7.7.1 The Owner and the Architect shall have access to the Work at all times from commencement of the Work through Final Completion. The Contractor shall take whatever steps necessary to provide access when requested.

7.8 Indemnity

7.8.1 The Contractor shall be responsible from the time of signing the Contract, or from the time of commencement of the Work, whichever shall first occur, for all injury or damage of any kind resulting from the Work to persons or property, including employees and property of the Owner. The Contractor shall indemnify, defend and hold harmless the Owner from and against all claims or actions, whether actual or threatened, and all attorney fees and cost of defense thereof, arising out of or relating to damage or injury (including death) to persons or property caused by or sustained in connection with the performance of this Contract or by conditions created thereby, arising out of or any way connected with the Work performed under this Contract or any act or omission of the Contractor, any Subcontractor, or anyone directly or indirectly employed by or under the supervision of any of them. At the option of the Owner, the Contractor expressly agrees to defend against any claims or actions indemnified by this Section, whether such claims or actions are rightfully or wrongfully brought or filed. In such event, legal counsel provided by the Contractor shall be subject to the Owner's approval.

7.8.2 To the extent the Owner suffers or sustains any fines, penalties, or assessments as the result of any act or omission of the Contractor, the Contractor shall indemnify and hold harmless the Owner from same and the Contractor shall reimburse the Owner for any and all legal cost and expense, including attorneys' fees, incurred in connection with any such fines, penalties or assessments.

7.8.3 In claims against any person or entity indemnified under this Section 7.8 by an employee of the Contractor, a Subcontractor, any one directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 7.8 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

7.8.4 Nothing in this Section 7.8 shall require the Contractor to indemnify the Owner in the circumstances described in O.C.G.A. §§ 13-8-2(b) or (c).

7.9 Means, Methods, Techniques, Sequences, Procedures and Safety

7.9.1 The Contractor is fully responsible for, and shall have control over, all construction means, methods, techniques, sequences, procedures and safety, and shall coordinate all portions of the work required by the Contract Documents. Nothing contained herein, however, shall in any manner whatsoever relieve, release or discharge the Architect from any of its duties, responsibilities, obligations, or liabilities as set forth in its contract with the Owner, or as provided by law.

7.10 Separate Contracts

7.10.1 The Owner reserves the right to perform work on the premises with its own forces or by the use of other contractors. In such event, the Contractor shall fully cooperate with the Owner and such other contractors and shall coordinate, schedule and manage its

work so as not to hinder, delay or otherwise interfere with the separate work of the Owner or other contractors.

7.11 Notice of Commencement

7.11.1 The Contractor shall file a NOTICE OF COMMENCEMENT with the Clerk of the Superior Court of Whitfield County, Georgia no later than fifteen (15) days after the Contractor physically commences work on the site. The Contractor shall furnish a copy of the NOTICE OF COMMENCEMENT to the Architect and to anyone else making a written request.

The NOTICE OF COMMENCEMENT shall contain the following information:

- (a) The name, address, and telephone number of the Contractor.
- (b) The name and location of the project being constructed and the legal description of the property upon which the improvements are being made.
- (c) The name and address of the true owner.
- (d) The name and address of the surety for the performance and payment bonds.
- (e) Any other requirements called for in the Official Code of Georgia Annotated - Sections 36-91-72 and 44-14-361.5.

7.12 Compliance with Federal and State Immigration Laws

7.12.1 The Contractor shall register and participate in the electronic verification ("E-Verify") of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security.

7.12.2 The Contractor shall verify that all new employees of the Contractor are in compliance with the Immigration Reform and Control Act of 1986, as required by state law, as codified at O.C.G.A. § 13-10-91, *et seq.* The Contractor shall provide the Owner with all required affidavits verifying compliance with such applicable state and federal laws, including affidavits from Subcontractors and other performing the Work.

7.12.3 The Contractor agrees that, should it employ or contract with any Subcontractor(s) in connection with the physical performance of services pursuant to this Contract with the Owner, the Contractor will secure from such Subcontractor(s) an executed affidavit verifying the Subcontractor(s)'s compliance with O.C.G.A. § 13-10-91. The Contractor further agrees to maintain records of compliance by said Subcontractor(s) and their Tiers and provide a copy of each such verification to the Owner at the time the Subcontractor(s) is retained to perform such service.

7.12.4 The Contractor agrees to provide records, in a Excel Format, to the Owner providing the following information:

(a) Contractor Legal Name

(b) Contractor Address

(c) Contractor Federal work authorization program user number (E-Verify Number)

(d) Date of Contract between contractor and public employer.

7.12.5 The contractor also agrees to provide records for Subcontractors and Tiers in the same format and requiring the same information. This information is to be provided which requested by Owner.

ARTICLE 8. CONTRACT ADMINISTRATION

8.1 The Architect

8.1.1 The Architect for this project is KRH Architects Inc. In the event the Owner should find it necessary or convenient to replace the Architect, the Owner shall retain a replacement Architect and the status of the replacement Architect shall be that of the former Architect.

8.2 Architect's Administration

8.2.1 The Architect shall be authorized to act on behalf of the Owner only to the extent provided in this Contract.

8.2.2 The Owner and the Contractor shall communicate with each other in the first instance through the Architect.

8.2.3 The Architect shall be the initial interpreter of the requirements of the Drawings and Specifications and the judge of the performance thereunder by the Contractor. The Owner shall cause the Architect to render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of the Contractor.

8.2.4 The Owner shall cause the Architect to review the Contractor's Applications for Payment and certify to the Owner for payment to the Contractor, those amounts then due the Contractor as provided in this Contract.

8.2.5 The Architect shall have authority to reject Work which is defective or does not conform to the requirements of this Contract. If the Architect deems it necessary or advisable, the Architect shall have authority to require additional inspection or testing of the Work for compliance with Contract requirements.

8.2.6 The Owner shall cause the Architect to review and approve, or take other appropriate action as necessary, concerning the Contractor's submittals including Shop

Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents. The Owner shall cause the Architect's action to be taken with such reasonable promptness as to cause no delay in the work or in the activities of the Owner, Contractor, or separate Contractor while allowing sufficient time in the Architect's professional judgment to permit adequate review.

8.2.7 The Owner shall cause the Architect to prepare Change Orders and may authorize minor changes in the Work by Field Order as provided elsewhere herein.

8.2.8 The Owner shall cause the Architect, upon written request from the Contractor, to conduct inspections to determine the date of Substantial Completion and the date of Final Completion, to receive and forward to the Owner for the Owner's review and records, written warranties and related documents required by this Contract and to issue a final Certificate for Payment upon compliance with the requirements of this Contract. Written requests for interpretation (RFIs) required of the Architect received after noon on the last working day of the Architect's work week shall be acknowledged as received on the Architect's following normal working day.

8.2.9 The Architect's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

8.2.10 The Architect shall have the discretion and authority to specify the time within which the Contractor must correct or cure any defect or deficiency, or nonconformance with this Contract.

8.2.11 The Contractor shall make no claim for an extension of the Contract Time or for additional compensation arising out of or relating to any alleged failure by the Architect to timely take any action or render any decision unless and until the Contractor has first provided ten (10) days prior written notice to the Architect identifying therein the specific action or decision which the Contractor contends is necessary to avoid delay, or further delay, to the Project. In the event the Architect takes the requested action, or renders the requested decision, within ten (10) days of the receipt of such notice, no claim for an extension of the Contract Time or for additional compensation arising out of, or relating to, such action or decision shall be made by the Contractor and any such claim is expressly waived.

8.2.12 THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE CONTRACTOR UNDER THIS CONTRACT SHALL IN NO MANNER WHATSOEVER BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION, OR RESPONSIBILITY OF THE ARCHITECT. THE CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY AGREEMENT BY AND BETWEEN THE OWNER AND THE ARCHITECT. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT THE DUTIES OF THE CONTRACTOR TO THE OWNER ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE ARCHITECT TO THE OWNER.

8.3 Claims by the Contractor

8.3.1 All claims by Contractor shall be initiated by written notice and claim to the Owner and the Architect. The notice and claim shall be in such form as required by the Owner and same shall be signed by an officer of the Contractor under oath and under penalty of perjury. At a minimum, such notice and claim shall identify and describe the nature, scope, and location of the circumstance or condition giving rise to the claim; all items of Work impacted by the claim and an explanation of how the claim impacts such items of Work; applicable provisions of the Contract Documents; an estimate of any costs incurred and to be incurred as a result of the claim; and an estimate of any delays to the critical path of the Work resulting from the claim. Such written notice and claim must be furnished within seven (7) days after occurrence of the event, or the first appearance of the condition, giving rise to the claim. THE FAILURE BY THE CONTRACTOR TO PROVIDE THE WRITTEN NOTICE AND CLAIM AS PROVIDED IN THIS SECTION SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY SUCH CLAIM AGAINST THE OWNER.

8.3.2 Pending final resolution of any claim of the Contractor, the Contractor shall diligently proceed with performance of this Contract and the Owner shall continue to make payments to the Contractor in accordance with this Contract. The resolution of any claim under this Section 8.3 shall be reflected by a Change Order executed by the Owner, the Architect, and the Contractor.

