



**MAYOR AND COUNCIL MEETING  
MONDAY, MAY 05, 2025  
6:00 PM  
DALTON CITY HALL - COUNCIL CHAMBERS**

**AGENDA**

**Call to Order**

**Pledge of Allegiance**

**Approval of Agenda**

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

**Special Recognitions:**

- [1.](#) Certificate of Recognition - Jordyn Davis

**Presentations:**

2. Staff Reports

**Minutes:**

- [3.](#) Mayor & Council Meeting Minutes of April 21, 2025

**Unfinished Business:**

- [4.](#) Second Reading Ordinance 25-09 To Amend the Charter of The City of Dalton, Georgia, Approved May 1, 2024 (2024 Georgia Laws p. 3739); By Amending Article I Captioned: "Incorporation and Powers" By Amending Section 1.12(b)(6) By Striking and Deleting Said Section and Substituting in Lieu Thereof New A Paragraph; To Provide for Severability; To Provide for The Repeal of Conflicting Ordinances; To Provide for An Effective Date; And for Other Purposes.

**New Business:**

- [5.](#) City Hall Floor Maintenance Contract Proposal for 2025-2026
- [6.](#) Contract with Integrated Build for the Construction of the Dalton Pickleball Complex
- [7.](#) Professional Services Agreement with Geo-Hydro Engineers, Inc. for materials testing at Dalton Pickleball Complex

- [8.](#) Individual Project Order #4 with Kimley Horn for Airfield Electrical Rehab - Design and Bid Phase Services and DBE Plan Update
- [9.](#) Individual Project Order #5 with Kimley Horn for Design and Bid Phase Services on Taxiway Rehab Project at Airport
- [10.](#) John Davis Rec Center - Low Voltage Project Change Order
- [11.](#) First Reading Ordinance 25-12 The request of Roberto Silva to rezone from Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.55 acres located at 1213 Hair Street, Dalton, Georgia. Parcel (12-217-03-003).

**Supplemental Business**

**Announcements**

**Adjournment**

# CERTIFICATE OF RECOGNITION



On behalf of the Mayor and Council of the City of Dalton, Georgia,  
I hereby present this Certificate of Recognition to

**JORDYN DAVIS**

and congratulate you on winning the 9-10 Girls 100 meter dash and 200 meter dash at the  
Georgia Recreation and Parks Association Class A State Meet at Lovejoy High School  
in Hampton, Georgia on April 26, 2025.

I hereby recognize you for your outstanding achievement of becoming a state champion.

In Witness Whereof, I have hereunto set my hand on this 5<sup>th</sup> day of May, 2025.

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Annalee Sams, Mayor

THE CITY OF DALTON  
MAYOR AND COUNCIL MINUTES  
APRIL 21, 2025

The Mayor and Council held a meeting this evening at 6:00 p.m. at City Hall. Present were Mayor Annalee Sams, Councilmembers Dennis Mock, Nicky Lama, Tyree Goodlett and Steve Farrow, Assistant City Administrator Todd Pangle and City Attorney Jonathan Bledsoe. City Administrator Andrew Parker was absent.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE

Councilmember Lama led the audience in the Pledge of Allegiance.

APPROVAL OF AGENDA

On the motion of Councilmember Mock, 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

DDDA Director Candance Eaton announced the celebration of Georgia Cities Week April 25, 2025 at 6:00 p.m. at Burr Park. Eaton formerly invited the Mayor and Council and all others to attend.

MINUTES

The Mayor and Council reviewed the Work Session minutes of April 7, 2025. On the motion of Councilmember Goodlett, second Councilmember Farrow, the minutes were approved. The vote was unanimous in favor.

The Mayor and Council reviewed the Regular meeting minutes of April 7, 2025. On the motion of Councilmember Mock, second Councilmember Farrow, the minutes were approved. The vote was unanimous in favor.

SECOND READING ORDINANCE 25-10 - REZONING REQUEST OF SCOTT CUNNINGHAM

Assistant City Administrator Todd Pangle presented the Second Reading of Ordinance 25-10 a rezoning request from Scott Cunningham from Transitional Residential (R-6) to Neighborhood Commercial (C-1) a tract of land totaling 0.57 acres located at 112 N. Spencer Street. Parcel (12-219-24-016). Pangle stated the Staff and the Planning Commission recommended approval. On the motion of Councilmember Mock, second Councilmember Lama, the request was approved. The vote was unanimous in favor.



SECOND READING ORDINANCE 25-11 – ANNEXATION REQUEST OF ADRIANA LOPEZ MOLINA

Assistant City Administrator Todd Pangle presented the Second Reading of Ordinance 25-11 the request of Adriana Lopez Molina to Annex 0.17 acres located at 1304 Frazier Drive into the City of Dalton as Medium Density Single Family Residential (R-3). Parcel (12-179-02-065). Pangle stated the Staff and the Planning Commission recommended approval. On the motion of Councilmember Goodlett, second Councilmember Farrow, the annexation was approved. The vote was unanimous in favor.

REVIEW OF (2) NEW 2025 ALCOHOL BEVERAGE APPLICATIONS

(1) Assistant City Clerk Gesse Cabrera presented the following New 2025 Alcohol Beverage Application:

Business Owner:	Carniceria y Taqueria Diaz, LLC
d/b/a:	Carniceria y Taqueria Diaz
Applicant:	Ruben Diaz Guzman
Business Address:	1121 S. Thornton Ave
License Type:	Package Beer, Pouring Beer (Retail Store)
Disposition:	New
Staff Comments:	None. Have approvals from Fire Department, Code Enforcement and City Attorney's Office

On the motion of Council member Lama, second Council member Goodlett, the Mayor and Council approved the application. The vote was unanimous in favor.

(2) Assistant City Clerk Gesse Cabrera presented the following New 2025 Alcohol Beverage Application:

Business Owner:	El Recreo Market Inc.
d/b/a:	El Recreo Market
Applicant:	Bernandino Sanchez Resendiz
Business Address:	222 E. Morris St. Suite 2
License Type:	Package Beer (Retail Store)
Disposition:	<b>New</b>
Staff Comments:	None. Have approvals from Fire Department, Code Enforcement and City Attorney's Office

On the motion of Council member Goodlett, second Council member Lama, the Mayor and Council approved the application. The vote was unanimous in favor.

FY2025 BUDGET AMENDMENT #2

CFO Cindy Jackson presented FY2025 Budget Amendment #2 regarding the Capital Improvement budget that was approved at the Work Session on April 7, 2025. A copy of this complete amendment is a part of these minutes. On the motion of Council member Lama, second Council member Farrow, budget amendment #2 was approved. The vote was unanimous in favor.

BUILDING ASSESSMENT PROPOSAL - 210 N. PENTZ STREET

Assistant City Administrator Todd Pangle presented a Building Assessment Proposal - 210 N. Pentz Street otherwise known as the Old Fire Hall. Pangle stated this proposal is for a comprehensive architectural, structural, mechanical, electrical and plumbing assessment of the two-story building in the amount of \$23,550. On the motion of Council member Goodlett, second Council member Farrow, the proposal was approved. The vote was unanimous in favor.

OVERHEAD DOOR MAINTENANCE AGREEMENT WITH DH PACE-KING DOOR COMPANY

Assistant City Administrator Todd Pangle presented an Overhead Door Maintenance Agreement with DH Pace-King Door Company. Pangle stated the Professional Services contract provides guaranteed pricing for maintenance work performed on overhead doors at various properties throughout the City. On the motion of Council member Mock, second Council member Farrow, the agreement was approved. The vote was unanimous in favor.

GDOT SUPPLEMENTAL AGREEMENT #1 FOR HANGAR CONTRACT TERM EXTENSION AT AIRPORT

Airport Director Andrew Wiersma presented a supplement agreement with Georgia Department of Transportation to provide a 12-month extension on hangar funding contract that originally expires in June of 2025. On the motion of Council member Lama, second Council member Mock, the agreement was approved. The vote was unanimous in favor.

INTEGRATED BUILDS CHANGE ORDER #1 ON AIRPORT HANGAR DEVELOPMENT PROJECT

Airport Director Andrew Wiersma presented change order #1 on the Airport Hangar Development project. Wiersma stated the alternate manufacture and modified t-hangar design provided a cost savings of \$105,235.15 and a reduction of lead time on materials by six months. On the motion of Council member Lama, second Council member Mock, the Change Order with Integrated Builds was approved. The vote was unanimous in favor.

CROY ENGINEERING TASK ORDER #12 FOR INSPECTION SERVICES ON AIRPORT HANGAR PROJECT

Airport Director Andrew Wiersma presented Task Order #12 for Inspection Services on the Airport Hangar Project. Wiersma stated that the National Pollutant Discharge Elimination System (NPDES) permit requires the engineer of record to inspect and provide a 7-day inspection letter certifying contractor compliance with designed erosion control measures. On the motion of Council member Lama, second Council member Goodlett, the Task Order with Croy Engineer was approved. The vote was unanimous in favor.

FIRST READING ORDINANCE 25-09 TO AMEND THE CHARTER OF THE CITY OF DALTON, GEORGIA - LEASE AGREEMENTS OR CONTRACTS

City Attorney Jonathan Bledsoe presented a First Reading of Ordinance 25-09 To Amend the Charter of The City of Dalton, Georgia, Approved May 1, 2024 (2024 Georgia Laws p. 3739); By Amending Article I Captioned: "Incorporation and Powers" By Amending Section 1.12(b)(6) By Striking and Deleting Said Section and Substituting in Lieu Thereof New A Paragraph; To Provide for Severability; To Provide for The Repeal of Conflicting Ordinances; To Provide for An Effective Date; And for Other Purposes. City Attorney Bledsoe stated the Charter currently allows lease agreements or contracts with the Airport to last no longer than five years, continuing stating this Charter Amendment will allow the Airport to enter into ground lease agreements or contracts for terms not to exceed 35 years.

ANNOUNCEMENT

Mayor Sams invited everyone to celebrate Georgia Cities Week at Burr Park on April 25, 2025 at 6:00 p.m.

ADJOURNMENT

There being no further business to come before the Mayor and Council, on the motion of Councilmember Goodlett, second Councilmember Farrow the meeting was adjourned at 6:14 p.m.

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Bernadette Chattam  
City Clerk

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Annalee Sams, Mayor

Recorded  
Approved: \_\_\_\_\_  
Post: \_\_\_\_\_



# CITY COUNCIL AGENDA REQUEST

## MEETING TYPE

Mayor & Council Meeting

## MEETING DATE

5/5/2025

## AGENDA ITEM

Second Reading Ordinance 25-09 Home Rule Amendment

## DEPARTMENT

Administration

## REQUESTED BY

Andrew Parker

## REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

## COST

## FUNDING SOURCE IF NOT IN BUDGET

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

TO AMEND THE CHARTER OF THE CITY OF DALTON, GEORGIA, APPROVED MAY 1, 2024 (2024 GEORGIA LAWS P. 3739); BY AMENDING ARTICLE I CAPTIONED: "INCORPORATION AND POWERS" BY AMENDING SECTION 1.12(B)(6) BY STRIKING AND DELETING SAID SECTION AND SUBSTITUTING IN LIEU THEREOF NEW A PARAGRAPH; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

## PHONE

706-278-9500

## WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

## ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

## **Ordinance 25-09**

To Amend The Charter Of The City Of Dalton, Georgia, Approved May 1, 2024 (2024 Georgia Laws p. 3739); By Amending Article I Captioned: “Incorporation and Powers” By Amending Section 1.12(b)(6) By Striking And Deleting Said Section And Substituting In Lieu Thereof New A Paragraph; To Provide For Severability; To Provide For The Repeal Of Conflicting Ordinances; To Provide For An Effective Date; And For Other Purposes.

**BE IT ORDAINED** by the Mayor and Council of the City of Dalton and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

### **Section 1:**

Amend Article I of the Charter of the City of Dalton, Georgia Captioned: “Incorporation and Powers” by striking, deleting, and repealing Section 1.12 (b)(6) captioned “Contracts” and substituting in lieu thereof a new paragraph which shall read as follows:

Contracts. To enter into contracts and agreements with other governmental entities and with private persons and entities. With respect to leases or contracts involving the use, operation, or management of any real or personal property of the city located on or about the Dalton Municipal Airport or which in any way relates to a public airport, the city shall have authority, without requiring sealed bids, to enter into leases or contracts with private persons and entities which shall not exceed thirty five (35) years.

