



CONTRACT DOCUMENTS #24RFP0808K-DB

FOR

**The Progressive Design/Build for Johns Creek
Environmental Campus Membrane System
Replacement**

Department of Public Works

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OWNER - CONTRACTOR AGREEMENT

Progressive Design-Builder RUBY-COLLINS, INC./ BROWN and CALDWELL, JV

Contract No: #24RFP0808K-DB; The Progressive Design/Build for Johns Creek Environmental Campus Membrane System Replacement

Address: 990 Hammond Drive, Suite 500
City, State Atlanta, Georgia 30328

Telephone: (770) 432-2900

Email: scline@ruby-collins.com

Contact: Scott N. Cline,
President/CEO

This Agreement made and entered into effective the 17th day of April, 2025 by and between **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, hereinafter referred to as "**County**" or "**Owner**", and **[RUBY-COLLINS/BROWN AND CALDWELL JV]**, hereinafter referred to as "**Progressive Design-Builder**" (PBD), authorized to transact business in the State of Georgia.

WITNESSETH

WHEREAS, County through its **Public Works Department** hereinafter referred to as the "**Department**", desires to retain a qualified and experienced Design-Builder to perform progressive design build services for the design and construction of Johns Creek Environmental Campus Expansion and Membrane System Upgrade and Expansion.

hereinafter, referred to as the "**Project**".

WHEREAS, Progressive Design-Builder has represented to County that it is experienced and has qualified and local staff available to commit to the Project and County has relied upon such representations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, County and Design-Builder agree as follows:

ARTICLE 1. CONTRACT DOCUMENTS

County hereby engages Design-Builder, and Design-Builder hereby agrees, to perform the services hereinafter set forth in accordance with this Agreement, consisting of the following contract documents:

- I. Form of Agreement;
- II. Addenda;

- III. Exhibit A: General Conditions;
- IV. Exhibit B: Special Conditions [not applicable];
- V. Exhibit C: Scope of Work;
- VI. Exhibit D: Project Deliverables;
- VII. Exhibit E: Bid Form/Compensation;
- VIII. Exhibit F: Bonds (Bid, Payment & Performance);
- IX. Exhibit G: Purchasing Forms;
- X. Exhibit H: Office of Contract & Compliance Forms;
- XI. Exhibit I: Risk Management Insurance Provisions Forms;
- XII. Exhibit J: Exhibits

The foregoing documents constitute the entire Agreement of the parties pertaining to the Project hereof and is intended as a complete and exclusive statement of promises, representations, discussions and agreements oral or otherwise that have been made in connection therewith. No modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing, conforms to Fulton County Purchasing Code §102- 420 governing change orders, is signed by the County's and the Design-Builder's duly authorized representatives, and entered upon the meeting minutes of the Fulton County Board of Commissioners.

If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: 1) the Agreement, 2) the RFP, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of Design-Builder's proposal that was accepted by the County and made a part of the Contract Documents.

The Agreement was approved by the Fulton County Board of Commissioners on ***Wednesday, April 2, 2025; Item #25-0264.***

ARTICLE 2. SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

ARTICLE 3. DESCRIPTION OF PROJECT

County and Design-Builder agree the Project is to perform Progressive Design-Build Services ("D/B Services") for the design and construction of Johns Creek Environmental Campus Expansion and Membrane System Upgrade and Expansion. All exhibits referenced in this agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein..

ARTICLE 4. SCOPE OF WORK

Unless modified in writing by both parties in the manner specified in the agreement, duties of Design-Builder shall not be construed to exceed those services specifically set forth

herein. Design-Builder agrees to provide all services, products, and data and to perform all tasks described in Exhibit C, Scope of Work.

ARTICLE 5. DELIVERABLES

Design-Builder shall deliver to County all reports prepared under the terms of this Agreement that are specified in Exhibit D, Project Deliverables. Design-Builder shall provide to County all deliverables specified in Exhibit D, Project Deliverables. Deliverables shall be furnished to County by Design-Builder in a media of form that is acceptable and usable by County at no additional cost at the end of the project.