8.3.3 Claims for Concealed and Unknown Conditions. If Contractor encounters (i) concealed and unknown conditions in the performance of the Work below the surface of the ground or in an existing structure at variance with the conditions indicated by this Contract, or (ii) unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in Work of the character provided for in this Contract, then the Contract Price shall be equitably adjusted by Change Order upon the written notice and claim by either party made within seven (7) days after the first observance of the condition. As a condition precedent to the Owner having any liability to the Contractor for concealed or unknown conditions, the Contractor must give the Owner and the Architect written notice of, and an opportunity to observe, the condition prior to disturbing it. THE FAILURE BY THE CONTRACTOR TO PROVIDE THE WRITTEN NOTICE AND CLAIM AS PROVIDED IN THIS SECTION SHALL CONSTITUTE A WAIVER BY THE CONTRACTOR OF ANY CLAIM ARISING OUT OF OR RELATING TO SUCH CONCEALED OR UNKNOWN CONDITION.

8.3.4 Claims for Additional Costs. If the Contractor wishes to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefor, the Contractor shall give the Architect written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by the Contractor before proceeding to execute any additional or changed Work. THE FAILURE BY THE CONTRACTOR TO PROVIDE SUCH NOTICE AND TO GIVE SUCH NOTICE PRIOR TO EXECUTING THE WORK SHALL CONSTITUTE A WAIVER OF ANY CLAIM FOR ADDITIONAL COMPENSATION.

8.3.4.1 Limitations on Liability. In connection with any claim by the Contractor against the Owner, any liability of the Owner shall be strictly limited to direct costs incurred by the Contractor and shall in no event include indirect costs or consequential damages of the Contractor. Furthermore, in no event shall the Owner be liable to the Contractor for any claim for home-office overhead, loss of efficiency or productivity, loss of use of capital, loss of bonding capacity, or loss of business opportunity. Furthermore, the Owner shall have no liability for any claim for acceleration or compression of the schedule. The Owner shall not be liable to the Contractor for claims of third parties, including Subcontractors. The Contractor shall not serve as a conduit for the claims of Subcontractors against the Owner, and any provision in any contract between the Contractor and any Subcontractor pursuant to which the Contractor is obligated to present to the Owner any claim of any Subcontractor shall be invalid.

8.3.5 Claims for Additional Time. If the Contractor is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by the Owner or someone acting in the Owner's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipatable, fire or any causes beyond the Contractor's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of the Contractor to the Owner and the Architect for such reasonable time as the Architect may determine. Any notice and claim for an extension of time by the Contractor shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail the Contractor's basis for requiring additional time in which to complete the Project. In the event the delay to the Contractor is a continuing one, only one notice and claim for additional time shall be necessary, provided such notice expressly states the Contractor expects the delay to be continuing and states the basis for such expectation. IF THE CONTRACTOR FAILS TO MAKE SUCH CLAIM AS REQUIRED IN THIS SECTION, ANY CLAIM FOR AN EXTENSION OF TIME SHALL BE WAIVED.

8.3.6 Extension of Contract Time for Unusually Adverse Weather Conditions Not Reasonably Anticipated

8.3.6.1 Pursuant to the provisions of Section 8.3.5, the Contract Time may be extended upon written notice and claim of the Contractor to the Owner and the Architect as set forth in such Section and as further set forth herein. It is, however, expressly agreed that the time for completion as stated in the Contract Documents includes due allowance for calendar days on which work cannot be performed out-of-doors. For purposes of this Contract, and for purposes of extensions of Contract Time, the Contractor agrees that it anticipates adverse weather sufficient to prevent work in accordance with the schedule set forth below, and the Contractor further agrees that unless it encounters actual adverse weather in excess of those days set forth below, it shall not make, nor shall it be entitled to, any extension of the Contract Time:

<u>Month</u>	<u>Days</u>	<u>Month</u>	<u>Days</u>	<u>Month</u>	<u>Days</u>
January	12	May	8	September	7
February	10	June	8	October	9
March	9	July	11	November	9
April	8	August	9	December	10

8.3.6.1 Furthermore, in addition to the notice requirements set forth in the aforesaid Section 8.3.5, the Contractor agrees that it shall provide written notice to the Owner and the Architect on the day of any adverse weather not anticipated and for which a request for a time extension has been, or will be, made. Said notice shall state with particularity a description of the adverse weather as well as a description of the nature and extent of any delay caused by such weather. Receipt of this notice by the Owner and the Architect is a condition precedent to the submission of any claim for an extension of time as provided by Section 8.3.5. Furthermore, as required by Section 8.3.5, the Contractor shall submit a written claim for extension of time within seven (7) days after the occurrence of the adverse weather and such claim shall be supported by such documentation including, but not limited to, official weather reports, as the Owner or the Architect may require. To the extent that any of the terms and conditions set forth in Section 8.3.6 are in conflict with any of the terms and conditions of Section 8.3.5, the terms and conditions of Section 8.3.6 shall govern and control. THE FAILURE BY THE CONTRACTOR TO COMPLY WITH ALL REQUIREMENTS OF SECTION 8.3.6 SHALL PRECLUDE ANY EXTENSION OF THE CONTRACT TIME FOR ADVERSE WEATHER.

8.3.6.2 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CONTRACT, THE PARTIES SPECIFICALLY AGREE THAT ANY AND ALL WEATHER DELAYS SHALL BE NONCOMPENSABLE AND THE SOLE AND EXCLUSIVE REMEDY OF THE CONTRACTOR IN THE EVENT OF ANY SUCH DELAY IS AN EXTENSION OF THE CONTRACT TIME AS PROVIDED IN THIS SECTION 8.3.6.

8.3.7 Legal Action by the Contractor: As a condition precedent to the filing of any legal action by the Contractor against the Owner arising out of or relating to this Contract, the Contractor shall first provide the Owner thirty (30) days prior written notice of its intent to file such action. Such notice shall include an identification of the anticipated parties to said action and a description of all anticipated claims and causes of action to be asserted in said action. Any legal action under this Contract filed by either the Contractor or the Owner shall be filed in the Superior Court of Whitfield County, Georgia, and said Court shall be the exclusive venue for any such action. The Contractor expressly agrees that it shall be subject to the jurisdiction and venue of said Court for any such action.

ARTICLE 9. SUBCONTRACTORS

9.1 Definition

9.1.1 A Subcontractor is an entity which has a direct contract with the Contractor to perform a portion of the Work.

9.2 Award of Subcontracts

9.2.1 The Contractor shall employ and utilize the following designated Subcontractors for the elements of the work identified. In no event may the Contractor substitute Subcontractors identified herein after the execution hereof for convenience. Any substitution of Subcontractors must be for cause reasonably demonstrated to the Owner's satisfaction:

<u>Subcontractor</u>	<u>Work</u>

9.2.2 Upon execution of the Contract, the Contractor shall furnish the Owner, in writing, the names of persons or entities proposed by the Contractor to act as Subcontractors on the Project. The Owner shall promptly reply to the Contractor, in writing, stating any objections the Owner may have to any of the proposed Subcontractors. The Contractor shall not enter into a Subcontract with a proposed Subcontractor with reference to whom the Owner has made timely objection. The Contractor shall not be required to Subcontract with any party to whom the Contractor has objection.

9.2.3 All subcontracts shall afford the Contractor rights against the Subcontractor which correspond to those rights afforded to the Owner against the Contractor herein, including those rights afforded to the Owner by Section 12.2.1 below.

9.3 Verification of Subcontractor Payments

9.3.1 The Owner may in its discretion verify with any Subcontractor the status of payments received or due from the Contractor. Nothing contained herein shall in any manner limit or restrict any other right of the Owner to communicate with a Subcontractor.

ARTICLE 10. CHANGES IN THE WORK

10.1 Changes Permitted

10.1.1 Changes in the Work within the general scope of this Contract, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Contract, by Change Order or by Field Order.

10.1.2 Changes in the Work shall be performed under applicable provisions of this Contract and the Contractor shall proceed promptly with such changes.

10.2 Change Order Defined

10.2.1 Change Order shall mean a written order to the Contractor executed by the Owner and the Architect, issued after execution of this Contract, authorizing and directing a change in the Work or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and the Contract Time may be changed only by Change Order.

10.3 Changes in the Contract Price

10.3.1 Any change in the Contract Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between the Owner and the Contractor as evidenced by (1) the change in the Contract Price being set forth in the Change Order, (2) such change in the Contract Price, together with any conditions or requirements related thereto, being initialed by both parties, and (3) the Contractor's execution of the Change Order, or (b) if no mutual agreement occurs between the Owner and the Contractor, then, as provided in Section 10.3.2.

10.3.2 If no mutual agreement occurs between the Owner and the Contractor as contemplated in Section 10.3.1, the change in the Contract Price, if any, shall then be determined by the Architect on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Contract Price, a reasonable allowance for direct job site overhead and profit. In such case, the Contractor shall present, in such form and with such content as the Owner or the Architect requires an itemized accounting of such expenditures or savings, plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from the Contractor or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and jobsite field office overhead directly attributable to the change. In the event the Contractor performs the Work required by Change Order with its own forces, and not the forces of a Subcontractor, the overhead and profit due the Contractor for such work shall be twenty (20) percent. In the event the Change Order Work is performed by one or more Subcontractors, the Contractor's overhead and profit shall be seven and one-half (7- 1/2) percent. In no event shall any expenditure or savings associated with the Contractor's home office or other non-jobsite overhead expense be included in any change in the Contract Price. Pending final determination of reasonable expenditures or savings to the Owner, payments on account shall be made to the Contractor on the Architect's Certificate for Payment.

10.3.3 If unit prices are provided in the Contract, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the

quantities of Work proposed will cause substantial inequity to the Owner or to the Contractor, the applicable unit prices shall be equitably adjusted.