### **Section 2.**

This Ordinance shall be effective after adoption and upon the filing with the Secretary of the State of Georgia a copy of this Ordinance, a copy of the required notice of publication, and an affidavit of a duly authorized representative of the newspaper in which the notice was published and with a filing of a copy of this Ordinance in the office of the Clerk of the Superior Court of Whitfield, Georgia and the office of the Clerk of the City of Dalton, Georgia.

### **Section 3.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 4.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR/MAYOR PRO TEMPORE

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON



## CITY COUNCIL AGENDA REQUEST

### MEETING TYPE

Mayor & Council Meeting

### MEETING DATE

5/5/2025

### AGENDA ITEM

City Hall Floor/Carpet Maintenance Contract Proposal - 2025-2026

### DEPARTMENT

Human Resources

### REQUESTED BY

Haliyma Jones

### REVIEWED/APPROVED BY CITY ATTORNEY?

Previously reviewed

### COST

\$5,449.16

### FUNDING SOURCE IF NOT IN BUDGET

Building and Maintenance Budget

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

Human Resources is seeking approval to sign a renewal contract agreement with Apex Group (formerly known as Spectra) for our City Hall Floor/Carpet Maintenance.

#### PHONE

706-278-9500

#### WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

#### ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

PROPOSAL



a DIVERZIFY company

City of Dalton - City Hall Floor Maintenance  
Cleaning 2025 - 2026  
Q-46387

#WEDELIVERDELIGHT

CLIENT BILLING:

City of Dalton  
P. O. Box 1205  
DALTON, GA 30722

CLIENT SITE:

City of Dalton  
P. O. Box 1205  
DALTON, GA 30722

YOUR SOLUTIONIST:

Tony Gladson  
tgladson@goapex.com

CUSTOMER NOTES:

City of Dalton - City Hall Floor Maintenance - 2025 - 2026 Contract  
Gregg Batts / HR Director  
Clean Carpet 1x year - 1st Floor (All Area's - Halls, Offices) 2x year - Council Chambers Carpet  
Clean Carpet 1x year - 2nd & 3rd Floors - (All Area's, Hall, Offices)  
Clean & Wax Floors - 1x year - 1 - 3 Floors Breakrooms  
Quarterly payments of \$1,362.29 (June, September, December, March) - Total Cost: \$5,449.16

Product Data

SERVICE	DESCRIPTION	TOTAL
Carpet Care - Programmed Carpet Cleaning	Clean Carpet 1x year - 1st Floor (All Area's - Halls, Offcies) 2x for Council Chambers Carpet	\$2,262.96
Carpet Care - Programmed Carpet Cleaning	Clean Carpet 1x year - 2nd & 3rd Floors - (All Area's - Halls, Offices)	\$2,332.20
Resilient Care - VCT Strip & Recoat	Clean & Wax - 1x year - 1-3 Floors Breakrooms,	\$854.00
Product Data TOTAL:		\$5,449.16

**Subtotal: \$5,449.16
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This proposal is valid for 30 days from the date of the proposal

**Base Bid Total: \$5,449.16
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503.24 :increase from 2024 (10% inc.)



All approved purchase orders and contracts should be addressed to:  
Diverzify Buyer LLC dba APEX Group.  
865 W. Irving Park Rd  
Itasca, IL 60143  
email: [orders@goapex.com](mailto:orders@goapex.com)

We thank you for your business.

**TERMS AND CONDITIONS:**

**Quote Duration.** Prices quoted are guaranteed for 30 days from the date of quotation.

**Acceptance.** No orders shall be deemed accepted other than upon receipt of our signed proposal, signed by Client acknowledging acceptance.

**Application of Terms.** These terms apply to each and every transaction between us and you for the supply of goods and services. Any terms or conditions included in, attached to, or referenced in your order including any purchase order terms subsequently given to us by you, or any other document provided by you deviating from, or inconsistent with, these terms, are expressly rejected by us and will not vary or supplement these terms, unless Apex consents to such changes or deviations in writing.

**Renewal.** All programs of Client will automatically renew annually at the same price and terms unless otherwise provided for in writing.

**Price Adjustments.** APEX reserves the right to adjust its price(s) at any time upon providing Client with thirty (30) days advance, written notice of the adjusted price(s).

**Payment Terms.** Client shall pay all invoices within thirty (30) days after the date of the invoice. Any late payment shall incur a service charge equal to two percent (2%) of the invoice amount, and interest accrued at the greater of one- and one-half percent (1.5%) per month or the highest interest rate permitted by law. Client shall pay all collection costs, including attorneys' fees.

**Third Party Payment.** Services are provided to the Client listed on this proposal. Client is directly responsible for all services billed and payment is expected from and by Client according to the terms set forth herein, even if Client expects, anticipates or has arrangements to be reimbursed or paid by another party. The obligation to pay is with the Client and may not be made nor is contingent upon the actions of another.

**Taxes, Tariffs and Duties.** Client is responsible for payment of all taxes, including any and all federal, state or local taxes, such as sales taxes and excise taxes, as well as all tariffs, and duties imposed upon any goods, materials or services supplied herein. Any such taxes shall be included on the invoice provided to the Client. If the rate or amount of such taxes, tariffs or duties change during the course of performance, Client shall be responsible for any change in price resulting therefrom. If Client possesses a tax-exempt status, the tax exemption certificate is to be provided before order placement.

**Cancellations.** Either party may cancel upon providing thirty (30) days prior notice in writing to the other party. Notwithstanding providing such notice, the canceling party will remain responsible and pay for all labor or materials supplied or to be supplied until the date that cancellation becomes effective. If the Client chooses annualized billing and Client cancels applicable services prior to completion of a full year, Client shall remain responsible and pay for all labor or materials supplied or to be supplied until the date that cancellation becomes effective.

**No-Show and Late Cancellation Charges.** Where premises cannot be entered or a job cannot be started, despite Client having provided a confirmation of a work date or start time, Client will be charged an hourly labor charge of no less than \$85 per man-hour for the time allotted to perform the anticipated work, including travel time to and from the Client location. Confirmed jobs that are canceled less than 24 hours before the start of the job will be charged a \$100 rescheduling fee.

**Holiday and Overtime.** Jobs that require holiday or overtime work will receive a twenty-five percent (25%) pricing upcharge, unless otherwise agreed with the Client.

**Fuel Surcharge.** When the weekly national average fuel cost for regular gasoline, as published by the United States Energy Information Administration at [eia.gov/petroleum/gasdiesel](http://eia.gov/petroleum/gasdiesel) remains over \$4.00 per gallon, we will add a fuel surcharge of 3% to the pre-tax amount of each invoice, effective for all invoices as of July 1, 2022.

**Urethane Coating.** Urethane coating removal is an extra charge unless specifically included in the proposal.

**Confidentiality.** This document is considered confidential and contains trade secrets. Access to this information is limited to APEX Group, its parents, subsidiaries, affiliates, employees, and agents. It shall not be duplicated or distributed in any manner without the express prior written consent of the company.

**Indemnification.** Customer shall indemnify against and hold Apex harmless from any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including attorney's fees, arising out of, connected with or resulting from Apex's provision of services or

materials, but excluding any gross negligence or intentionally wrongful acts of Apex. Customer shall pay all damages, losses, costs and expenses, including attorney's fees, incurred by Apex in exercising any of its rights or remedies hereunder or in enforcing any of the terms, conditions or provisions herein.

**Limitations of Liability.** The liability of APEX for any loss or damage, however caused (including by our negligence), suffered or incurred by you in connection with any goods or services provided by Apex is limited to the sum paid to Apex by Client prior to

the date you first suffered loss or damage in connection with the supply of goods or services provided by Apex. Apex shall not be responsible or liable for any loss or damage arising as a result of a workplace illness contracted before, during or after the use of our services. Our services shall not in any way constitute a guarantee that a building occupant won't contract a virus or pathogen before, during, or after our application is complete.

**Delays and Damages.** APEX will not be responsible or liable for losses, damages, expenses, or costs arising from any (i) delays damages caused, in whole or in part, by Client or any third party or (ii) acts or omissions of Client or any third party.

**Force Majeure.** Neither Client nor APEX shall be liable for any failure to perform its obligations due to unforeseen circumstances or causes beyond the reasonable control of either Client or Apex, including without limitation acts of God, pandemic, epidemic, war, riot, embargoes, acts of civil or military authorities, acts of terrorism or sabotage, electronic viruses, malware, worms, breach of cybersecurity, corrupting software, fire, flood, earthquake, strikes, or failure of communications or electrical lines.

## What happens next?



Once we receive approval, our Client Service Manager will call you to confirm your details and schedule.

You will receive an email confirmation and second call a week prior to your scheduled service date.

Please be sure that you communicate any issues our Technicians may encounter or that may delay them when arriving (construction, etc).

Once service is complete, the next day you will receive a post-service communication with a summary of the work and brief survey.

### INVOICING OPTIONS:

- ☐ I would like to be invoiced for Services rendered that month
- ☐ I would like to be invoiced in equal monthly installments

### PROGRAM TERM OPTIONS:

- ☐ I approve a **three-year agreement** in exchange for a **3% discount**
- ☐ I approve a **five-year agreement** in exchange for a **5% discount**

Please sign and return one (1) copy of this proposal.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_



Reliable Solutions.  
Remarkable Results.

## First Impressions Last Forever

Maximize the lifetime value of your flooring, architectural surfaces and upholstery while making a stellar first impression with APEX Group. Our specialized solutions are tailored to your unique needs, preserving and elevating your assets and brand image.

### INDUSTRIES WE SERVE:

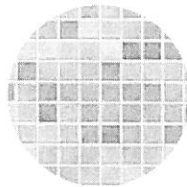
- Corporate & Multi-tenant
- Health Care & Medical
- Critical Space
- Manufacturing Facilities
- Law Firms
- Public Spaces
- Higher Education
- Government
- Brand-Conscious Retail



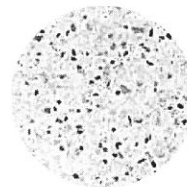
**Commercial  
Carpet**



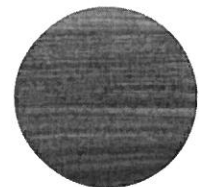
**Performance  
Coatings**



**Ceramic  
Tile & Grout**



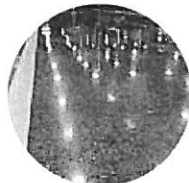
**Natural Stone  
& Terrazzo**



**Wood  
Floor Care**



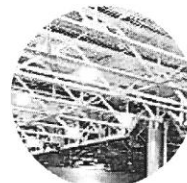
**Furniture &  
Upholstery**



**Polished  
Concrete Care**



**Metal Repair  
& Refinishing**



**Overhead  
Surfaces**



**Exterior Power  
Washing**



# Surface Care Beyond Compare

APEX Group restores and maintains the interior assets of image-conscious companies. Our specialized solutions improve the look and lifespan of your surfaces, elevating your brand and offering long-term cost savings.

## WHY CHOOSE APEX GROUP?

### ✓ Tailored Solutions

Our customized surface care programs are designed around the unique needs of your facility.

### ✓ Strength & Stability

Backed by our partnership with Diverzify, we offer industry-leading innovations and scalability.

### ✓ Transparency & Accountability

Our proprietary work management system allows for real-time tracking and fully customizable KPIs.

### ✓ National Accounts

Our exceptional field team and vast network of 60+ Diverzify sites guarantee personalized service for every location.

### ✓ Sustainable Practices

Our cleaning solutions and methodologies meet green standards, enabling you to meet your sustainability goals.

### ✓ Social Commitment

We provide pro bono cleaning services to select nonprofits through our Community Giveback Program.