ARTICLE 6. SERVICES PROVIDED BY COUNTY

Design-Builder shall gather from County all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in Exhibit C, Scope of Work, if required, will be performed and furnished by County in a timely manner so as not to unduly delay Design-Builder in the performance of said obligations. County shall have the final decision as to what data and information is pertinent.

County will appoint in writing a County authorized representative with respect to work to be performed under this Agreement until County gives written notice of the appointment of a successor. The County's authorized representative shall have complete authority to transmit instructions, receive information, and define County's policies, consistent with County rules and regulations. Design-Builder may rely upon written consents and approvals signed by the County's authorized representative that are consistent with County rules and regulations.

ARTICLE 7. MODIFICATIONS

If during the course of performing the Project, County and Design-Builder agree that it is necessary to make changes in the Project as described herein and referenced exhibits, such changes will be incorporated by written amendments in the form of Change Orders to this Agreement. Any such Change Order and/or supplemental agreement shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes. Such modifications shall conform to the requirements of Fulton County Purchasing Code §102-420 which is incorporated by reference herein.

ARTICLE 8. SCHEDULE OF WORK

Design-Builder shall not proceed to furnish such services and County shall not become obligated to pay for same until a written authorization to proceed (Notice to Proceed) has been sent to Design-Builder from County. The Design-Builder shall begin work under this Agreement no later than five (5) days after the effective date of notice to proceed.

ARTICLE 9. CONTRACT TERM

Effective upon execution of contract for 180 consecutive days upon issuance of the Notice to Proceed.

ARTICLE 10. **COMPENSATION**

Compensation for work performed by Design-Builder on Project shall be in accordance with the payment provisions and compensation schedule, attached as Exhibit E, Compensation.

The total contract amount for the Project shall not exceed **\$794,000.00** (Seven Hundred Ninety-Four Thousand Dollars and No Cents), which is full payment for a complete scope of work.

ARTICLE 11. **COUNTY AUTHORIZED REPRESENTATIVE(S)**

- 11.1 **County's Representative; Designees.** County will designate in writing a person(s) to serve as its representative(s) (County's Representative) in all dealings with Design-Builder under this contract and to carry out the duties specified in this Agreement, or necessarily implied from this Agreement; provided however, County's Representative(s) will have no authority to relieve Design-Builder of any of its obligations under this Agreement. Any communication given by County's Representative(s) that is consistent with the Agreement's terms and conditions will have the same effect as though it has been given by County; provided that any failure of County's Representative (s) to disapprove or reject any services shall not prejudice the authority of County to disapprove the services or give instructions for the rectification of defects in the services. The County's Representatives will be the County's Director of the Department of Public Works or his designee, as provided in writing. County's Representative or any of its designee(s) may be changed upon prior written notice delivered to Design-Builder.
- 11.2 **County's Representative(s) Discretion.** Whenever under this Agreement, County's Representative is required to exercise his/her discretion by giving a decision, opinion or consent; by expressing satisfaction or approval; or by determining values, he/she will exercise that discretion reasonably, fairly and impartially within the terms of this Contract.

ARTICLE 12. **DESIGN-BUILDER'S AUTHORIZED REPRESENTATIVE(S)**

Design-Builder shall designate in writing a person(s) to serve as its authorized representative(s) who shall have sole authority to represent Design-Builder on all manners pertaining to this Agreement. Design-Builder's Representative may be changed upon prior written notice delivered to County's Representative.

ARTICLE 13. **PERSONNEL AND EQUIPMENT**

Design-Builder represents that it has secured or will secure, at its' own expense, all equipment and personnel necessary to complete this Agreement, none of whom shall be employees of or have any contractual relationship with County. All of the services required hereunder will be performed by Design-Builder under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

Written notification shall be immediately provided to County upon change or severance of any of the authorized representative(s), listed key personnel or sub-consultants' performing services on this Project by Design-Builder. No changes or substitutions shall be permitted in Design-Builder's key personnel or sub-Design-Builder as set forth herein without the prior written approval of the County. Availability of key personnel shall be maintained as proposed by the Design-Builder in their proposal to the RFP. Requests for changes in key personnel or sub-consultants will not be unreasonably withheld by County.