10.4 Effect of Executed Change Order

10.4.1 The execution of a Change Order by the Contractor shall constitute conclusive evidence of the Contractor's agreement to the ordered changes in the Work, this Contract as thus amended, the Contract Price and the Contract Time. The Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

10.5 Notice to Surety; Consent

10.5.1 The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all Change Orders if such notice, consent or approval are required by the Contractor's surety or by law. The Contractor's execution of the Change Order shall constitute the Contractor's warranty to the Owner that the surety has been notified of and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

ARTICLE 11. UNCOVERING AND CORRECTING WORK

11.1 Uncovering Work

11.1.1 If any of the Work is covered contrary to the Architect's request or to any provisions of this Contract, it shall, if required by the Architect or the Owner, be uncovered for the Architect's inspection and shall be properly replaced at the Contractor's expense without change in the Contract Time.

11.1.2 If any of the Work is covered not in contradiction to the Architect's request or to any provisions of this Contract, nonetheless, it shall, if required by the Architect or Owner, be uncovered for the Architect's inspection. If such Work conforms strictly with this Contract, costs of uncovering and proper replacement shall by Change Order be charged to the Owner. If such Work does not strictly conform with this Contract, the Contractor shall pay the costs of uncovering and proper replacement.

11.2 Correcting Work

11.2.1 The Contractor shall immediately proceed to correct Work rejected by the Architect as defective or failing to conform to this Contract. All such rejected Work shall be corrected in sufficient time so as not to delay either Substantial Completion or Final Completion of the Project, and in any event such rejected Work shall be corrected within thirty (30) days after issuance of any written rejection notice by the Architect. In the event the Work is not fully corrected within three (3) days from the date of said rejection notice, the Contractor shall submit to the Owner and the Architect, within seven (7) days of said notice, a detailed written plan of remediation in such form, and in such detail, as the

Owner may require. At a minimum, such plan of remediation shall include an identification and location of the Work to be remediated; a detailed description of the process and procedure proposed for the remediation; the name of each Subcontractor involved in performing any of the remediation Work; the proposed schedule for the remediation including start date, hours of operation, and finish date; and, the name of each individual responsible for the management of such Work. The Contractor shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to the Owner for the Architect's services and expenses made necessary thereby.

11.2.2 If within one (1) year after Final Completion of the Work, any of the Work is found to be defective or not in accordance with this Contract, the Contractor shall correct it promptly upon receipt of written notice from the Owner. This obligation shall survive final payment by the Owner and termination of this Contract. With respect to Work first performed and completed after Substantial Completion, this one-year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

11.2.3 Nothing contained in this Section shall establish any period of limitation with respect to other obligations which the Contractor has under this Contract. Establishment of the one-year time period in Section 11.2.2 relates only to the duty of the Contractor to specifically correct the Work.

11.3 Owner May Accept Defective or Nonconforming Work

11.3.1 If the Owner chooses to accept defective or nonconforming Work, the Owner may do so, but only if such acceptance is in writing and executed by Owner. In such event, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Work, and (b) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming Work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for its acceptance of defective or nonconforming Work, the Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming Work.

ARTICLE 12. CONTRACT TERMINATION

12.1 Termination by the Contractor

12.1.1 If the Work is stopped for a period of ninety (90) days by an order of any court or other public authority, or as a result of an act of the Government (other than Owner), through no fault of the Contractor or any person or entity working directly or indirectly for the Contractor, the Contractor may, upon ten (10) days' written notice to the Owner and the Architect, terminate performance under this Contract and recover from the Owner payment for the actual reasonable expenditures of the Contractor (as limited in Section

10.3.2 above) for all Work executed and for materials, equipment, tools, construction equipment and machinery actually purchased or rented solely for the Work, less any salvage value of any such items.

12.1.2 If the Owner shall persistently or repeatedly fail to perform any material obligation to the Contractor for a period of thirty (30) days after receiving written notice from the Contractor of its intent to terminate hereunder, the Contractor may terminate performance under this Contract by written notice to the Architect and the Owner. In such event, the Contractor shall be entitled to recover from the Owner as though the Owner had terminated the Contractor's performance under this Contract for convenience pursuant to Section 12.2.1 hereunder.

12.2 Termination by the Owner

12.2.1 For Convenience

12.2.1.1 The Owner may for any reason whatsoever, or for no reason, terminate performance under this Contract by the Contractor for convenience. The Owner shall give written notice of such termination to the Contractor specifying when termination becomes effective.

12.2.1.2 The Contractor shall incur no further obligations in connection with the Work and the Contractor shall stop Work when such termination becomes effective. The Contractor shall also terminate outstanding orders and subcontracts. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the Contractor to assign the Contractor's right, title and interest under terminated orders or subcontracts to the Owner or its designee.

12.2.1.3 The Contractor shall transfer title and deliver to the Owner such completed or partially completed Work and materials, equipment, parts, fixtures, information and Contract rights as the Contractor has.

12.2.1.4 Within sixty (60) days after its termination for convenience, the Contractor shall submit a termination claim to the Owner and the Architect specifying the amounts due because of the termination for convenience together with costs, pricing or other data required by the Architect. The claim shall be signed by an officer of the Contractor under oath and under penalty of perjury. IF THE CONTRACTOR FAILS TO FILE A COMPLETE AND PROPER TERMINATION CLAIM WITHIN THE TIME REQUIRED HEREIN ANY CLAIM FOR TERMINATION SHALL BE DEEMED WAIVED AND NO FURTHER SUMS SHALL BE DUE THE CONTRACTOR.

12.2.1.5 The Owner and the Contractor may agree to the compensation, if any, due to the Contractor hereunder.

12.2.1.6 Absent agreement to the amount due to the Contractor, and provided Contractor has submitted its claim in accordance with the requirements set forth hereinabove, the Owner shall pay the Contractor the following amounts:

- (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
- (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the Work, and in terminating the Contractor's performance, plus a fair and reasonable allowance for overhead and profit thereon (such profit shall not include anticipated profit or consequential damages); provided, however, that if it appears that the Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any;
- (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Section 12.2.1.2. These costs shall not include amounts paid in accordance with other provisions hereof.

The total sum to be paid the Contractor under this Section 12.2.1 shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

12.2.2 For Cause

12.2.2.1 If the Contractor persistently or repeatedly refuses or fails to prosecute the Work in a timely manner, supply enough properly skilled workers, supervisory personnel or proper equipment or materials, or if it fails to make prompt payment to Subcontractors or for materials or labor, or persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a material provision of this Contract, then the Owner may by written notice to the Contractor, without prejudice to any other right or remedy, terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever methods it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

12.2.2.2 If the unpaid balance of the Contract Price exceeds the cost of finishing the work, including compensation for the Architect's additional services and expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract.

12.2.2.3 In the event the employment of the Contractor is terminated by the Owner for cause pursuant to Section 12.2.2 and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Section 12.2.1 and the provisions of Section 12.2.1 shall apply.

ARTICLE 13.
OWNER'S RIGHT TO SUSPEND CONTRACTOR'S PERFORMANCE

- 13.1** The Owner shall have the right at any time to direct the Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to sixty (60) calendar days. If any such suspension is directed by the Owner, the Contractor shall immediately comply with same.
- 13.2** In the event the Owner directs a suspension of performance under this ARTICLE 13, through no fault of the Contractor, the Owner shall pay the Contractor as full compensation for such suspension the Contractor's reasonable costs, actually incurred and paid, of:
- (a) demobilization and remobilization, including such costs paid to Subcontractors;
 - (b) preserving and protecting work in place;
 - (c) storage of materials or equipment purchased for the Project, including insurance thereon;
 - (d) performing in a later, or during a longer, time frame than that contemplated by this Contract.

ARTICLE 14.
INSURANCE

The Contractor shall not commence work until it has obtained all the insurance required in this Article, and such insurance has been approved by the Owner.

14.1 Policies and Coverage

14.1.1 The Contractor shall obtain and maintain for the term of the Contract the following policies and coverage:

- (a) Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Project.
- (b) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.

(c) Worker's Compensation including Employers Liability Insurance

(d) Except as otherwise provided in Section 14.1.2, Course of Construction Insurance covering all risk of loss, maintained at one hundred percent of the completed value based on the insurable portion of the work, including materials at the project site, stored off the project site, and in transit.

(e) Any other insurance as required by law.

14.1.2 Within ten (10) calendar days after the effective date hereof, the Contractor shall provide the Owner a quote for Course of Construction Insurance required hereunder. Thereafter, Owner shall have the right, but not the obligation, to procure its own insurance covering the same or similar risks. If Owner so elects, it will notify the Contractor in writing of its decision, the Contractor shall not be required to procure such insurance hereunder, and the parties will execute a deductive Change Order for the amount of Contractor's quote for such insurance.

14.1.3 The Contractor shall obtain the following policies and coverage should the work involve hazardous materials: Environmental Impairment Liability Insurance

14.2 Verification of Coverage

14.2.1 The Contractor shall submit certificates of insurance and separate letters of endorsements to the policies of insurance required by the Contract to the Owner as evidence of the insurance coverage, naming the Owner's officers, directors, employees, agents, volunteers and assigns as additional insured.

14.2.1.1 The scope of coverage and deductible shall be shown on the certificate of insurance. The certificates of insurance and endorsements shall provide for no cancellation or modification of coverage without thirty days written notice to the Owner. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the work is accepted as complete. The Owner's review of any certificate of insurance shall not relieve the Contractor of its obligation to procure the insurance required hereunder. The Owner reserves the right to require the Contractor to furnish complete, certified copies of all required insurance policies.