## CORE SERVICES

- Architectural Surface Care
- Critical Space Cleaning
- Construction Cleanup

## CORE SERVICES

- Delivering delight since 1997
- Part of Diverzify, the nation's largest commercial flooring and interior services provider
- Locations throughout the U.S.; service throughout North America
- 1,000+ facilities served

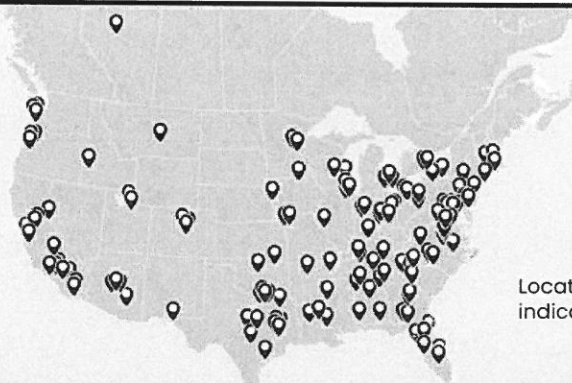
## CLIENTS SERVED

- JLL
- Cushman & Wakefield
- CBRE
- Visa
- Intuit
- American Airlines
- Geico
- Transwestern
- McKesson
- American Express
- Mace Macro
- Exxon Mobil

## National Coverage

We're where you need us to be—locally, regionally and nationally.

**Consolidate with Confidence.**



Location symbols  
indicate client sites.





Spectra Contract Flooring  
Georgia  
6684 Jimmy Carter Blvd Suite 500  
Norcross, GA 30071



Phone: (770) 729-2700  
Fax: (770) 263-8812

Proposal Submitted To City of Dalton		Attention Greg Batts		Phone (706) 278-9500	Fax (706) 278-8245	Date 08/17/23
Street P.O. Box 1205				Job Name PCDA/City Hall Cleaning Maintenance		Job # 201140
				Job Street P.O. Box 1205		Proposal ID 385222
City, State and Zip Dalton, GA 30722	Architect	Date of Plans	Add #	Job City, State and Zip DALTON, GA 30722	Customer Job # None	Customer PO None

We hereby submit specifications and estimates for:

Item Description	Price
Clean Carpet 1x year - 1st Floor (All Area's - Halls, Offices) 2x for Council Chambers Carpet.	\$2,137.24
Clean Carpet 1x year - 2nd 3rd Floors - (All Area's - Halls, Offices)	\$2,073.60
Clean & Wax 1x year 1-3 Floors Breakrooms, Quarterly payments of \$1,236.48 (2024 - 2025)	\$735.08
Yearly Cleaning Maintenance).	

Base Bid Total: **\$4,945.92**

We PROPOSE to perform the work complete in accordance with the specifications and as described above for the SUM of:

Signature: Tony Gladson

Tony Gladson Cell: (706) 463-3958

Email: [tony.gladson@spectracf.com](mailto:tony.gladson@spectracf.com)

**\$4,945.92**

**Conditions of Proposal:**

1. This Proposal may be withdrawn, if not accepted, within 30 days of its issuance. Spectra will consider reasonable requests to engage in negotiations for revisions to this Proposal, including signing a subcontract that includes the terms of this Proposal. A proposal not accepted within 30 days will be subject to price escalation of materials, labor, freight and fuel costs.
2. This proposal is subject to credit review and approval. Payment terms are net 30 days. A convenience fee of 2.5% will be added if paying via credit card. Past due invoices are subject to service charges of 1.5% per month (18% per annum). In the case of any default, Customer shall pay Spectra's reasonable attorney fees and costs, including those on any appeal, even if no suit or action is filed.
3. All work shall be performed in a workmanlike manner according to industry standards. Areas to receive flooring shall be free and clear of debris. Any changes to the work shall be performed only after execution of a written change order.
4. Prior to commencement of Spectra's work: (a) Customer shall test all concrete sub floors receiving flooring for vapor emission levels and alkalinity per manufacturers' recommendations utilizing ASTM F2170 and provide written results to Spectra, including a list of any sealers applied to the concrete sub floor; (b) If Customer does not provide such reports at least 10 days prior to commencement of Spectra's work, then Customer shall provide Spectra with access to all concrete sub floors for appropriate testing and Customer shall be responsible for the costs of such testing; and (c) Any concrete sub floors not meeting manufacturers' requirements for installation will require correction or the execution of a separate waiver agreement.
5. All work is contingent upon strikes, accidents or delays beyond Spectra's control. Customer shall carry insurance for all hazards, including fire. Spectra's workers are fully covered by Worker's Compensation and Liability Insurance.
6. Customer represents and warrants that: (a) the project site contains no hazardous or other dangerous substances, either exposed or concealed; or (b) Customer has given written notice to Spectra of all such substances and their location(s). To the fullest extent permitted by law, Customer shall indemnify, defend and hold Spectra harmless from any damage, claim, loss, expense and attorney fees related to Spectra's liability, if any, including any federal or state statute related to hazardous or other dangerous substances.
7. Spectra is fully licensed, bonded, and insured. This proposal does not include participation in any OCIP/CCIP or related programs. Requests for Spectra to participate in such programs may result in additional costs.
8. Notwithstanding anything herein to the contrary, all prices are subject to immediate increase without limitation in the event of material change to applicable duties, taxes, tariffs, similar charges, or other government action.

**ACCEPTANCE OF PROPOSAL:** The above prices, specifications, and conditions are satisfactory and are hereby **ACCEPTED**.  
You are authorized to do the work as specified.

Customer: City of Dalton

Signed:

Date: 4-16-24



# CITY COUNCIL AGENDA REQUEST

## MEETING TYPE

Mayor & Council Meeting

## MEETING DATE

5/5/2025

## AGENDA ITEM

Award of contract to Integrated Builders, LLC. For the construction of the Dalton Pickleball Complex.

## DEPARTMENT

Parks and Recreation

## REQUESTED BY

Steve Roberts

## REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

## COST

\$2,206,042 (This total does include \$60,000 in contingency, and Alternate 1 for \$217,700. Alternate 1 will cover 3 courts)

## FUNDING SOURCE IF NOT IN BUDGET

2021 Bond Series

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

This request is to award Integrated Builders, LLC. the construction contract for the Dalton Pickleball Complex. Parks and Recreation advertised and opened this bid March 11, 2025 and it closed on April 11, 2025. We received 5 bids, with Integrated Builders the low bid. The contract amount will be for \$2,206,042. This total will include 15 courts, 3 of the courts will be cover by a metal roof structure. It will include all infrastructure and a building that will have men, women and family restrooms, concession area, office and storage area. The total does include \$60,000 in contingency. Construction will begin May 26, 2025. The Parks and Recreation Director and the Recreation Commission recommend approval.

## PHONE

706-278-9500

## WEBSITE

[www.daltonga.gov](http://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 Builders, LLC. (the "Contractor") under seal for construction of "Dalton Pickleball Complex", located at 904 Civic Dr., Dalton GA 30721 (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 5/26/2025 and shall achieve Substantial Completion of the Work no later than 11/21/2025. 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 **\$500** 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 \$2,206,042.00. 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 the following:

- a. Lump Sum Proposal: \$1,988,342.00 - This includes an Owner's Construction Contingency of \$60,000.00

Alternate No.1: for \$217,700.00 - **Pre-Engineered Metal Building Specifications**

- Red iron building main frame, PBR wall panels\*, VS-216 standing seam roof panels\*, Gutters and downspouts\*, Rake trim\*, 6" Roof Insulation to prevent roof from "sweating" and dripping on courts.

Building siding to terminate at 12'0" above finish floor, \*Colors to be selected from standard colors by Owner.

## **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 \$500.00 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:

<b><u>Name</u></b>	<b><u>Function</u></b>
Project Manager	
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 Prime Engineering, 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:

<b><u>Month</u></b>	<b><u>Days</u></b>	<b><u>Month</u></b>	<b><u>Days</u></b>	<b><u>Month</u></b>	<b><u>Days</u></b>
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 required. 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:

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

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- ½) 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 Contactor 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 Builders, LLC**

\_\_\_\_\_  
By:  
(Signature)

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

\_\_\_\_\_  
(Printed Name, Title and Address)

\_\_\_\_\_  
(Date of Execution)

\_\_\_\_\_  
By:  
(Signature)

W.Michael Toth – President  
507 Raven Wolf Rd.  
Chattanooga, TN 37421

\_\_\_\_\_  
(Printed Name, Title and Address)

\_\_\_\_\_  
(Date of Execution)



# CITY COUNCIL AGENDA REQUEST

## MEETING TYPE

Mayor & Council Meeting

## MEETING DATE

5/5/2025

## AGENDA ITEM

Professional Services Agreement with Geo-Hydro Engineers, Inc. for materials testing at Dalton Pickleball Complex.

## DEPARTMENT

Parks and Recreation

## REQUESTED BY

Steve Roberts

## REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

## COST

\$17,160 (Not to Exceed)

## FUNDING SOURCE IF NOT IN BUDGET

2021 Bond Series

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

This request is to approve the Professional Services Agreement with Geo-Hydro Engineers, INC. to perform Construction Materials Testing and Special Inspections Services for the Dalton Pickleball Project. The scope of work will include: Subgrade Evaluations and Field Density Testing, Observation of Reinforcing Steel, Concrete Testing, Structural Steel Testing, Masonry Testing Services, and Project Administration and Miscellaneous Consultation. See attached proposal for additional information regarding the scope of work.

## PHONE

706-278-9500

## WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

## ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

**CITY OF DALTON**  
**PARKS AND RECREATION**  
**THIS GENERAL PROFESSIONAL SERVICES AGREEMENT**

THIS GENERAL PROFESSIONAL SERVICES AGREEMENT is made and entered into on this 5th day of May, 2025 by and between the City of Dalton, a Georgia Municipal Corporation, hereinafter referred to as "CITY", and Geo-Hydro Engineers, Inc., hereinafter referred to as "CONSULTANT".

WHEREAS, the CITY desires to engage the CONSULTANT to provide professional services; and,

WHEREAS, the CITY finds that the proposed Scope of Services and terms of this Contract are acceptable; and,

WHEREAS, the CONSULTANT desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

WITNESSETH: That the parties hereto for the considerations hereinafter provided covenant and agree as follows:

1. **EMPLOYMENT OF CONSULTANT:** The CITY hereby engages the CONSULTANT and the CONSULTANT hereby agrees to perform the professional services hereinafter set forth.
2. **PROJECT/SCOPE OF SERVICES:** The CONSULTANT shall complete the project and perform the scope of services specified in the CITY's Request for Proposal which is included herein by reference and the specifications provided in the CONSULTANT'S proposal attached hereto as Exhibit "A".
3. **ADDITIONAL SERVICES:** The CONSULTANT shall provide additional services, not specifically provided for in Exhibit "A", upon written request and authorization by the CITY.
4. **DATE OF COMMENCEMENT:** The CONSULTANT shall commence work on the project on May 26th, 2025. If no date is provided, then the date of commencement shall be five days from execution of this Agreement.
5. **DATE OF COMPLETION:** The CONSULTANT shall complete the project on or before November 21<sup>st</sup>, 2005.