ARTICLE 14. **SUSPENSION OF WORK**

Suspension Notice: The County may by written notice to the Design-Builder, suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Design-Builder must, unless the notice requires otherwise:

- 1) Immediately discontinue suspended services on the date and to the extent specified in the notice;
- 2) Place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and
- 3) Take any other reasonable steps to minimize costs associated with the suspension.

Notice to Resume: Upon receipt of notice to resume suspended services, the Design-Builder will immediately resume performance under this Agreement as required in the notice.

ARTICLE 15. **DISPUTES**

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the County. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Design-Builder. The Design-Builder shall have 30 days from date the decision is sent to appeal the decision to the County Manager or his designee by mailing or otherwise furnishing to the County Manager or designee, copy of the written appeal. The decision of the County Manager or his designee for the determination of such appeal shall be final and conclusive. Pending any final decision of a dispute hereunder, Design-Builder shall proceed diligently with performance of the Agreement and in accordance with the decision of the County's designated representative.

ARTICLE 16. **TERMINATION OF AGREEMENT FOR CAUSE**

- (1) Either County or Design-Builder may terminate work under this Agreement in the event the other party fails to perform in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party

- (2) Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender.
- (3) **TIME IS OF THE ESSENCE** and if the Design-Builder refuses or fails to perform the work as specified in Exhibit C, Scope of Work and maintain the scheduled level of effort as proposed, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, or any extension or tolling thereof, or fails to complete said work within such time. The County may exercise any remedy available under law or this Agreement. Failure to maintain the scheduled level of effort as proposed or deviation from the aforesaid proposal without prior approval of County shall constitute cause for termination
- (4) The County may, by written notice to Design-Builder, terminate Design-Builder's right to proceed with the Project or such part of the Project as to which there has been delay. In such event, the County may take over the work and perform the same to completion, by contract or otherwise, and Design-Builder shall be required to provide all copies of finished or unfinished documents prepared by Design-Builder under this Agreement to the County as stated in Exhibit D, "Project Deliverables".
- (5) Design-Builder shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by the County.
- (6) Whether or not the Design-Builder's right to proceed with the work has been terminated, the Design-Builder shall be liable for any damage to the County resulting from the Design-Builder's refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with the County obtaining the services of another Design-Builder to complete the project.

ARTICLE 17. TERMINATION FOR CONVENIENCE OF COUNTY

Notwithstanding any other provisions, the County may terminate this Agreement for its convenience at any time by a written notice to Design-Builder. If the Agreement is terminated for convenience by the County, as provided in this article, Design-Builder will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by Design-Builder which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

If, after termination, it is determined that the Design-Builder was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the government.

ARTICLE 18.WAIVER OF BREACH

The waiver by either party of a breach or violation of any provision of this Agreement, shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

ARTICLE 19. INDEPENDENT CONSULTANT

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

ARTICLE 20. PROFESSIONAL RESPONSIBILITY

Design-Builder represents that it has, or will secure at its own expenses, all personnel appropriate to perform all work to be completed under this Agreement; 9 All the services required hereunder will be performed by Design-Builder or under the direct supervision of Design-Builder. All personnel engaged in the Project by Design-Builder shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such services.

None of the work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Design-Builder without the prior written consent of the County.