14.3 Waiver of Subrogation

14.3.1 The Owner and Contractor waive all rights against (1) each other and any of their Subcontractors, Sub-Subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors provided by the Owner, if any, and any of their Subcontractors, Sub-Subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Article, or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors provided herein, if any, and the Subcontractors, Sub-Subcontractors, agents and employees of any of them, by

appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policy shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

14.4 Insurance Provisions

14.4.1 The insurance policies shall contain, or be endorsed to contain, the following provisions:

- (a) For the general and automobile liability policies, the Owner, its officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (b) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects to the Owner, its officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the Owner, its officers, employees, representatives, volunteers, and agents shall be in excess of the Contractor's insurance and shall not contribute with it.
- (c) Each insurance policy required by this Article shall state that coverage shall not be canceled by either the Contractor or the insurance carrier, except after thirty days prior written notice by certified mail, return receipt requested, has been given to the Owner.
- (d) The Owner, its officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.
- (e) Course of construction coverage shall contain the following provisions:
 - 1 The Owner shall be named as loss payee;
 - 2 The insurer shall waive all rights of subrogation against the Owner; and
 - 3 If required in writing by a party in interest, the Contractor as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Contractor's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Contractor shall deposit in a separate account proceeds so received, which the Contractor shall distribute in accordance with such agreement as the parties in interest may

reach. If after such loss no other special agreement is made, replacement of damaged property shall be covered by appropriate Change Order.

14.4.2 Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance.

14.5 Amount of Insurance

14.5.1 For all projects, other than those involving hazardous materials, the insurance furnished by the Contractor under this Article shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions.

(a) Comprehensive or Commercial form General Liability Insurance - Limits of Liability

(i) \$2,000,000.00 General Aggregate

(ii) \$1,000,000.00 Each Occurrence - combined single limit for bodily injury and property damage.

(b) Business Automobile Liability Insurance - Limits of Liability

(i) \$1,000,000.00 Each Accident- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.

(c) Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.00.

(d) Course of Construction Insurance - 100% of the completed value of the work

14.5.2 For projects involving hazardous materials, only the Contractor and its hazardous materials Subcontractors shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

(a) Comprehensive or Commercial form General Liability Insurance - Limits of Liability

(i) \$10,000,000.00 General Aggregate

- (ii) \$5,000,000.00 Each Occurrence - combined single limit for bodily injury and property damage.
- (b) Business Automobile Liability Insurance - Limits of Liability
 - (i) \$1,000,000.00 Each Accident- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
- (c) Hazardous material transporter services must also have:
 - (i) MCS-90 endorsement
 - (ii) Sudden & Accidental Pollution endorsement-Limits of Liability*
 - 1 \$2,000,000.00 Each Occurrence
 - 2 \$2,000,000.00 General Aggregate

*A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance.
- (d) Workers' Compensation limits as required by law with employers Liability limits of \$1,000,000.00.
- (e) Course of Construction Insurance-100% of the completed value of the work
- (f) Environmental Impairment (pollution) Liability Insurance - Limits of Liability:
 - (i) \$10,000,000.00 General Aggregate
 - (ii) \$5,000,000.00 Each Occurrence-combined single limit for bodily injury and property damage, including clean-up costs.

14.6 Acceptability of Insurers

14.6.1 Insurers shall be licensed by the State of Georgia to transact insurance and shall hold a current A.M. Best's rating of A:VII; or shall be a carrier otherwise acceptable to the Owner.

14.7 Subcontractor's Insurance

14.7.1 The Contractor shall ensure that its Subcontractors are covered by insurance of the type and the amounts required by this Article. Contractor shall not allow any Subcontractor to commence work on its subcontract until the insurance has been obtained.

14.8 Miscellaneous

14.8.1 Any deductible under any policy of insurance required in this Article shall be Contractor's liability.

14.8.2 Acceptance of certificates of insurance by the Owner shall not limit the Contractor's liability under the Contract.

14.8.3 In the event the Contractor does not comply with these insurance requirements, the Owner may, at its option, provide insurance coverage to protect the Owner. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.

14.8.4 If the Owner is damaged by the failure of the Contractor to provide or maintain the required insurance, the Contractor shall pay the Owner for all such damages.

14.8.5 The Contractor's obligations to obtain and maintain all required insurance are not delegable duties under this Contract.

ARTICLE 15. MISCELLANEOUS

15.1 Special Stipulations

15.1.1 Governing Law; Venue. The Contract shall be governed by the law of the State of Georgia. The exclusive jurisdiction and venue for any action arising out of this Agreement shall be the Superior Court of Whitfield County Georgia, and the parties hereby waive any and all objections or defenses thereto.

15.1.2 Independent Contractor. Each of the Contractor and Architect shall perform the services under this Contract as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Contract shall be interpreted or construed to constitute Contractor or Architect or any of their respective agents or employees to be the agent, employee, or representative of Owner.

15.2 Conflicts of Interest

15.2.1 The Contractor certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the services required by this Contract, that no employee of Owner, nor any member thereof, nor any public agency or official affected by this Contract, has any pecuniary interest in the business of the Contractor or its Subcontractors and that no person associated with the Contractor or its Subcontractors has any interest that would conflict in any manner or degree with the performance of this Contract.

15.2.2 Should Contractor become aware of any circumstances which may cause a conflict of interest during the term of this Contract, Contractor shall immediately notify

Owner. If Owner determines that a conflict of interest exists, Owner may require that Contractor take action to remedy the conflict of interest or terminate the Contract without liability. Owner shall have the right to recover any fees paid for services rendered by Contractor which were performed while a conflict of interest existed if Contractor had knowledge of the conflict of interest and did not notify Owner within one week of becoming aware of the existence of the conflict of interest.

15.2.3 Contractor warrants that Contractor and Contractor's Subcontractors have not employed or retained any company or person other than a bona fide employee, working solely for Contractor or its Subcontractor(s) to solicit or secure this Contract and that Contractor and Contractor's Subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Contractor or its Subcontractor(s) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of this Contract. For any breach or violation of this provision, Owner shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment or consideration.

15.2.4 Contractor shall include the terms and conditions of Section 15.2 in all Subcontractor agreements for work to be performed under this Contract.

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

15.3 Successors and Assigns

15.3.1 The Owner and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the Owner.

15.4 Surety Bonds

15.4.1 The Contractor shall furnish separate performance and payment bonds to the Owner. Each bond shall set forth a penal sum in an amount not less than the Contract Price. Each bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Price is adjusted by Change Order executed by the Contractor, the penal sum of both the performance bond and the payment bond shall be deemed increased by

like amount. The performance and payment bonds furnished by the Contractor shall be in form suitable to the Owner and shall be executed by a surety, or sureties, reasonably suitable to the Owner. At the delivery of such bonds to the Owner, the Contractor shall also furnish in writing to the Owner the name, address, telephone number, email address, and facsimile number of the person employed by the surety to whom any claims, notices, requests, or other communications from the Owner are to be submitted. If requested by the Owner or the Architect, the Contractor shall procure and furnish to the Owner and Architect the written consent of surety to any proposed Change Order, contract payment or other contemplated action under this Contract. The Contractor shall provide a contact name, phone number and address at signing of this contract.

15.5 Entire Agreement

15.5.1 This Contract, together with the Contractor's performance and payment bonds for the Project, constitute the entire and exclusive agreement between the Owner and the Contractor with reference to the Project. Specifically, but without limitation, this Contract supersedes any bid documents and all prior written or oral communications, representations and negotiations, if any, between the Owner and the Contractor. No representations either oral or written not incorporated herein shall be binding on the parties. No amendment or modification of this Contract shall be enforceable unless same is in writing duly executed by the parties. In the event any term, condition, clause or provision of this Contract is held or determined to be invalid by any Court of competent jurisdiction, any and all remaining terms, conditions, clauses and provisions of the Contract shall remain in full force and effect.

15.6 No Privity with Others

15.6.1 Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the Owner and any person or entity other than the Contractor.

15.7 Intent and Interpretation

15.7.1 The intent of this Contract is to require complete, correct, and timely execution of the Work. Any Work that may be required, implied or inferred by the Contract Documents, or any one or more of them, as necessary to produce the intended result shall be provided by the Contractor for the Contract Price.

15.7.2 This Contract is intended to be an integral whole and shall be interpreted as internally consistent. What is required by any one Contract Document shall be considered as required by the Contract.

15.7.3 When a word, term or phrase is used in this Contract, it shall be interpreted or construed, first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage.

15.7.4 The words “include”, “includes”, or “including”, as used in this Contract, shall be deemed to be followed by the phrase, “without limitation”.

15.7.5 The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract.

15.7.6 Words or terms used as nouns in this Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

This Contract is executed under seal on the date set forth hereinbelow.

OWNER:
City of Dalton, GA

CONTRACTOR:
Integrated Builds LLC

(Typed Name)

By:
(Signature)

By:
(Signature)

Annalee Sams – Mayor
300 W. Waugh Street
Dalton, GA 30720

W. Michael Toth – President
1310 East End Avenue,
Chattanooga, Tn 37412

(Printed Name, Title and Address)

(Printed Name, Title and Address)

(Date of Execution)
Approved as to Form:

(Date of Execution)



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Resolution 26-11 Authorizing Municipal Property Purchase

DEPARTMENT

Airport

REQUESTED BY

Andrew Wiersma

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

Click or tap here to enter text.

FUNDING SOURCE IF NOT IN BUDGET

General Fund

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

A local landowner approached the City after realizing they own a very small tract of land near the Dalton Airport. The land is surrounded by airport property and resides within the runway protection zone (RPZ) of runway 14. The purchase price of the property is \$510. Resolution 26-11 authorizes this purchase.