6. **CONTRACT SUM:** The CITY shall pay to CONSULTANT the total price not to exceed \$17,160.00 Dollars for the complete performance of the project and terms of this Agreement. In addition, CITY shall pay to CONSULTANT for any authorized additional services performed at the rate or amount provided in the Compensation Schedule attached hereto as Exhibit "B".
7. **CONTRACT PENALTY:** The CONSULTANT shall pay to the CITY the amount of \$100.00 Dollars per calendar day for unexcused delay in completion of the project past the date of completion.
8. **PAYMENT:** The CITY shall pay the contract sum to CONSULTANT upon complete performance of the project and terms of this Agreement. CONSULTANT shall provide to CITY an Affidavit from the CONSULTANT stating the CONSULTANT has fully performed all terms of the Agreement. Final payment shall be made no later than 30 days after receipt of said Affidavit. Upon completion of any additional services, said additional services shall be paid within 30 days of receipt of invoice from CONSULTANT. Payment(s) shall be made via electronic funds transfer (EFT).
9. **CITY COVENANTS:** CITY covenants and agrees:
  - (a) to provide all available information, data, reports, records and maps to which CITY has possession or control which are necessary for CONSULTANT to perform the scope of services provided for herein;
  - (b) to provide reasonable assistance and cooperation to CONSULTANT in obtaining any information or documentation which are necessary for CONSULTANT to perform the scope of services provided for herein;
  - (c) to designate a representative authorized to act on the CITY's behalf with respect to the project. Unless otherwise provided, said CITY representative shall be the Director of Public Works;
  - (d) to permit access to the subject public property and obtain permission to access necessary private property for CONSULTANT to complete the scope of services;
  - (e) to provide reasonable assistance to CONSULTANT in applying for and obtaining any necessary Federal, State or local government permits for the scope of services;
10. **CONSULTANT COVENANTS:** CONSULTANT covenants and agrees:
  - (a) to perform the scope of services in a professional manner, using that degree of care and skill ordinarily exercised by consultants practicing in the same or similar field;



- (b) to use only employees and subcontractors qualified to complete the work with sufficient experience in same or substantially similar projects;
- (c) to use only properly licensed employees or subcontractors for any work requiring a specialty or professional license issued by the State of Georgia;
- (d) to designate a representative authorized to act on the CONSULTANT's behalf with respect to the project.
- (e) to use the subject property in a safe, careful and lawful manner;
- (f) to promptly report in writing to CITY any unsafe or defective condition of the subject property and any adverse site condition, which shall include but not be limited to limited access, extremely dense vegetation, subsurface conditions, damaged property, or existing utilities, that may adversely affect CONSULTANT's ability to complete the scope of services or other terms of this Agreement;
- (g) to promptly report in writing to CITY any damage to or injuries sustained on the subject property and to promptly repair any damage to the subject property which is made necessary by any act of CONSULTANT, its employees, agents, subcontractors, or invitees;
- (h) to keep the subject property in a clean and orderly condition and to remove any personal property of CONSULTANT upon completion of the project;
- (i) to perform all work on the project in a good and workmanlike manner, free from faults and defects, and in conformance with the terms of this Agreement;
- (j) to determine the appropriate method, details and means of performing the scope of services provided by this Agreement;
- (k) to exercise the ordinary standard of care in complying with the laws, codes, and regulations applicable to the CONSULTANT's services;
- (l) to exercise diligence and to complete delivery of the scope of services in a timely manner consistent with the exercise of due care;
- (m) to attend meetings to make presentations or to otherwise review the progress of the work as set out in the scope of services at the reasonable request of the CITY;
- (n) to prepare and submit to the CITY reports required by the scope of services or upon the written request of the CITY,

11. INDEMNITY: CONSULTANT shall indemnify CITY from and hold CITY harmless against all claims, demands and judgments for loss, damage or injury to person or property, resulting from or incurring by reason of CONSULTANT'S use and occupancy of the subject property or by the negligence, willful acts, or errors or omissions with respect to the performance of the professional services of CONSULTANT, its employees, agents, subcontractors, or invitees and from all expenses incurred by CITY as a result thereof including, without limitation, reasonable attorneys' fees and expenses and court costs, except if arising from or caused by the sole fault or negligence of CITY or any of CITY's employees, agents or representatives acting on behalf of the CITY.

Additionally, pursuant to State law, CITY shall not indemnify or hold harmless CONSULTANT for any claims arising from the actions or omissions of CONSULTANT or any third party.

Additionally, CONSULTANT agrees that all personal property that may be at any time at the subject property shall be at CONSULTANT's sole risk or at the risk of those claiming through CONSULTANT and that CITY shall not be liable for any damage to or loss of such personal property except if arising from or caused by the sole fault or negligence of CITY.

12. INSURANCE: CONSULTANT agrees to carry at its own expense through the term of this Agreement the types and amounts of insurance required to maintain status as a Vendor of the City of Dalton or as provided herein below, whichever is greater. CONSULTANT shall provide CITY with copies or evidence of such insurance coverage prior to the commencement date of the Agreement. Such insurance policies shall name CITY as an additional insured and shall be issued by such insurance companies and on such forms as may be approved by CITY. Said insurance shall include the following:

(a) General Liability Coverage - General Liability policy with a minimum limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

(b) Workers' Compensation Coverage - Workers' Compensation policy with the following minimum limits:

(a) Workers' Compensation statutory limits;

(b) Employer's Liability:

a. Bodily Injury by Accident - \$100,000.00

b. Bodily Injury by Disease - \$500,000.00 policy limit

c. Bodily Injury by Disease - \$100,000.00 each employee.

CONSULTANT shall complete the Workers' Compensation Insurance Affidavit of the City of Dalton to determine if any exemption to Workers' Compensation Insurance is applicable.

(c) Auto Liability Coverage - Auto Liability policy with a minimum of \$1,000,000.00 limit per occurrence for bodily injury and property damage, if motor vehicle is used in performance of scope of services. Comprehensive form covering all owned, non-owned Vehicles.

(d) Professional Services Errors & Omissions Coverage - Professional Services E&O policy with a minimum of \$1,000,000.00 per claim.

14. ASSIGNMENT: CONSULTANT may not assign all or any portion of the Agreement without the prior written permission of CITY.

15. SUBCONTRACTOR: The CONSULTANT shall provide written notice to CITY of CONSULTANT'S intent to use a subcontractor for any portion of the project. CITY shall be entitled to reject any subcontractor it deems not qualified to complete the project. Any subcontractor approved for work on the project shall abide by any and all terms of this Agreement.

16. NON-WAIVER OF DEFAULT: The failure or delay by either party hereto to enforce or exercise at any time any of the rights or remedies or other provisions of this Agreement shall not be construed to be a waiver thereof, not affect the validity of any part of this Agreement or the right of either party thereafter to enforce each and every such right or remedy or other provision. No waiver of any default or breach of the Agreement shall be held to be a waiver of any other default and breach.

17. NOTICES: Any notice required or permitted to be given under this Agreement or by law shall be deemed to have been given if reduced in writing and delivered in person or mailed by certified mail, return receipt requested, postage prepaid to the party who is to receive such notice.

Such notice to CITY shall be mailed to: City of Dalton

ATTN: City Administrator

P.O. Box 1205

Dalton, GA 30722-1205

Such notice to CONSULTANT shall be mailed to: Geo-Hydro Engineering Inc.

1000 Cobb Place Blvd, Suite 290

Kennesaw, Georgia 30144

When so mailed, the notice shall be deemed to have been given as of third (3rd) day after the date it was mailed. The addresses may be changed by giving written notice thereof to the other

18. CONTRACT DOCUMENTS: The Agreement shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Addenda relating to bidding and proposal requirements, and any other written information provided by the CITY in anticipation of receiving bids or proposals, if any, except as specifically excluded herein, and the CONSULTANT'S bid or proposal. The terms of this Agreement shall supersede any terms in the above-referenced documents in direct conflict with the terms of this Agreement.

Additionally, the Contract Documents and all drawings, plans, specifications and other related construction or service related documents shall be the sole property of the CITY. The CONSULTANT shall be permitted to retain copies thereof for its records and for its future professional services.

Additionally, CITY shall be authorized to rely upon all documents, whether in hard copy or electronic format, provided by CONSULTANT. Any changes to the material terms of any document shall be clearly identified and noted to CITY.

19. VENDOR: CONSULTANT shall register and remain active as a Vendor of the CITY by completing the City of Dalton Vendor Packet and fully comply with any and all requirements of said Vendor during the term of this Agreement.

20. TERMINATION OF CONTRACT: In the event that CONSULTANT defaults or neglects to perform work on the project in accordance with the terms of this Agreement, CITY may terminate this Agreement by providing written notice of termination. Prior to termination of this Agreement for default, CITY shall provide written notice to CONSULTANT of any default and provide CONSULTANT ten (10) days to correct said default or deficiency,

21. MISCELLANEOUS PROVISIONS:

- (a) Governing Law; Venue. This Agreement is being executed and delivered in the State of Georgia and shall be construed and enforced in accordance with the laws of that state. 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.
- (b) Successors and Assigns. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties. CONSULTANT shall not assign its rights or obligations under this Agreement without the prior written consent of the CITY.
- (c) Severability of Invalid Provisions. If any provision of this Agreement shall be deemed invalid, void or unenforceable, the remaining provisions hereof shall not be affected or impaired, and such remaining provisions shall remain in full force and effect.
- (d) Complete Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto; it supersedes all previous understandings and agreements between the parties, if any, and no oral or implied representation or understanding shall vary its terms, and it may not be amended except by written instrument executed by both parties hereto.
- (e) Remedies Cumulative, all rights, powers, and privileges conferred hereunder upon the parties hereto shall be cumulative, but not restrictive to those given by law

- (f) Time is of the Essence. Time is of the essence of this Agreement in each and all of its provisions
- (g) Attorney Fees. In the event the CITY must enforce the terms of this Agreement by filing a civil action against CONSULTANT, then CONSULTANT shall pay an amount equal to fifteen percent (15%) of the contract sum as attorney fees.

- (h) Confidentiality. All information and documentation regarding the project and the CONSULTANT's services shall be maintained in confidence and shall not be disclosed to any third party by CONSULTANT, without CITY's written authorization, except as may be required by the Georgia Open Records Act. CONSULTANT shall promptly notify CITY of any third-party request for said information or documentation prior to any disclosure. CITY agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by CONSULTANT pertaining to this Agreement shall be considered confidential and proprietary, and shall not be disclosed to any third party, except as may be required by the Georgia Open Records Act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first above written.

CONSULTANT:

CONSULTANT  
Geo-Hydro Engineering, Inc.

By:

Title:

CITY:

CITY OF DALTON, GEORGIA

By:

Attest:

Mr. Steve Roberts  
City of Dalton  
904 Civic Drive  
Dalton, Georgia 30161

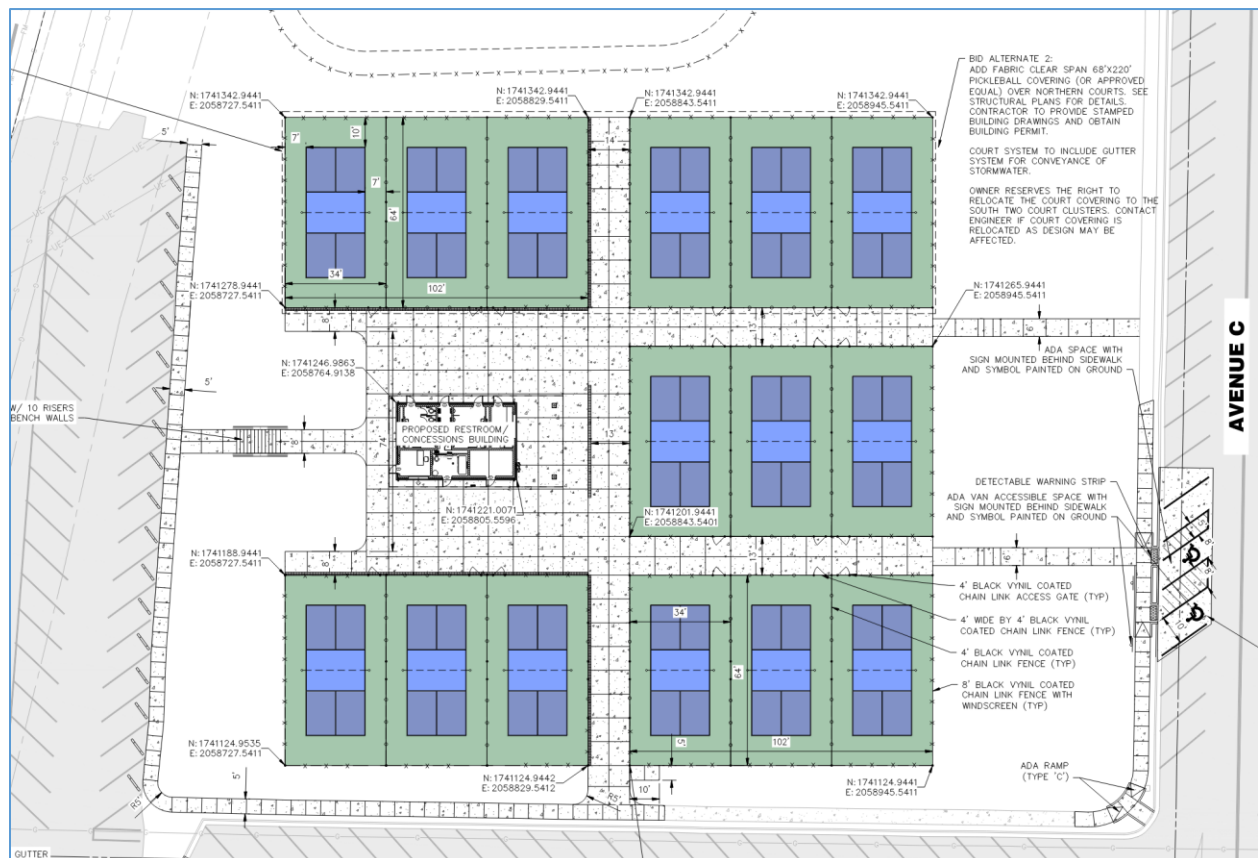
April 25, 2025

**Proposal to Provide  
Construction Materials Testing and Special Inspections Services  
Dalton Pickleball Courts  
Dalton, Georgia  
Geo-Hydro Proposal Number 251708.P0**

Dear Mr. Roberts:

Geo-Hydro Engineers appreciates the opportunity to provide this proposal to perform Construction Materials Testing and Special Inspections Services for the above referenced project. Our scope of work is based on review of the bid documents dated February 28, 2025, and on our experience with similar projects.

We understand the project involves the construction of fifteen pickleball courts with a restroom and associated utilities. There is also a bid alternate for covering a portion of the courts.



## SCOPE OF WORK

### Construction Materials Testing and Special Inspection Services

#### Subgrade Evaluations and Field Density Testing

At-grade areas and areas to receive structural fill in the building pad and parking areas will be evaluated by proofrolling with a loaded dump truck, scraper, or other similar rubber-tired equipment and 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 perform requested field density testing of fill or backfill soils.

#### Observation of Reinforcing Steel

Our representatives will 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.

#### Concrete Testing

Geo-Hydro's technicians will be present to sample and test structurally significant concrete. Typically, for each sampling event we will perform physical tests to determine the slump, air content, and temperature, and we will cast test cylinders for subsequent compressive strength testing. We will transport cylinders to our laboratory for moist-curing and compressive strength testing which will be performed at the required test interval.

#### Structural Steel Testing

We plan to check the material identifications and submittals of manufacturer's certificates of compliance for high-strength bolt assemblies and cold-formed steel deck. We will also check the welded and bolted connections for conformance with the project plans, the project manual, and applicable codes. The steel frame, including the bracing and stiffening member configurations, member location, and joint details will be checked for compliance with the project documents.

#### Masonry Testing Services

We will sample and test the masonry in accordance with the project specifications and applicable ASTM standards. The mortar and grout specimens will be transported to our laboratory for subsequent compressive strength testing. We will also observe the installation of reinforcing steel during masonry construction and perform observation of structural masonry grouting as required by the IBC.

#### 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 budgetary estimate for construction materials testing and special inspections compliance services based on the assumed durations within our cost estimate. We will bill for all of our services on a unit-rate basis in accordance with the attached Schedule of Fees.

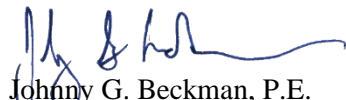
We will submit progress invoices at the end of each month for which our services are provided. No change orders will be issued for the scope of services within our cost breakdown. Change orders, if any, will only be requested for agreed upon additional scope items beyond what is indicated on our cost estimate.

\* \* \* \* \*

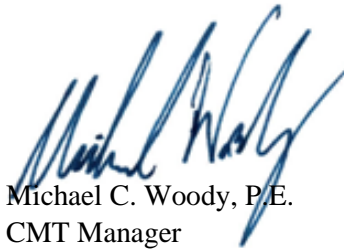
If this proposal is acceptable, please authorize our services by providing us your purchase order. We look forward to working with you on this project. Please contact us if you have any questions.

Respectfully,

Geo-Hydro Engineers, Inc.



Johnny G. Beckman, P.E.  
Sr. Project Manager  
[jbeckman@geohydro.com](mailto:jbeckman@geohydro.com)



Michael C. Woody, P.E.  
CMT Manager  
[mwoody@geohydro.com](mailto:mwoody@geohydro.com)

JGB\MCW\251708.P0 Dalton Pickleball Courts Proposal



**CMT/SI/NPDES SERVICES COST ESTIMATE**

**SUBGRADE EVALUATIONS & FIELD DENSITY TESTING**

Field Density Testing (Based on 4 trips @ 6 hours each)						
24 hours	Senior Engineering Technician	at	\$80.00	per hour		\$1,920.00
Laboratory Testing						
1 tests	Standard Proctor (ASTM D 698)	at	\$200.00	each		\$200.00
Project Management						
4 hours	Senior Project Manager	at	\$200.00	per hour		\$800.00
Travel						
4 trips	40 miles per trip	at	\$0.750	per mile		\$120.00
<b>Subtotal</b>						<b>\$3,040.00</b>

**FOUNDATION EVALUATIONS**

Foundation Evaluations (Based on 2 trips @ 4 hours each)						
8 hours	Senior Engineering Technician	at	\$80.00	per hour		\$640.00
Project Management						
2 hours	Senior Project Manager	at	\$200.00	per hour		\$400.00
Travel						
2 trips	40 miles per trip	at	\$0.750	per mile		\$60.00
<b>Subtotal</b>						<b>\$1,100.00</b>

**REINFORCING STEEL AND CAST-IN-PLACE CONCRETE TESTING**

Field Concrete Testing (Based on 4 trips @ avg. 6 hours each)						
24 hours	Senior Engineering Technician	at	\$80.00	per hour		\$1,920.00
Sample Pickups (When not combined with other services, 4 trips @ 2 hours each)						
8 hours	Senior Engineering Technician	at	\$80.00	per hour		\$640.00
Laboratory Testing						
20 specimens	Compressive Strength	at	\$25.00	each		\$500.00
Project Management						
4 hours	Senior Project Manager	at	\$200.00	per hour		\$800.00
Travel						
8 trips	40 miles per trip	at	\$0.750	per mile		\$240.00
<b>Subtotal</b>						<b>\$4,100.00</b>

**STRUCTURAL STEEL/WOOD FRAMING INSPECTION**

Inspection of Structural Steel (Based on 1 visits at 6 hours per visit)						
6 hours	Structural Steel Inspector	at	\$150.00	per hour		\$900.00
Project Management						
1 hours	Senior Project Manager	at	\$200.00	per hour		\$200.00
Travel						
1 trips	40 miles per trip	at	\$0.75	per mile		\$30.00
<b>Subtotal</b>						<b>\$1,130.00</b>

**MASONRY INSPECTION**

Masonry Construction (Based on 4 trips @ 6 hours each)						
24 hours	Senior Engineering Technician	at	\$80.00	per hour		\$1,920.00
Laboratory Testing						
6 specimens	Grout Specimens (ASTM C 1019)	at	\$25.00	each		\$150.00
Project Management						
4 hours	Senior Project Manager	at	\$200.00	per hour		\$800.00
Travel						
4 trips	40 miles per trip	at	\$0.75	per mile		\$120.00
<b>Subtotal</b>						<b>\$2,990.00</b>

**TOTAL CMT/SI COST ESTIMATE \$12,360.00**

**ALTERNATE SERVICES**

**NPDES BEST MANAGEMENT PRACTICES (BMP) INSPECTIONS**

Weekly/Rainfall BMP Inspections & Reporting					
24 trips	BMP Inspections	at	\$200.00	per trip	\$4,800.00
				<b>Subtotal</b>	<b>\$4,800.00</b>

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

Dalton Pickleball Courts  
Dalton, Georgia  
Geo-Hydro Proposal Number 251708.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

Dalton Pickleball Courts

Dalton, Georgia

Geo-Hydro Proposal Number 251708.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:** Dalton Pickleball Courts

**PROJECT LOCATION:** Dalton, Georgia

**PROPOSAL NUMBER:** 251708.P0 **DATE:** April 25, 2025

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 very 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:

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#### 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

5/5/2025

## AGENDA ITEM

Individual Project Order #4 with Kimley Horn for Airfield Electrical Rehab - Design and Bid Phase Services and DBE Plan Update.

## DEPARTMENT

Airport

## REQUESTED BY

Andrew Wiersma

## REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

## COST

\$40,008.65

## FUNDING SOURCE IF NOT IN BUDGET

Federal Grant Reimbursement at 90%

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

This IPO is for design and bid phase services on the electrical rehabilitation project at the Airport. Also included in the IPO is services to complete a mandatory update to the Airport's DBE plan. Funds will be reimbursed at 90% through the Federal Airport Infrastructure Grant (AIG) program.

## PHONE

706-278-9500

## WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

## ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

**INDIVIDUAL PROJECT ORDER (IPO) NUMBER FOUR**

**THIS INDIVIDUAL PROJECT ORDER (“IPO”)** is made this \_\_\_\_ day of May 2025, by and between CITY OF DALTON (“the Client”) and KIMLEY-HORN AND ASSOCIATES, INC. (“the Consultant”) in accordance with the terms of the Five (5) Year Master General Planning and Engineering Consultant Agreement Between City of Dalton and Kimley-Horn and Associates, Inc. for Continuing Professional Services dated July 15<sup>th</sup>, 2024, which is incorporated herein by reference. The specifics of this engagement are set forth below.

**Identification of Project:**

**Project Name: LIGHTING AND SIGNAGE IMPROVEMENTS - DESIGN**

**KH Project Manager: REBECCA COLLINS**

**Project Number: 017739003**

**Scope of Services:**

Kimley-Horn will provide the services specifically set forth below:

The Engineering Design Services will consist of project formulation, preparation of construction drawings, bid phase services, and coordination with the Georgia Department of Transportation – Aviation Program. This project consists of the design of a new electrical layout for the rehabilitation of Runway 14-32, parallel taxiway, and associated connector taxiways meeting current FAA AC 150/5340-30J design standards. An alternative layout will be also designed to accommodate potential future fillet widenings and taxiway relocation. The design services for this project at the Dalton Municipal Airport are detailed below and will consist of the following elements of work:

**ALTERNATE 1:**

1. Runway and Taxiway Lighting, Signage, and Circuitry layout for existing airport conditions designed to meet current FAA AC 150/5340-30J design standards.

**ALTERNATE 2:**

1. Runway and Taxiway Lighting, Signage, and Circuitry layout for future fillet widenings and taxiway relocation designed to meet current FAA AC 150/5340-30J design standards.

**Element 1 – Project Formulation and Coordination** shall consist of the preparation of work scope, fees, virtual scoping meeting with GDOT and Client, and coordination with regulatory agencies.

**Element 2 – Construction Plans** will consist of:

1. **Summary of Quantities** Sheets listing the name pay item number, specification number, name of each pay item, unit of measure and estimated quantities determined during the design phase.
2. **Existing Conditions and Demolition Plan** will show existing conditions, utilizing surveys and base mapping provided by the owner, illustrating the current condition of the project site. These plans will show the items that are to be removed or relocated for the development of the base bid project site, including, but not limited to runway and taxiway lighting, signage, etc.
3. **Runway and Taxiway Lighting, Signage, and Circuitry Layout Plan (ALTERNATE 1)** will provide the lighting layout and design details for a new lighting system consisting of taxiway edge, runway edge, and runway threshold lighting.

4. **Runway and Taxiway Lighting, Signage, and Circuitry Layout Plan (ALTERNATE 2)** will provide the lighting layout and design details for a new lighting system consisting of taxiway edge, runway edge, and runway threshold lighting.
5. **Bid Form** will be provided to correspond with each alternative prepared.

**Element 3 – Bid Phase Services** will consist of preparation of an advertisement for bids, response to contractor questions during the bidding process, preparation of addenda as needed, receipt of bids at a scheduled bid opening, preparation of the bid tabulation, and recommendation of award to the lowest responsive and responsible bidder. This element also consists of preparation and attendance at a non-mandatory Pre-Bid Meeting with the Airport and interested Contractors.