PHONE
706-278-9500

WEBSITE
www.daltonga.gov

ADDRESS
300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

RESOLUTION 26-11

RESOLUTION AUTHORIZING MUNICIPAL PROPERTY PURCHASE

WHEREAS, the City of Dalton, Georgia, an incorporated municipality of the State of Georgia (the “City”), owns certain real property upon which it operates the Dalton Municipal Airport (“Airport Property”); and

WHEREAS, Phillips Enterprises, Inc., a Georgia corporation, and Bradley Mathis, Jr., (hereinafter collectively “Seller”) own certain real property adjacent to the Airport Property which consists of approximately 0.06 acres and which is known as Whitfield County Tax Parcel No. 09-289-44-00 and is more particularly described as follows:

All that tract or parcel of land lying and being in Land Lot No. 289 in the 9th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the westerly side of Parker Road, said point being located 1,129.71 feet northwardly, along the westerly side of Parker Road from the northwest corner of the intersection of Parker Road and Airport Road; thence north 54 degrees 37 minutes 13 seconds west 117.96 feet; thence north 87 degrees 19 minutes 33 seconds west 623.64 feet; thence north 02 degrees 47 minutes 17 seconds east 1,227.58 feet; thence south 87 degrees 35 minutes 24 seconds east 1,006.17 feet; thence south 06 degrees 11 minutes 39 seconds west 1,116.08 feet to the northerly side of Parker Road; thence continuing south 06 degrees 11 minutes 39 seconds west across Parker Road to the southerly side thereof; thence continuing south 06 degrees 11 minutes 39 seconds west 49.84 feet; thence north 87 degrees 33 minutes 21 seconds west 99.64 feet to the southerly side of Parker Road; thence in a southwesterly direction across Parker Road to THE POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property described that certain Right of Way Deed to Whitfield County for Parker Road dated June 7, 1974, and recorded in Deed Book 360 Page 163, Whitfield County, Georgia Land Records.

For prior title, see Deed Book 1032 Page 235, Whitfield County, Georgia Land Records.

LESS AND EXCEPT that portion of the above described property described on that certain plat of survey prepared for Troy Phillips and Ernest Mathis, Sr. by E.M. Smith, Georgia Registered Land Surveyor No. 923, dated June 19, 1987, and recorded in Plat Cabinet C Slide 268, Whitfield County, Georgia Land Records.

(“Seller’s Property”)

WHEREAS, Seller contacted the City and offered to sell Seller’s Property for the purchase price of five hundred ten dollars (\$510.00), which price the parties have agreed is the fair market value of said property; and

WHEREAS, pursuant to Georgia law, including O.C.G.A. § 36-34-3, the City may acquire property for use of the airport which it determines to be appropriate and in the interest of the health and general welfare of the City;

WHEREAS, the Mayor and Council have determined that it is in the best interest of the City to acquire Seller's property for use by the Dalton Municipal Airport;

NOW, THEREFORE, BE IT RESOLVED, the City is authorized to acquire Seller's Property pursuant to the terms and conditions set forth herein and as stated in the purchase and sale agreement ("PSA") attached hereto as Exhibit 1;

BE IT FURTHER RESOLVED, that the Mayor of the City of Dalton be and hereby is, authorized and empowered to take such action and to execute for and on behalf of the City the PSA and such other documents, instruments, and papers which, in the judgment of the Mayor, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City in accordance with this Resolution, and the execution of such agreements, instruments, papers, and documents by the Mayor on behalf of the City is herein authorized and shall be conclusive evidence of any such approval.

BE IT FURTHER RESOLVED, that all acts and doings of the Mayor in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

BE IT FURTHER RESOLVED, that the signature of the Mayor to any of the consents, agreements, instruments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such consents, agreements, instruments, papers, and other documents on behalf of the City.

BE IT FURTHER RESOLVED, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the PSA, any agreement, instrument, paper or document executed in connection with any of the foregoing Resolutions, but shall not be obligated to do so, and the absence of the signature of the Clerk or any Assistant Clerk of the City or the City's seal on any such document shall not affect its validity or the obligation of the Mayor and Council thereunder.

BE IT FURTHER RESOLVED, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

BE IT FURTHER RESOLVED, that these Resolutions shall take effect immediately upon their adoption.

SO RESOLVED, this _____ day of _____, 2026.

CITY OF DALTON, GEORGIA

Mayor/Mayor Pro Tempore

ATTESTED TO:

City Clerk

EXHIBIT “1”

Purchase and Sale Agreement

See attached.

AGREEMENT FOR SALE AND PURCHASE OF REAL PROPERTY

This Agreement for the Sale and Purchase of Real Property (this “Agreement”) dated as of the Effective Date (as defined in Section 13.22 below) by and between **Phillips Enterprises, Inc.**, a Georgia corporation and **Bradley Mathis, Jr.**, (hereinafter called “Seller”) and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia (hereinafter called “Purchaser”).

W I T N E S S E T H:

WHEREAS, Seller is the owner of certain real property, which real property, together with the improvements located thereon, all easements, appurtenances, hereditaments and rights appurtenant thereto or otherwise arising in connection therewith; and

WHEREAS, Purchaser desires to purchase, and Seller to sell, the Property, in accordance with the terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the above-recited premises, the mutual covenants and agreements hereinafter set forth, the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Purchase and Sale. Seller shall sell and convey to Purchaser, and Purchaser shall purchase from Seller, upon the terms and conditions hereinafter set forth all that certain tract or parcel of land and being more particularly described on Exhibit “A” attached hereto and made a part hereof, together with all and singular the rights and appurtenances pertaining to such property, including any right, title and interest of Seller in and to adjacent streets, alleys or rights-of-way (the “Property”).

2. Consideration. The total purchase price (“Purchase Price”) for the Property shall be five hundred ten dollars (\$510.00), and subject to prorations and adjustments hereinafter described, and shall be payable as by wire transfer or other immediately available funds (“Good Funds”) on the Closing Date.

3. Documents and Records to be Furnished by Seller. No later than five (5) Business Days after the Effective Date, Seller will deliver to Purchaser Property information and reports, including, without limitation, surveys, title reports, grading plans, environmental studies, zoning documents, soil reports, and any other information in Seller’s possession concerning the Property.

4. Title and Survey.

4.1 *Title Commitment and ALTA/NSPS Survey.* Within 30 days of the Effective Date (the “Inspection Period”), Purchaser shall obtain, at its sole cost and expense, a title insurance commitment (“Commitment”) issued by the Minor Firm, LLC (the “Title Company”) covering the Property. Purchaser shall have the right during the Inspection Period to obtain a survey (the “Survey”) of the Property, dated subsequent to the date hereof, prepared by a licensed surveyor or Registered Professional Engineer in accordance with ALTA/NSPS standards. If obtained, a copy of the Survey shall also be furnished to the Title Company by Purchaser prior to the end of the Inspection Period. If the legal description on the Survey differs from the description set forth on Exhibit “A,” then the Seller shall execute and deliver an accompanying Quit Claim Deed conveying a legal description based on the new survey (the “Quit Claim Deed”).

4.2 *Permitted Encumbrances.* Unless the Purchaser terminates this Agreement pursuant to the provisions of Section 5 below, the Property will be conveyed at the Closing subject to the matters listed in Schedule B-2 of the Commitment which shall be deemed permitted exceptions (the “Permitted Exceptions”). Notwithstanding any other provisions in this Section 4.2, Purchaser need not disapprove any title matters representing monies owed, such as a notice of default, lien, assessment, mortgage, deed of trust or bond, and Seller shall at its cost cause those items (except non-delinquent taxes and assessments) to be eliminated before the Closing, and if Seller does not do so before the Closing, then the Title Company Agent shall cause them to be eliminated at the Closing using Purchase Price proceeds.

5. Inspection Period.

5.1 *Inspection.* Purchaser shall have the right during the Inspection Period to make a physical inspection of the Property and to examine all books and records maintained by Seller relating to the Property at such place or places as said books and records may be located. Purchaser has the exclusive right to terminate this Agreement at any time during the Inspection Period for any reason. If Purchaser elects to terminate this Agreement pursuant to this Section, it shall give written notice of such termination to Seller prior to 5:00 p.m. Dalton, Georgia time of the last day of the Inspection Period (“Notice of Termination”). Purchaser may, after the expiration of the Inspection Period and before closing, re-examine the status title, survey and environmental to the Property to determine if there have been any material changes since the expiration of the Inspection Period. In the event of any material changes which adversely affect the Property, Purchaser may terminate this Agreement.

5.2 *Access to Property.* Purchaser, its agents, employees and representatives shall have access to the Property, upon 24 hours prior notice to Seller, at all reasonable times subsequent to the Effective Date during the Inspection Period to inspect the Property and to conduct reasonable investigations, studies and tests thereon as Purchaser, its counsel, licensed engineers, surveyors or other representative may deem reasonably necessary. Any tests, examinations or inspections of the Property by Purchaser and all costs and expenses in connection with Purchaser’s inspection of the Property shall be at the sole cost of Purchaser and shall be performed in a manner not to unreasonably interfere with the Seller’s ownership of the Property. Further, Purchaser shall be responsible for any and all damage caused by such inspections, examinations, testing and disposal of all wastes produced at the Property as a result of such investigations, and shall sign, as generator, all forms necessary for such disposal. Purchaser shall immediately remove any lien of any type which attaches to the Property by virtue of any of such inspections, examination or test. Upon completion of any such inspection, examination or test Purchaser shall restore any damage to the Property caused by such inspection, examination or test. Purchaser hereby indemnifies, defends and holds Seller harmless from and for all loss, liability, cost or expense (including, without limitation, mechanics’ or materialmen’s liens or claims of liens), actions and causes of action arising from or relating to Purchaser’s (or Purchaser’s authorized agents, consultants, engineers, employees, or representatives) entering upon the Property and performing such tests, studies, investigations or inspections of the Property, whether pursuant to this Section 5.2 or otherwise, including, but not limited to, Purchaser’s failure to remove or bond any lien placed on the Property as a result of Purchaser’s inspections.