**Element 4 – DBE Plan Update** will update the DBE Plan/NEW RULE in accordance with the provisions of 49 CFR Part 26 “Participation by Disadvantaged Business Enterprise in DOT Programs” and will be provided by a DBE Subconsultant, Taffy Pippin Consulting (see attached proposal). This element will also consist of review and quality assurance by Kimley-Horn. Services shall consist of the following:

- 1) Update of the DBE Plan in accordance with 49 CFR, Part 26 to include all requirements included in the May 9, 2024 Final Rule suitable for final coordination with the Southern Region of the FAA, Atlanta, Georgia;
- 2) Provide one of the final plan for coordination;
- 3) Submit all documents to the FAA through the civil rights connect portal.

This project will be designed in accordance with the provisions of the Federal Aviation Administration (FAA) Advisory Circular 150/5300-13B, dated 3/31/2022 and Advisory Circular 150/5340-30J, dated 02/12/2018. All construction details will conform to FAA Specifications and indicate published specification reference. GDOT Specifications will be used in absence of FAA Specifications with approval by agency.

**Deliverables:**

In conjunction with the performance of the above scope, Kimley-Horn will provide the following deliverables (documents) to the Client and GDOT:

- One (1) electronic set of final plans in PDF format.
- One (1) electronic set of final plans in AutoCAD format.

**Services not Included:**

Any other services, including but not limited to the following, are not included in this agreement:

- Specifications
- Vault work
- ALP Update
- Drainage design
- Pavement design
- Environmental Services
- Surveying Services

**Additional Services if required:**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Specifications
- Vault work
- ALP Update

- Drainage design
- Pavement design
- Environmental Services
- Surveying Services

#### **Information Provided by Client:**

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Existing airfield base mapping and survey AutoCAD files.

#### **Responsibilities of Client:**

In addition to other responsibilities set out in this Agreement, the Client shall:

- N/A

#### **Schedule:**

Services shall commence after receipt of a fully executed agreement. We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

- Work shall begin within 10 days of Notice to Proceed. Execution date of this contract shall be considered the Notice to Proceed date.

#### **Terms of compensation:**

In return for performance of the tasks described in the above Scope of Services, the Client shall pay the Consultant the amount of **\$ 40,008.65**, payable according to the following terms.

1. A lump sum fee applies for each task as follows.
2. All permitting, application, and similar project fees will be paid directly by the Client.
3. Expenses such as mileage, meals, postage, and printing costs are part of the lump sum fee.

Element 1	Project Formulation and Coordination	\$ 2,947.04
Element 2	Construction Plans	\$ 22,185.23
Element 3	Bid Phase Services	\$ 11,901.48
Element 4	DBE Plan Update	\$ 2,974.90
<b>Total Consultant Fee</b>		<b>\$ 40,008.65</b>

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

#### **Other special terms of Individual Project Order:**

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

\_\_\_\_ Please email all invoices to [awiersma@daltonga.gov](mailto:awiersma@daltonga.gov)

ACCEPTED:

**CITY OF DALTON**

**KIMLEY-HORN AND ASSOCIATES, INC.**

SIGNED: \_\_\_\_\_

SIGNED: John D. Walker

PRINTED NAME: \_\_\_\_\_

PRINTED NAME John D. Walker

TITLE: \_\_\_\_\_

TITLE: Senior Vice President

DATE: \_\_\_\_\_

DATE: 4/28/2025





## CITY COUNCIL AGENDA REQUEST

### MEETING TYPE

Mayor & Council Meeting

### MEETING DATE

5/5/2025

### AGENDA ITEM

Individual Project Order #5 with Kimley Horn for Design and Bid Phase Services on Taxiway Rehab Project at Airport

### DEPARTMENT

Airport

### REQUESTED BY

Andrew Wiersma

### REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

### COST

\$65,644.11

### FUNDING SOURCE IF NOT IN BUDGET

Federal Grant Reimbursement at 90%

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

This IPO is for design and bid phase services on the taxiway rehabilitation project at the Airport. Funds will be reimbursed at 90% through the Federal Airport Infrastructure Grant (AIG) program.

#### PHONE

706-278-9500

#### WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

#### ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

**INDIVIDUAL PROJECT ORDER (IPO) NUMBER FIVE**

**THIS INDIVIDUAL PROJECT ORDER (“IPO”)** is made this \_\_\_\_ day of May 2025, by and between CITY OF DALTON (“the Client”) and KIMLEY-HORN AND ASSOCIATES, INC. (“the Consultant”) in accordance with the terms of the Five (5) Year Master General Planning and Engineering Consultant Agreement Between City of Dalton and Kimley-Horn and Associates, Inc. for Continuing Professional Services dated July 15<sup>th</sup>, 2024, which is incorporated herein by reference. The specifics of this engagement are set forth below.

**Identification of Project:**

**Project Name: TAXIWAY RELOCATION AND FILLET WIDENING - DESIGN**

**KH Project Manager: REBECCA COLLINS**

**Project Number: 017739004**

**Scope of Services:**

Kimley-Horn will provide the services specifically set forth below:

The Engineering Design Services will consist of project formulation, preparation of construction drawings, bid phase services, and coordination with the Georgia Department of Transportation – Aviation Program. This project consists of the design of taxiway intersection fillets and a relocated taxiway connection between the parallel taxiway and the terminal apron. Design Phase services will consist of the following elements of work:

1. Taxiway Fillet Widening along the taxiway entrance to Runway 14.
2. Taxiway Fillet Widening along the taxiway entrance to Runway 32.
3. Removal of the direct-access Taxiway connection from the Runway at Taxiway C to an existing aircraft apron and construction of a new taxiway connection from the existing apron to the parallel taxiway.

**Element 1 – Project Formulation and Coordination** shall consist of the preparation of work scope, fees, on-site pre-design/scoping meeting with GDOT and Client, and coordination with regulatory agencies, as well as one (1) site visit to observe existing site conditions. Kimley-Horn will also prepare and coordinate a Categorical Exclusion per FAA Order 5050.4B and 1050.1F.

**Element 2 – Survey Services** shall consist of a topographic survey of the taxiway fillet widening areas and area of taxiway relocation using conventional ground survey methods. The topographic survey boundaries are shown on Exhibit A. The survey shall be performed by Patterson and Dewar (see attached proposal) and will provide the following elements:

- a) Recover horizontal and vertical control established by previous surveyors.
- b) Provide Topographic Survey of taxiway areas depicted in Exhibit A.
- c) Data collected will include:
  - o 50 ft grid on turf, 25 ft grid on pavement
  - o All visible improvements within requested topographic area

**Element 3 – Construction Plans** will consist of:

1. **Summary of Quantities and General Notes** Sheet listing the name pay item number, specification number, name of each pay item, unit of measure and estimated quantities

determined during the design phase as well as the overall project notes and any otherwise pertinent information to the project or project site as a whole.

2. **Existing Conditions and Demolition Plan** will show existing conditions provided by the surveys illustrating the current condition of the project site. These plans will also show the areas and items that are to be removed, relocated, cleared, etc. for the development of the project site.
3. **Paving, Pavement Marking, and Relocated Taxiway Profile Plans** will provide a layout of the paving for the taxiway fillet design and relocated taxiway as well as a profile view of the relocated taxiway. These plans also provide a layout of the pavement marking and striping for the fillet widenings and relocated taxiway pavement.
4. **Typical Sections and Details** will delineate the width and typical makeup for the various sections of pavement included in the project. This plan also consist of details for the pavement and joints as support for the design.
5. **Grading Plans and Details** consists of the utilization of the topographic survey in the production of a grading plan for the proposed taxiway fillet widenings, demolition of a direct-access taxiway connection, and the relocated taxiway.
6. **Erosion Control Plans and Details** three-phase erosion, pollution, and sedimentation control plans will be provided for grading of fillet widenings and the relocated taxiway.
7. **Construction Details** will be provided to support the design.
8. **Bid Forms** will be provided to correspond with each proposed bid schedule.
9. **Technical Specifications** will be provided as needed for bid items.

**Element 4 – Bid Phase Services** will consist of preparation of an advertisement for bids, response to contractor questions during the bidding process, preparation of addenda as needed, receipt of bids at a scheduled bid opening, preparation of the bid tabulation, and recommendation of award to the lowest responsive and responsible bidder. This element also consists of preparation and attendance at a non-mandatory Pre-Bid Meeting with the Airport and interested Contractors.

This project will be designed in accordance with the provisions of the Federal Aviation Administration (FAA) Advisory Circular 150/5300-13B, dated 3/31/2022. All construction details will conform to FAA Specifications and indicate published specification reference. GDOT Specifications will be used in absence of FAA Specifications with approval by agency.

#### **Deliverables:**

In conjunction with the performance of the above scope, Kimley-Horn will provide the following deliverables (documents) to the Client and GDOT:

- One (1) electronic set of final plans in PDF format.
- One (1) electronic set of final plans in AutoCAD format.
- GDOT Categorical Exclusion Checklist

#### **Services not Included:**

Any other services, including but not limited to the following, are not included in this agreement:

- ALP Update
- Drainage design
- Electrical design
- Pavement design

#### **Additional Services if required:**

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- ALP Update
- Drainage design
- Electrical design
- Pavement design

#### **Information Provided by Client:**

Kimley-Horn shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- N/A

#### **Responsibilities of Client:**

In addition to other responsibilities set out in this Agreement, the Client shall:

- N/A

#### **Schedule:**

Services shall commence after receipt of a fully executed agreement. We will provide our services as expeditiously as practicable with the goal of meeting the following schedule:

- Work shall begin within 10 days of Notice to Proceed. Execution date of this contract shall be considered the Notice to Proceed date.

#### **Terms of compensation:**

In return for performance of the tasks described in the above Scope of Services, the Client shall pay the Consultant the amount of **\$ 65,644.11**, payable according to the following terms.

1. A lump sum fee applies for each task as follows.
2. All permitting, application, and similar project fees will be paid directly by the Client.
3. Expenses such as mileage, meals, postage, and printing costs are part of the lump sum fee.

Element 1	Project Formulation and Coordination	\$ 5,588.30
Element 2	Survey Services	\$ 12,084.99
Element 3	Construction Plans	\$ 34,184.23
Element 4	Bid Phase Services	\$ 13,786.59
<b>Total Consultant Fee</b>		<b>\$ 65,644.11</b>

Lump sum fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 25 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

#### **Other special terms of Individual Project Order:**

Kimley-Horn, in an effort to expedite invoices and reduce paper waste, submits invoices via email in a PDF. We can also provide a paper copy via regular mail if requested. Please include the invoice number and Kimley-Horn project number with all payments. Please provide the following information:

\_\_\_\_ Please email all invoices to [awiersma@daltonga.gov](mailto:awiersma@daltonga.gov)

ACCEPTED:

**CITY OF DALTON**

**KIMLEY-HORN AND ASSOCIATES, INC.**

SIGNED: \_\_\_\_\_

SIGNED: John D. Walker

PRINTED NAME: \_\_\_\_\_

PRINTED NAME John D. Walker

TITLE: \_\_\_\_\_

TITLE: Senior Vice President

DATE: \_\_\_\_\_

DATE: 4/28/2025



## CITY COUNCIL AGENDA REQUEST

### MEETING TYPE

Mayor & Council Meeting

### MEETING DATE

5/5/2025

### AGENDA ITEM

John Davis Low Voltage Change order

### DEPARTMENT

Recreation Department

### REQUESTED BY

Jorge Paez

### REVIEWED/APPROVED BY CITY ATTORNEY?

Yes

### COST

\$1,639.19

### FUNDING SOURCE IF NOT IN BUDGET

SPLOST

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

The IT Department along with the Rec Department have identified 3 key locations that need an additional data drop. This will address a blind spot on a nightly drop box for money deposits, an additional TV to be mounted, and the alarm panel connectivity.