6. Closing.

6.1 *Place of Closing.* The parties acknowledge and agree that the closing of the transaction contemplated herein (the “Closing”) shall take place via overnight mail and e-mail, by and through a customary escrow established with the Title Company.

6.2 *Time of Closing.* Provided that all conditions precedent to Closing have been satisfied, and this Agreement has not otherwise been rightfully terminated pursuant to its terms, the Closing shall occur on

a date (the "Closing Date") which is 10 days after the expiration of the Inspection Period, or on such earlier date as mutually agreed upon by Purchaser and Seller (the "Closing Date"), in escrow, through the Title Company such that the Seller will receive the Purchase Price on the day of Closing upon the delivery of the documents set forth in this Agreement.

6.3 *Seller Closing Deliveries.* On or before the Closing Date, Seller shall deliver to the Title Company, each of the following items, executed as appropriate by Seller, to be held in escrow pending written confirmation by Seller that all conditions to the obligation of Seller to close on the sale of the Property have been satisfied:

(A) A Limited Warranty Deed, in recordable form, duly executed by Seller and conveying to Purchaser fee simple title to the Property, subject only to the Permitted Exceptions, (the "Deed").

(B) A Seller's Affidavit in the form requested by Title Company and reasonably agreed to by Seller.

(C) An affidavit of Georgia residency sufficient to enable the Title Company and Purchaser not to withhold and submit to the Georgia Department of Revenue ("DOR") the portion of the transfer price under O.C.G.A. Section 48-7-128, or if the Seller is unable to provide such affidavit, an affidavit of gain in accordance with applicable DOR requirements (in such instance, the applicable percentage of gain under O.C.G.A. Section 48-7-128 and corresponding DOR regulations shall be submitted by the Title Company to DOR as required under applicable Law).

(D) A FIRPTA Affidavit duly executed by Seller, stating that Seller is not a "foreign person" as defined in the federal Foreign Investment in Real Property Tax Act of 1980 and the 1984 Tax Reform Act, and in the event Seller is unable or unwilling to deliver the FIRPTA Affidavit, in lieu thereof the funds payable to Seller shall be adjusted in such a manner as to comply with the withholding provisions of such statutes.

(E) A closing statement (the "Closing Statement") setting forth in reasonable detail the financial transaction contemplated by this Agreement, including without limitation the Purchase Price, all prorations, the allocation of costs specified herein, and the source, application and disbursement of all funds.

(F) Reasonable documentation evidencing Seller's existence and authority as may be reasonably required by Title Company in order for Title Company to issue to Purchaser the Title Policy.

(G) Such other documents as may be reasonably required by the Title Company necessary to consummate the sale of the Property, in forms reasonably acceptable to Seller.

6.4 *Purchaser Closing Deliveries.* On or before the Closing Date, Purchaser shall deliver to Title Company, each of the following items, to be held in escrow pending written confirmation by Purchaser that all conditions to the obligation of Purchaser to close on the sale of the Property have been satisfied:

(A) The full Purchase Price, plus or minus the adjustments or prorations required by this Agreement.

(B) The Closing Statement.

(C) Such other documents as may be reasonably required by the Title Company necessary to consummate the sale of the Property, in forms reasonably acceptable to Purchaser.

6.5 *Closing Costs.* Purchaser shall pay for all closing costs related to Closing.

6.6 *Tax Prorations.* Seller shall be solely responsible to pay all unpaid ad valorem property taxes respecting the Property for all years prior to the year in which Closing occurs. Any real estate ad valorem or similar taxes for the Property, rent or any assessments or installments of assessments due and payable in the calendar year of Closing, shall be prorated to the Closing Date. The proration of real property taxes or assessments shall be based upon the assessed valuation and tax rate figures (assuming payment at the earliest time to allow for the maximum possible discount) for the year in which the Closing occurs to the extent such amounts are available; provided, if the actual amounts (whether for the assessed value of the Property or for the tax rate) for the year of Closing are not available at the Closing Date, the proration shall be made using figures from the preceding year (assuming payment at the earliest time to allow for the maximum possible discount). The proration of real property taxes or installments of assessments shall be final and not subject to re-adjustment after Closing.

6.7 *Possession of the Property.* Seller shall deliver possession of the Property to Purchaser at the time of Closing.

7. Representations and Warranties.

7.1 *Seller's Representations and Warranties.* Seller hereby makes the following representations, warranties and covenants:

(A) Seller has the right, power and authority to enter into this Agreement and the right, power, and authority to convey the Property in accordance with the terms and conditions of this Agreement, and this Agreement constitutes the valid and binding agreement of Seller and is enforceable in accordance with its terms.

(B) Seller is not a "foreign person" within the meaning of U.S. Code Sections 1445 and 7701 (i.e., Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined in the Code and regulations promulgated thereunder).

(C) Neither Seller nor any person or entity that directly or indirectly owns any interest in Seller nor any of its officers, directors or managing members is a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC") of the U.S. Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including, but not limited to, Executive Order 13224 ("Executive Order") signed on September 24, 2001 and entitled "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), or other governmental action, and Seller's activities do not violate the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders promulgated thereunder (as amended from time to time, the "Money Laundering Act").

(D) Seller is the sole owner in fee simple of the Property.

(E) As of Closing, the Property is not subject to any mortgage, pledge or lien, except liens for ad valorem taxes not yet payable and unperfected purchase money security interests existing in the ordinary course of business without the execution of a security agreement.

(F) No consent of any Federal, State or local authority is required to be obtained by Seller in connection with the consummation by Seller of the transactions contemplated hereby.

(G) Seller has received no notice of, nor is Seller aware of, any pending, threatened, or contemplated actions by any governmental authority or agency having the power of eminent domain, which might result in part of the Property being taken by condemnation or conveyed in lieu thereof. Seller shall, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.

(H) No assessments have been made against any portion of the Property which are unpaid (except ad valorem taxes for the current year), whether or not they have become liens; and Seller shall notify Purchaser upon learning of any such assessments.

(I) There is no litigation or proceeding pending, or to Seller's knowledge threatened, against or relating to or affecting all or any part of the Property, nor does Seller know or have reasonable grounds to know of any basis for any such action.

(J) There is no tenant, lessee, or other occupant of the Property (including any improvements thereon) having any right or claim to possession or use of the Property (or any such improvements) after the Closing Date hereof, and possession of the Property shall be delivered by Seller to Purchaser at the Closing free of the rights or claims of any tenants, occupants, or other parties in possession of, or having or claiming any right to possession or use of the Property.

(K) When the transactions contemplated hereby are consummated, the improvements on the Property will be in the same condition as they are on the date of the execution of this Agreement, except for: ordinary wear and tear; any damage caused by an insured event for which full insurance proceeds have been paid to Purchaser; and any change in the condition of the improvements for which proper adjustment has been made between the parties hereto.

(L) Seller has received no notice of any violation of zoning and/or building laws, statutes, ordinances, orders, or requirements affecting the Property from the State of Georgia or any subdivision, agency, or department thereof.

(M) The use of the Property has been and will at the time of the Closing be in compliance with all applicable laws and regulations.

(N) During the period of Seller's ownership of the Property (and to Seller's knowledge, prior to Seller's ownership of the Property), no storage tanks or underground vaults have been installed, and no hazardous materials have been released in, on, under or about the Property, and Seller has not received any written notice of the foregoing. "Hazardous materials" includes any material or substance, the characteristics of which may cause a nuisance, injury, harm or degradation to human health, welfare or the environment pursuant to applicable environmental laws of the United States and/or the state in which the Land is located.

8. Brokers. The parties each represent and warrant to the other that there are no real estate brokers, salesman or finders involved in this transaction. If a claim is made or brokerage fees or commissions in connection with this transaction by any broker, salesman or finder claiming to have dealt by, through or on behalf of one of the parties hereto (the "Indemnitor"), Indemnitor shall indemnify, defend and hold harmless the other party hereunder (the "Indemnitee"), and Indemnitee's officers, directors, agents and representatives, from and against any and all liabilities, damages, claims, costs, fees, and expenses whatsoever, including

reasonable attorneys' fees and court costs through all trial and all appellate levels, with respect to said claim for brokerage.

9. Default and Remedies.

9.1 *Purchaser's Default.* If Purchaser defaults in any of its material obligations under this Agreement, then provided Seller is not in default hereunder, Seller may declare this Agreement terminated.

9.2 *Seller's Default.* If Seller defaults in any of its material obligations under this Agreement (and provided Purchaser has notified Seller of the specific nature of the default and allowed Seller a ten (10) day period to cure such default), Purchaser may either (A) terminate this Agreement by written notice to Seller, or (B) bring an action against Seller for specific performance.

9.3 *Survival.* The provisions of this Article shall survive Closing or termination of this Agreement.

10. Miscellaneous Provisions.

10.1 *Successors in Interest.* This Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns. Except as expressly provided in this Agreement, nothing herein is intended to imply nor shall confer on any person other than the parties hereto, and their respective heirs, legal representatives, successors or assigns, any rights, remedies, obligations or liabilities under or by reason of this Agreement, or constitute the parties hereto, partners or participants in a joint venture.

10.2 *Controlling Law.* This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Georgia without giving effect to the principles of conflicts of law thereof. Each of the Parties consents to the exclusive jurisdiction of the Superior Court of Whitfield County, Georgia for any legal action, suit, or proceeding arising out of or in connection with this Agreement, and agree that any such action, suit, or proceeding may be brought only in such court. Each of the Parties further waives any personal jurisdiction defense regarding the laying of venue for any such suit, action, or proceeding in such court.

10.3 *Amendment; Waiver.* The terms of this Agreement may be amended, modified or eliminated, and the observance or performance of any term, covenant, condition or provision herein may be omitted or waived (either generally or in a particular instance and either prospectively or retroactively) only by the written consents of all parties hereto. No omission or waiver shall be deemed to excuse any future observance or performance or to constitute an amendment, modification or elimination unless it expressly so states. The waiver by any party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

10.4 *Severability.* Any term or provision of this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

10.5 *Further Assurances.* Each party agrees that it will without further consideration execute and deliver such other documents and take such other action, whether prior or subsequent to Closing, as may be reasonably requested by the other party to consummate more effectively the purposes or subject matter of this Agreement.

10.6 *Attorneys' Fees.* In the event of any controversy, claim or dispute between the parties affecting or relating to the subject matter or performance of this Agreement, the prevailing party shall be entitled to recover from the nonprevailing party all of its reasonable expenses, including reasonable attorneys' and accountants' fees.

10.7 *No Third Party Beneficiary.* The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Purchaser only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing.

10.8 *Recording.* This Agreement shall not be recorded

10.9 *Notices.* All notices, demands, consents, approvals, and other requests which may be given or which are required to be given by either party to the other (each a "Notice") shall be in writing and may be: (A) hand delivered, (B) delivered by way of overnight delivery service (such as Federal Express Corporation or United Parcel Service, or other nationally recognized overnight courier service with confirmation of delivery), or (C) transmitted via electronic mail provided that the sender must obtain a written confirmation of receipt by way of electronic confirmation showing the date and time of the transmission. In the event Notice is provided by electronic mail a copy of the Notice must also be delivered the next day by method (A) or (B) above. Notices cannot be given through the United States Postal Service or by mail under any means. All Notices shall be deemed effective either: (A) upon delivery if hand delivered, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed; (B) on the day deposited into the custody of a nationally recognized overnight delivery service for overnight next day delivery, addressed to such party at the address indicated herein; or (C) the date of the receipt of a confirmation of electronic mail is received by the sender if a confirmation of receipt is received by the sender. Refusal to accept, or inability to deliver because of changed address of which no notice was given, shall be deemed receipt on the date of such refusal of delivery or inability to deliver. Either party may, from time to time, change the address to which Notices shall be sent by like Notice given to the other party hereto, except that no party may change its address to other than a street address. Any Notice given that does not conform to this paragraph shall be effective only upon receipt. The addresses for Notices given pursuant to this Agreement shall be as follows:

If to Purchaser, to:

City of Dalton
Attn: City Administrator
P.O. Box 1205
Dalton, Georgia 30722-1205

If to Seller, to:

Phillips Enterprises, Inc. and
Bradley Mathis
167 Lower Dawnville Rd, NE
Dalton, GA 30721

10.10 *Time of the Essence.* Time is of the essence of each and every provision of this Agreement.

10.11 *Captions.* The sections and other headings contained in this Agreement are for reference purposes only and shall not be deemed to be part of this Agreement, or to affect the meaning or interpretation of this Agreement.

10.12 *Gender.* Wherever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine and neuter gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply.

10.13 *Integration.* This Agreement and any other agreement contemplated hereby supersede all prior negotiations, agreements, and understandings between the parties with respect to the subject matter hereof and thereof, constitute the entire agreement between the parties with respect to the subject matter hereof and thereof.

10.14 *Deadline Dates; Business Day.* If any deadline date herein falls on a date that is not a Business Day, such date shall automatically be extended until the next Business Day. For all purposes under this Agreement, the term “Business Day” or “Business Days” shall mean any day other than a Saturday, Sunday, or national holiday on which National Banks in the county in which the Property is located are not open for business.

10.15 *Electronic Signatures.* Handwritten signatures to this Agreement transmitted by telecopy or electronic transmission (for example, through the use of a Portable Document Format or “PDF” file) shall be valid and effective to bind the parties so signing. It is expressly agreed that each party to this Agreement shall be bound by its own telecopied or electronically transmitted handwritten signature and shall accept the telecopy or electronically transmitted handwritten signature of the other party to this Agreement. The parties hereto agree that the use of telecopied or electronic signatures for the execution of this Agreement shall be legal and binding and shall have the same full force and effect as if originally signed.

10.16 *Counterparts.* This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

10.17 *Effective Date.* For purposes of this Agreement, the term “Effective Date” shall be the last date on which this Agreement has been fully executed on behalf of Seller and Purchaser as indicated by the dates adjacent to the signatures of the parties set forth below.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year above written.

SELLER:

PURCHASER:

Phillips Enterprises, Inc.

City of Dalton, Georgia

By: _____ (Seal)
Title: _____

By: _____ (Seal)
Title: _____

Bradley Mathis, Jr.

Date of Execution: _____, 2026.

Date of Execution: _____, 2026.

EXHIBIT “A”

All that tract or parcel of land lying and being in Land Lot No. 289 in the 9th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the westerly side of Parker Road, said point being located 1,129. 71 feet northwardly, along the westerly side of Parker Road from the northwest corner of the intersection of Parker Road and Airport Road; thence north 54 degrees 37 minutes 13 seconds west 117 .96 feet; thence north 87 degrees 19 minutes 33 seconds west 623.64 feet; thence north 02 degrees 47 minutes 17 seconds east 1,227.58 feet; thence south 87 degrees 35 minutes 24 seconds east 1,006.17 feet; thence south 06 degrees 11 minutes 39 seconds west 1,116.08 feet to the northerly side of Parker Road; thence continuing south 06 degrees 11 minutes 39 seconds west across Parker Road to the southerly side thereof; thence continuing south 06 degrees 11 minutes 39 seconds west 49.84 feet; thence north 87 degrees 33 minutes 21 seconds west 99.64 feet to the southerly side of Parker Road; thence in a southwesterly direction across Parker Road to THE POINT OF BEGINNING.

LESS AND EXCEPT that portion of the above described property described that certain Right of Way Deed to Whitfield County for Parker Road dated June 7, 1974, and recorded in Deed Book 360 Page 163, Whitfield County, Georgia Land Records.

For prior title, see Deed Book 1032 Page 235, Whitfield County, Georgia Land Records.

LESS AND EXCEPT that portion of the above described property described on that certain plat of survey prepared for Troy Phillips and Ernest Mathis, Sr. by E.M. Smith, Georgia Registered Land Surveyor No. 923, dated June 19, 1987, and recorded in Plat Cabinet C Slide 268, Whitfield County, Georgia Land Records.



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

RESOLUTION 26-12 AUTHORIZING ACCEPTANCE OF BID FOR SALE OF 1216 E. MORRIS ST.

DEPARTMENT

Administration

REQUESTED BY

Andrew Parker

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

\$15,002.00

FUNDING SOURCE IF NOT IN BUDGET

n/a

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

Resolution 26-12 Authorizing Acceptance of Bid for Sale of 1216 E. Morris Street Property. The City determined that the Property ceased to have any substantial public purpose and it is in the best interest of the City to dispose of said Property. Pumpkin Properties LLC was the sole and highest bidder with a bid of \$15,002.00.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

RESOLUTION 26-12

RESOLUTION AUTHORIZING ACCEPTANCE OF BID FOR SALE OF 1216 E. MORRIS ST.

WHEREAS, the City is the owner of certain real property located at 1216 E. Morris Street (Tax Parcel Id. No. 12-240-01-004), which is more particularly described as follows:

All that tract or parcel of land lying and being in land lot 240, in the 12th district, in the 3rd section, in the city of Dalton, Whitfield County, Georgia; and being more particularly described as follows:

Beginning at a mag nail and disk set on the southerly right of way of East Morris street (having a 60-foot, public right of way); said point being located north 75 degrees 45 minutes 37 seconds west a distance of 201.50 feet from railroad spike found at the intersection of said right of way with the westerly right of way of short street (having a 45-foot, public right of way); from the true point of beginning thus established thence leaving said right of way of East Morris street and running south 00 degrees 49 minutes 11 seconds west a distance of 128.00 feet to a 1/2-inch rebar found; thence north 89 degrees 10 minutes 49 seconds west a distance of 41.70 feet to a mag nail and disk set; thence north 00 degrees 49 minutes 11 seconds east a distance of 138.00 feet to a mag nail and disk set on the southerly right of way of East Morris street; thence south 75 degrees 41 minutes 42 seconds east along said right of way of East Morris street a distance of 42.89 feet to a mag nail and disk set; said mag nail and disk being the true point of beginning.

Said tract or parcel of land containing approximately 0.127 acres (5,540 square feet).