#### PHONE

706-278-9500

#### WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

#### ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

COMPANY		JOB LOCATION
<b>Company:</b> City of Dalton	<b>Company:</b> John Davis Recreation Center	<b>Date:</b> 2025-04-08
<b>Address:</b> 300 W Waugh Street Dalton, GA 30722	<b>Address:</b> 904 Civic Drive Dalton, GA 30721	<b>Sales Rep:</b> Mark Shively <b>Phone:</b> (404) 428 2378 <b>Email:</b> mshively@buskercom.com
<b>Contact:</b>	<b>Contact:</b>	<b>Exp Date:</b> 2025-05-08
<b>Phone:</b>	<b>Phone:</b>	<b>Project:</b> 3554

## TITLE

**Installation and wiring for 2 BC82 Alarm panels and 1 new drop box camera**

## SCOPE OF WORK

BCI is to install and connect 2-BC82 Alarm Panels. 1 in waiting area 134 and 1 controlling the door to stairwell 3 154

BCI is to install AC-12 Door Controller above the ceiling in corridor 153

BCI is to run, terminate and test a CAT-6 cable to room 147 for a TV mount

BCI is to run 18-4 wire from each alarm panel back to the door controller

BCI is to run, terminate and test 1 CAT-6 cable from IDF-1 to new camera location overlooking night drop box

BCI is to install the camera overlooking the night drop box and seal any building penetrations

MFG	PART NO	DESCRIPTION	QTY
WEST PENN WIRE	25244B	18/4 STRANDED PLENUM	350.00
PANDUIT	PUR6AV04IG-G	TX6A™ VARI-MATRIX COPPER CABLE, CAT6A, 23 AWG, U/UTP, CMR, INT'L GRAY	1.00
	LABOR	Installation Services	1.00

**Total:** \$1,639.19

*All applicable taxes are not included.*

**Thank you for your business!**

## TERMS & CONDITIONS

**1. Scope of Work** - Contractor shall furnish and pay for all equipment and perform all work necessary and appropriate to furnish and install the systems integration equipment in the facility as described in this proposal.

**2. Responsibility of Others** - Unless otherwise noted in the proposal, the Owner shall be responsible for all electrical work such as but not limited to AC power, conduit systems, and outlet boxes. All finishes will be supplied as standard manufacturer's finish. All other work necessary to the completion of the project and not specifically defined in the proposal as being furnished by the Contractor shall be the responsibility of the Owner.

**3. Work Area Access** - Unless otherwise noted in this proposal, Contractor shall be given full and unrestricted access to all work areas and location required to complete the Scope of Work. Any training, access procedures or delays in related to the access of work area impacting productivity will be logged and invoiced in increments of 15 minutes.

**4. Schedule** - Contractors standard business operating hours are Monday through Friday from 07:00 AM to 04:00 PM. Any requirements outside of these hours must be noted and included in the scope of work.

**5. Bill of Materials** - The bill of materials shown is an estimated list of materials to provide a general list of items expected to be used in the completion of this proposal, not a guaranteed quantity to be used in completion of this project. Contractor shall furnish all materials as required to complete the scope of work detailed and quantities shown are only an estimated number. All unused materials at the end of the project will be removed from site and returned to Contractor inventory.

**5. Existing Equipment** - Unless otherwise noted in the proposal, all existing equipment shall remain the property of the Owner and will be incorporated into the new system as proposed. Contractor shall remove and may reuse such equipment as necessary for the purposes of this Agreement.

**6. Time of Commencement and Substantial Completion** - The work to be performed under the terms of this Agreement shall be coordinated upon receipt of the signed Agreement, or Time of Commencement. Schedules communicated in any form prior to the Time of Commencement are offered as best effort and cannot be confirmed until Time of Commencement. Substantial Completion shall be defined as on-site work being complete, except for punch list items, work that is delayed beyond the control of the Contractor and deliverables. Deliverables include, but are not limited to, as-build drawings, test results, O&M manuals and manufacturer warranties.

Substantial Completion as a milestone date shall be subject to extensions due to conditions beyond the control of the Contractor such as acts of nature, delays in material delivery where the Contractor's actions have no effect, accessibility to the facility, and delays of work by others where such work is necessary to the completion of the project.

**7. Insurance** - Contractor shall furnish to the Owner a Certificate of Insurance including general liability, auto, and workers' compensation limits prior to commencement of any work on site.

**8. Agreement Sum** - The Owner shall pay to the Contractor for the performance of the work, the amount noted in this proposal proposal, subject to additions and subtractions by written change order. No changes to the Agreement sum can be made by either the Contractor or the Owner without a written change order agreed to by both parties.

**9. Title to Goods** - Title to goods is retained by the Contractor until payment of the full Agreement sum subject to allocation of payments and release of security as required by law. The Owner agrees to keep the goods safe, free from other liens and at the address of the installation.

**10. Warranty** - Installation will comply with BCI, BICSI, TIA/EIA and Owner quality standard, as received prior to proposal. Contractor guarantees all workmanship provided under this Agreement to be free of defects for a period of one year from the date of final acceptance or first beneficial use whichever occurs first. Contractor will provide labor services to correct any defective workmanship during normal business hours while the warranty is in effect at no cost to the Owner. Material or equipment defects not a direct result of workmanship is not covered by warranty, all time and management related to replacement of materials or equipment will be charged at Time & Materials.

All equipment warranties provided by equipment manufacturers are warranties between the Owner and the equipment manufacturer and the Contractor has no liability.

Warranties do not apply in case of abuse, misuse, neglect, acts of nature, or readjustment of system settings when they have been changed by anyone other than the Contractor.





Busker Communications, Inc.  
2567 Athens Hwy  
Gainesville, GA 30507

**QUOTE**  
**21801**

**PAYMENT TERMS**

Terms: N30

Billing Method: SOV

Standard payment terms are Net 30 from date of invoice unless otherwise agreed upon by BCI via Non-Standard Payment Terms Agreement and are subject to credit approval. Past due balances are subject to interest at 1.5% monthly. Credit card transactions will be charged a 2.5% processing fee. Returned checks will be charged a \$100 processing fee.

BCI will issue an invoice for materials and engineering/mobilization labor upon approval of this quote, or within 30 days of the project start date, unless otherwise agreed upon in writing. Additional progress invoices will be issued at no less than monthly intervals. Sales tax is charged at the current rate set by the local tax authority and is not included in this quote.

Due to the volatility of the market, some material costs may be adjusted after initial invoice if price has increased or availability causes material substitution. Any price changes that should follow with any amendment or change order will be reflected on progress or final invoices unless otherwise agreed upon by BCI and the customer.

This quote shall become binding on the parties hereto when signed by Customer and accepted and approved by Busker Communications, Inc. By Customer's signature, Customer acknowledges that they have read, understood and agreed to the Terms and Conditions.

CUSTOMER: **City of Dalton**

**Busker Communications, Inc.**

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_



## CITY COUNCIL AGENDA REQUEST

### MEETING TYPE

Mayor & Council Meeting

### MEETING DATE

5/5/2025

### AGENDA ITEM

The request of Roberto Silva to rezone from Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.55 acres located at 1213 Hair Street, Dalton, Georgia. Parcel (12-217-03-003)

### DEPARTMENT

Planning and Zoning

### REQUESTED BY

Roberto Silva

### 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:

See the attached staff analysis and Planning Commission recommendation to approve.

#### PHONE

706-278-9500

#### WEBSITE

[www.daltonga.gov](http://www.daltonga.gov)

#### ADDRESS

300 W Waugh Street  
PO Box 1205 Dalton,  
Georgia 30722

## **ORDINANCE NO. 25-12**

To rezone property of Roberto Silva from a Medium-Density Single Family Residential (R-3) Classification to a Transitional Residential (R-6) Classification; to provide for an effective date; to provide for the repeal of conflicting ordinances; to provide for severability; and for other purposes.

**WHEREAS**, Roberto Silva has petitioned for rezoning of certain real property he owns from R-3 classification to R-6 classification;

**WHEREAS**, the application for rezoning appears to be in proper form and made by all owners of the Property sought to be rezoned;

**WHEREAS**, the rezoning is in conformity with the City of Dalton Joint Comprehensive Plan; and

**WHEREAS**, all other procedures as required by Georgia law have been followed.

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the City of Dalton and by authority of the same, **IT IS HEREBY ORDAINED**, as follows:

### **Section 1.**

The real property located within the city limits, which is identified as Tax Parcel No. 12-217-03-003 (the “Property”), is hereby rezoned from R-3 classification to R-6 classification.

### **Section 2.**

This Ordinance shall be effective as of the date of approval of this Ordinance.

### **Section 3.**

The City Clerk or designated City staff members shall ensure that the Dalton-Whitfield Zoning Administrator is provided a copy of this ordinance and that this rezoning is recorded on the Official Zoning Map of Whitfield County, Georgia.

### **Section 4.**

All ordinances and parts of ordinances in conflict with this Ordinance are repealed.

**Section 5.**

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

**SO ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_. Upon second reading a motion for passage of the ordinance was made by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and upon the question the vote is \_\_\_\_\_ ayes, \_\_\_\_\_ nays, and the Ordinance is adopted.

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR/MAYOR PRO TEMPORE

A true copy of the foregoing Ordinance has been published in two public places within the City of Dalton for five (5) consecutive days following passage of the above-referenced Ordinance as of \_\_\_\_\_.

\_\_\_\_\_  
CITY CLERK, CITY OF DALTON

**DALTON-VARNELL-WHITFIELD COUNTY PLANNING COMMISSION**  
**503 WEST WAUGH STREET**  
**DALTON, GA 30720**

**MEMORANDUM**

**TO:** City of Dalton Mayor and Council  
Andrew Parker  
Jonathan Bledsoe  
Jean Price-Garland

**FROM:** Jim Lidderdale  
Chairman

**DATE:** April 29, 2025

**A. SUBJECT: The request of Roberto Silva to rezone from Medium Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.55 acres located at 1213 Hair Street, Dalton, Georgia. Parcel (12-217-03-003)**

The most recent meeting of the Dalton-Varnell-Whitfield County Planning Commission was held on March 24, 2025, at 6:00 p.m. in the Whitfield County Courthouse meeting room. A portion of the agenda included a public hearing concerning the above matter. A quorum of six members of the Planning Commission was present. All legal requirements for advertising and posting the public hearing were met. The petition was represented by Roberto Silva.

**Public Hearing Summary:**

Ethan Calhoun summarized the staff analysis for the proposed R-6 rezoning which recommended approval. There were no further questions for Calhoun.

Roberto Silva stated that the request for rezoning was in order to construct a fire wall in the existing structure. Silva stated that the existing structure, while appearing as a duplex, needed improvements and rezoning in order to be in conforming status. Chairman Lidderdale confirmed with Silva that there were no plans to construct a second duplex structure and that the rezoning would simply bring the subject property into conformity as a duplex dwelling.

With no further comments, Chairman Lidderdale closed this public hearing at approximately 7:58 PM.

**Recommendation:**

Chairman Lidderdale sought a motion for the R-6 rezoning. Octavio Perez made a motion to approve the R-6 rezoning, and Eric Barr seconded. There was a unanimous recommendation to approve the R-6 rezoning 4-0.

**STAFF ANALYSIS**  
**REZONING REQUEST**  
*Unified Zoning Ordinance*

**ZONING CASE: Roberto Silva is requesting to rezone from Medium-Density Single Family Residential (R-3) to Transitional Residential (R-6) a tract of land totaling 0.55 acres located at 1213 Hair Street in the City of Dalton. Parcel (12-217-03-003).** The subject property is currently developed with a duplex dwelling, and the petitioner is proposing to divide the subject property to add one additional duplex.

The surrounding uses and zoning are as follows: 1) to the north, are two tracts of land zoned R-6 that each contain multi-family development. 2) to the east is a tract of land zoned R-6 that contains an 8-unit condominium. 3) to the south is a 1.31-acre tract of land zone R-3 that contains a single-family detached dwelling. 4) to the west, is a 0.25-acre tract of land zoned R-3 that contains a single-family detached dwelling. In this area of the county, there is a mix of residential zones that intersect the manufacturing and commercial zone districts.