("Property");

WHEREAS, the City determined that the Property has ceased to have any substantial public purpose and it is in the best interest of the City to dispose of said Property;

WHEREAS, the City is authorized pursuant to O.C.G.A. §36-37-6(a) to dispose of real property by sealed bid after public notice;

WHEREAS, the City provided proper notice and advertisement of the sale of said Property by sealed bid pursuant to O.C.G.A. §36-37-6(a) and complied with all other legal requirements for sale of said Property by sealed bid; and

WHEREAS, Pumpkin Properties, LLC was the sole and therefore highest bidder with a bid of \$15,002.00;

NOW, THEREFORE, BE IT AND IT HEREBY IS RESOLVED, the above described Property has ceased to serve any substantial public purpose and the City was authorized to offer said Property for sale by sealed bids as provided in O.C.G.A. §36-37-6(a);

BE IT FURTHER RESOLVED, the City is hereby authorized to convey said Property to Pumpkin Properties, LLC for the sum of \$15,002.00 in accordance with the terms and

conditions of the Notice and Invitation to Bid;

BE IT FURTHER RESOLVED, that the Mayor of the City of Dalton be and hereby is, authorized and empowered to take such action and to execute for and on behalf of the City the deed and such other documents, instruments, and papers which, in the judgment of the Mayor, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City in accordance with this Resolution, and the execution of such agreements, instruments, papers, and documents by the Mayor on behalf of the City is herein authorized and shall be conclusive evidence of any such approval.

BE IT FURTHER RESOLVED, that all acts and doings of the Mayor in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

BE IT FURTHER RESOLVED, that the signature of the Mayor to any of the consents, agreements, instruments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such consents, agreements, instruments, papers, and other documents on behalf of the City.

BE IT FURTHER RESOLVED, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the deed, any agreement, instrument, paper or document executed in connection with any of the foregoing Resolutions, but shall not be obligated to do so, and the absence of the signature of the Clerk or any Assistant Clerk of the City or the City's seal on any such document shall not affect its validity or the obligation of the Mayor and Council thereunder.

BE IT FURTHER RESOLVED, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

BE IT FURTHER RESOLVED, that these Resolutions shall take effect immediately upon their adoption.

SO RESOLVED, this ____ day of _____, 2026.

ATTESTED TO:

CITY OF DALTON

City Clerk

By: _____
Mayor/Mayor Pro Tempore



CITY COUNCIL AGENDA REQUEST

MEETING TYPE

Mayor & Council Meeting

MEETING DATE

4/20/2026

AGENDA ITEM

Resolution 26-13 Land Bank Transfer

DEPARTMENT

Administration

REQUESTED BY

Andrew Parker

REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

COST

n/a

FUNDING SOURCE IF NOT IN BUDGET

n/a

PLEASE PROVIDE A SUMMARY OF YOUR REQUEST, INCLUDING BACKGROUND INFORMATION TO EXPLAIN THE REQUEST:

Resolution 26-13 Authorizing Transfer of Real Property located at Underwood Street and Dantzler Avenue (Tax Parcel Id. No. 12-202-11-002), to the Dalton-Whitfield County Land Bank Authority, Inc. for the purpose of returning real property that is in a non-revenue generating and non-tax producing status to effective utilization in order to provide housing, new industry, and jobs for the residents of Dalton and Whitfield County.

PHONE

706-278-9500

WEBSITE

www.daltonga.gov

ADDRESS

300 W Waugh Street
PO Box 1205 Dalton,
Georgia 30722

RESOLUTION 26-13

RESOLUTION AUTHORIZING TRANSFER OF REAL PROPERTY TO DALTON-WHITFIELD COUNTY LAND BANK AUTHORITY, INC.

WHEREAS, the Dalton-Whitfield County Land Bank Authority, Inc. (“Land Bank”) is public body corporate and politic and an instrumentality of the State of Georgia, and a joint land bank authority duly created pursuant to the Land Bank Act of the State of Georgia, O.C.G.A. §48-4-60, et. seq., as amended, and activated by joint and concurrent resolutions of the governing bodies of Whitfield County, Georgia and the City of Dalton, Georgia;

WHEREAS, pursuant to O.C.G.A. §48-4-60, et. seq., the Land Bank is charged the public purpose of returning real property that is in a non-revenue generating and non-tax producing status to effective utilization in order to provide housing, new industry, and jobs for the residents of Dalton and Whitfield County;

WHEREAS, the City is the owner of certain real property located at Underwood Street and Dantzler Avenue (Tax Parcel Id. No. 12-202-11-002), which is more particularly described as follows:

All that tract or parcel of land lying and being in Land Lot No. 202 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at the southeast corner of the intersection of Underwood Street and Dantzler Avenue; thence northeastwardly along the southeasterly side of Underwood Street a distance of 356 feet to an iron pin; thence south 29 degrees 49 minutes east a distance of 150 feet; thence north 89 degrees 45 minutes east a distance of 51 feet; thence south a distance of 126.88 feet; thence south 81 degrees 58 minutes 38 seconds west a distance of 313.50 feet to the easterly side of Dantzler Avenue; thence north 56 degrees 31 minutes 02 seconds west along the northeasterly side of Dantzler Avenue a distance of 77 feet to THE POINT OF BEGINNING.

For prior title, see Deed Book 792 Page 229, Whitfield County, Georgia Land Records.

(“Property”);

WHEREAS, the Property is not currently utilized for any public purpose, and it falls within the category of such properties that the Land Bank is designed to return to a more effective utilization;

WHEREAS, the City desires to transfer, and the Land Bank desires to accept, said Property for the purpose of the development of a UPUD affordable housing pilot project pursuant to the terms and conditions set forth in a deed, the form of which is attached hereto as Exhibit 1;

WHEREAS, the City is authorized to transfer said Property to the Land Bank for such public purposes pursuant to Georgia law including O.C.G.A. § 36-37-6(e)(2)(D) and O.C.G.A. §48-4-60, et. seq. ;

NOW, THEREFORE, BE IT AND IT HEREBY IS RESOLVED, the City is hereby authorized to convey said Property to the Land Bank pursuant to the terms and conditions set forth in Exhibit 1;

BE IT FURTHER RESOLVED, that the Mayor of the City of Dalton be and hereby is, authorized and empowered to take such action and to execute for and on behalf of the City the deed attached hereto as Exhibit 1 and such other documents, instruments, and papers which, in the judgment of the Mayor, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City in accordance with this Resolution, and the execution of such agreements, instruments, papers, and documents by the Mayor on behalf of the City is herein authorized and shall be conclusive evidence of any such approval.

BE IT FURTHER RESOLVED, that all acts and doings of the Mayor in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

BE IT FURTHER RESOLVED, that the signature of the Mayor to any of the consents, agreements, instruments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such consents, agreements, instruments, papers, and other documents on behalf of the City.

BE IT FURTHER RESOLVED, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton's seal appearing on the deed, any agreement, instrument, paper or document executed in connection with any of the foregoing Resolutions, but shall not be obligated to do so, and the absence of the signature of the Clerk or any Assistant Clerk of the City or the City's seal on any such document shall not affect its validity or the obligation of the Mayor and Council thereunder.

BE IT FURTHER RESOLVED, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

BE IT FURTHER RESOLVED, that these Resolutions shall take effect immediately upon their adoption.

SO RESOLVED, this ____ day of _____, 2026.

ATTESTED TO:

CITY OF DALTON

City Clerk

By: _____
Mayor/Mayor Pro Tempore

EXHIBIT 1

[Space above this line for recording data.]

Please Record and Return To:

J. Tom Minor, IV
The Minor Firm
P.O. Box 2586
Dalton, GA 30722-2586

WARRANTY DEED

Georgia, Walker County

THIS INDENTURE made this _____ day of _____, 2026, between **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, Grantor, and the **Dalton-Whitfield County Land Bank Authority, Inc.**, public body corporate and politic and an instrumentality of the State of Georgia, and a joint land bank authority duly created pursuant to the Land Bank Act of the State of Georgia, O.C.G.A. §48-4-60, et. seq., as amended, and activated by joint and concurrent resolutions of the governing bodies of Whitfield County, Georgia and the City of Dalton, Georgia, Grantee.

The words “Grantor” and “Grantee” whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

THE GRANTOR, for and in consideration of the sum of ten dollars and other valuable considerations, in hand paid at or before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the said Grantee all of Grantor’s undivided interest in and to all that tract or parcel of land as more particularly described in Exhibit “A” attached hereto, reference to which is hereby made and incorporated herein by reference.

THE DESCRIBED PROPERTY will **REVERT** to the Grantor if the Grantee does not initiate development of or convey to a third party for purposes of a UPUD affordable housing pilot project within 6 months.

THIS CONVEYANCE is made subject to all zoning ordinances, easements, and restrictions of record insofar as the same may lawfully affect the above-described property.

TO HAVE AND TO HOLD the said tract of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use, benefit and behoof of the said Grantee forever, in Fee Simple. The said Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the lawful claims of all persons.

IN WITNESS WHEREOF, this deed has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered
In the presence of:

The City of Dalton

Unofficial Witness

By: _____
Mayor

Notary Public

Attest: _____
Clerk

My commission expires:

[Notarial Seal]

[Seal]

20250347

EXHIBIT “A”

All that tract or parcel of land lying and being in Land Lot No. 202 in the 12th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as follows:

BEGINNING at the southeast corner of the intersection of Underwood Street and Dantzler Avenue; thence northeastwardly along the southeasterly side of Underwood Street a distance of 356 feet to an iron pin; thence south 29 degrees 49 minutes east a distance of 150 feet; thence north 89 degrees 45 minutes east a distance of 51 feet; thence south a distance of 126.88 feet; thence south 81 degrees 58 minutes 38 seconds west a distance of 313.50 feet to the easterly side of Dantzler Avenue; thence north 56 degrees 31 minutes 02 seconds west along the northeasterly side of Dantzler Avenue a distance of 77 feet to THE POINT OF BEGINNING.

For prior title, see Deed Book 792 Page 229, Whitfield County, Georgia Land Records.