The subject property is within the jurisdiction of the Mayor and Council of the City of Dalton.

**CONSIDERING FACTORS FOR A REZONING/ANNEXATION ANALYSIS**

**(A) Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby property.**

The subject property lies at the convergence of the R-3 and R-6 zone districts. These zone districts, while both residential in nature, differ in permitted density. The R-3 zone district permits only single-family detached dwellings, while the R-6 zone district permits townhouses, condominiums, and multi-family dwellings up to quadplexes. The R-6 zone district has existed in this area for a number of years, and the existing development is contiguous. The subject property already contains one duplex dwelling, and the proposed rezoning would simply create the opportunity for one additional duplex dwelling to be divided from the subject property.

**(B) Whether the proposed R-6 rezoning would adversely affect the economic value of adjacent and nearby property.**

The R-6 zone district and its multi-family character have been well established in this area for some time. Staff have identified no indication that the existing R-6 zone district has negatively impacted the values of the adjacent and nearby properties. The expansion of the R-6 zone district onto the subject property would not be expected to alter the character of the area.

**(C) Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property of the proposed zoned uses.**

**(D) Whether there is relative gain to the health, safety, morals, or general welfare to the public as compared to any hardship imposed upon the individual owner under the existing zoning.**

N/A

**(E) Whether the proposed (R-6) rezoning, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.**

The proposed rezoning would permit one additional duplex dwelling to be added to the subject property once it has been divided. The addition of two residential units to the subject property would not raise concerns regarding the public water and sewer utility capacities. The additional traffic generated by the proposed duplex dwelling is unlikely to impact traffic safety based on the ease of access to MLK Blvd. and the signaled intersection with Grimes St.

**(F) Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this reasoning or annexation request allow uses which are compatible to the existing uses in the vicinity.**

The Comprehensive Plan's Suburban character area is shown on the future development map covering the subject property. This character area was applied to areas where there are existing suburban residential neighborhoods and was intended to protect the integrity of the residential character of the area. The established zoning and development pattern for this area shows a mix of both single-family and multi-family character. The proposed rezoning and duplex dwelling would reflect an established pattern of development in this area in both zoning and unit/acre density.

**(G) Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an "entering wedge" and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zoning) as interpreted by current Georgia law.**

The proposed rezoning would simply enlarge the existing R-6 zone district and shrink the R-3 zone district.

**(H) Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, stormwater, or historical issues that influence the development of the subject property under any zoning designation.**

N/A

**Conclusion:**

The staff can recommend approval of the requested R-6 rezoning of the subject property based on the following factors and conditions:

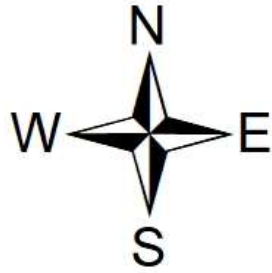
1. The proposed rezoning would be consistent with the majority of adjacent zoning and development while providing for a reasonable use of the subject property.
2. The R-6 rezoning would allow the construction of a duplex, which would be reflective of the established multi-family zoning and development in this area.
3. No conflict with the Joint Comprehensive Plan was found when observing the Suburban character area and the existing development pattern of this area.



# Silva Rezoning Request

## R-3, Medium Density Single Family Residential to R-6, Transitional Residential

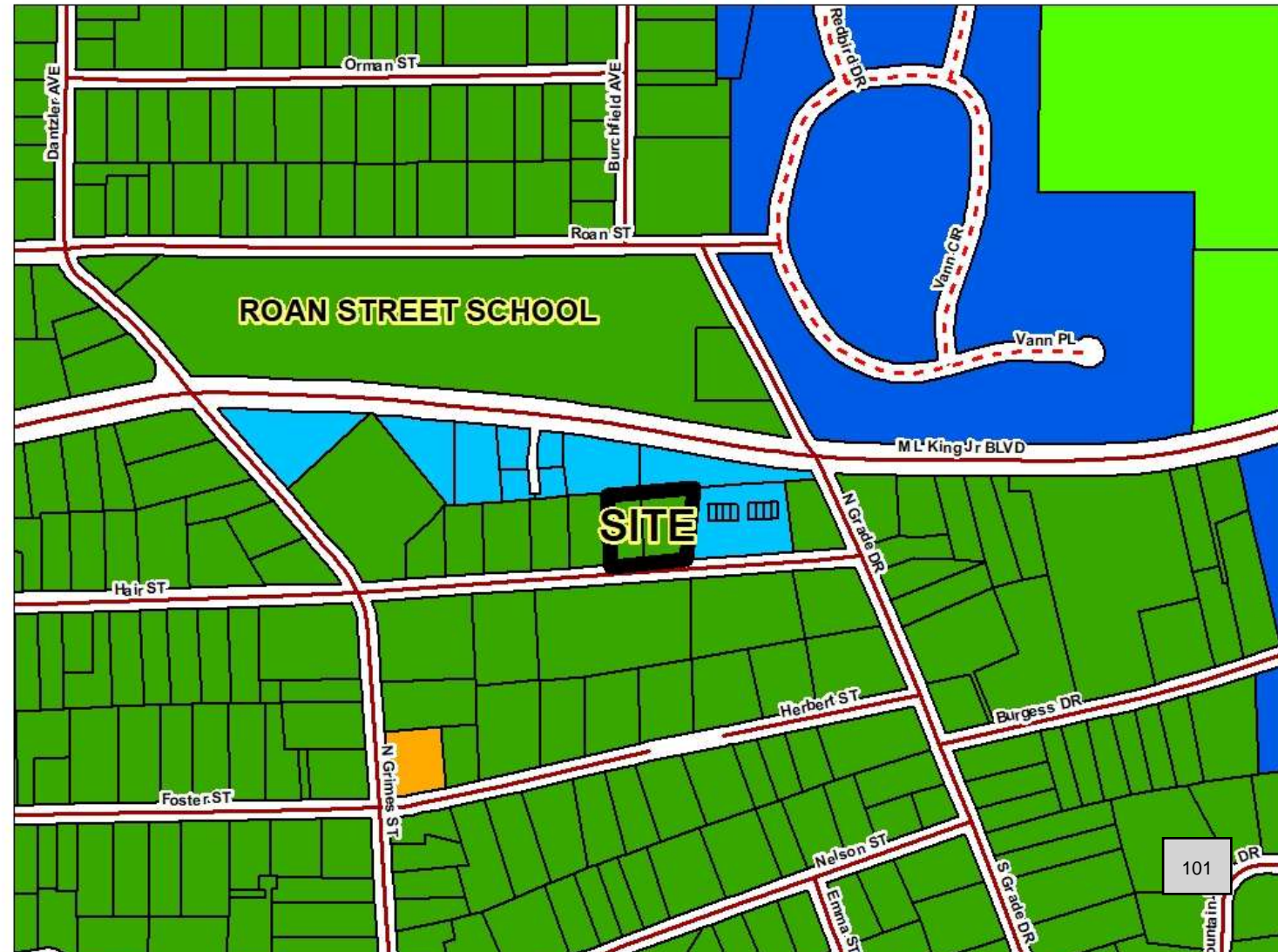
### CITY OF DALTON JURISDICTION



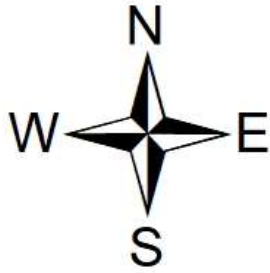
#### ZONING

- Low Density Single Family Residential (R-2)
- Low Density Single Family Residential (R-2) Cond
- Medium Density Single Family Residential (R-3)
- Rural Residential (R-5)
- Transitional Residential (R-6)
- High Density Residential (R-7)

FEET  
300







# Silva Rezoning Request

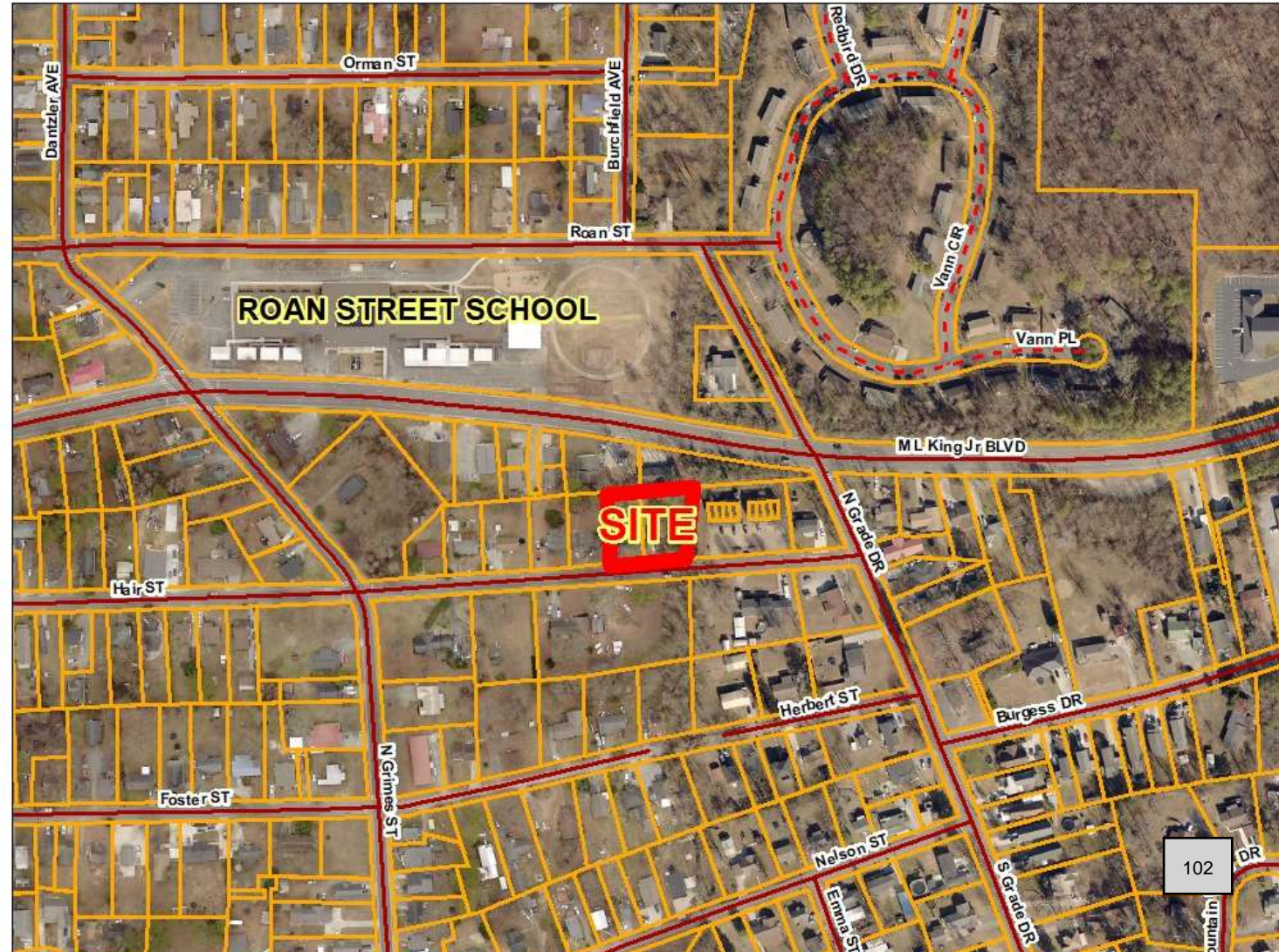
## R-3, Medium Density Single Family Residential

to

## R-6, Transitional Residential

### CITY OF DALTON JURISDICTION

**FEET**  
**300**







**Silva Rezoning Request  
R-3, Medium Density Single Family Residential  
to  
R-6, Transitional Residential  
CITY OF DALTON JURISDICTION**

**FEET  
175**







### FUTURE DEVELOPMENT MAP

-  Suburban Neighborhood
-  Town Neighborhood Revitalization

**FEET**  
**300**



# Silva Rezoning Request

## R-3, Medium Density Single Family Residential

### to

## R-6, Transitional Residential

### CITY OF DALTON JURISDICTION