ARTICLE 21. COOPERATION WITH OTHER DESIGN-BUILDERS

Design-Builder will undertake the Project in cooperation with and in coordination with other studies, projects or related work performed for, with or by County's employees, appointed committee(s) or other Design-Builders. Design-Builder shall fully cooperate with such other related Design-Builders and County employees or appointed committees. Design-Builder shall provide within his schedule of work, time and effort to coordinate with other Design-Builders under contract with County. Design-Builder shall not commit or permit any act, which will interfere with the performance of work by any other Design-Builder or by County employees. Design-Builder shall not be liable or responsible for the delays of third parties not under its control nor affiliated with the Design-Builder in any manner.

ARTICLE 22. ACCURACY OF WORK

Design-Builder shall be responsible for the accuracy of his work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the County will not relieve Design-Builder of the responsibility of subsequent corrections of any errors and the clarification of any ambiguities. Design-Builder shall prepare any plans, report, fieldwork, or data required by County to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to Design-Builder. Design-Builder shall give immediate attention to these changes so there will be a minimum of delay to others.

ARTICLE 23. REVIEW OF WORK

Authorized representatives of County may at all reasonable times review and inspect Project activities and data collected under this Agreement and amendments thereto. All reports, drawings, studies, specifications, estimates, maps and computations prepared by or for Design-Builder, shall be available to authorized representatives of County for inspection and review at all reasonable times in the main office of County. Acceptance shall not relieve Design-Builder of its professional obligation to correct, at its expense, any of its errors in work. County may request at any time and Design-Builder shall produce progress prints or copies of any work as performed under this Agreement. Refusal by Design-Builder to submit progress reports and/or plans shall be cause for County, without any liability thereof, to withhold payment to Design-Builder until Design-Builder complies with County's request in this regard. County's review recommendations shall be incorporated into the plans by Design-Builder.

ARTICLE 24. INDEMNIFICATION

24.1 Professional Services Indemnification. With respect to liability, damages, costs, expenses (including reasonable attorney's fees and expenses incurred by any of them), claims, suits and judgments that arise or are alleged to arise out of the Design- 10 Builder/Contractor's acts, errors, or omissions in the performance of professional services, the Design-Builder/Contractor shall indemnify, release, and hold harmless Fulton County, its Commissioners and their respective officers, members, employees and agents (each, hereinafter referred to as an "Indemnified Person"), from and against liability, damages, costs, expenses {including reasonable attorney's fees and expenses incurred by any of them}, claims, suits and judgments only to the extent such liability is caused by the negligence of the Design-Builder/Contractor in the delivery of the Work under this Agreement, but such indemnity is limited to those liabilities caused by a Negligent Professional Act, as defined below. This indemnification survives the termination of this Agreement and shall also survive the dissolution or to the extent allowed by law, the bankruptcy of Design-Builder/Contractor. For the purposes of the Professional Services Indemnity above, a "Negligent Professional Act" means a negligent act, error, or omission in the performance of Professional Services (or by any person or entity, including joint ventures, for whom Design-Builder/Contractor is liable) that causes liability and fails to meet the applicable professional standard of care, skill and ability under similar conditions and like surrounding circumstances, as is ordinarily employed by others in their profession. Design-Builder/Contractor obligation to indemnify and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations. Design-Builder/Contractor further agrees to indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Design-Builder/Contractor. These indemnities shall not be limited by reason of the listing of any insurance coverage.

24.2 Notice of Claim. If an Indemnified Person receives written notice of any claim or circumstance which could give rise to indemnified losses, the receiving party shall promptly give written notice to Design-BUILDER/Contractor, and shall use best efforts to deliver such written notice within ten (10) Business Days. The notice must include a copy of such written notice of claim, or, if the Indemnified Person did not receive a written notice of claim, a description of the indemnification event in reasonable detail and the basis on which indemnification may be due. Such notice will not stop or prevent an Indemnified Person from later asserting a different basis for indemnification. If an Indemnified Person does not provide this notice within the ten (10) Business Day period, it does not waive any right to indemnification except to the extent that Design-BUILDER/Contractor is prejudiced, suffers loss, or incurs additional expense solely because of the delay.

24.3 Defense. Design-BUILDER/Contractor, at Design-BUILDER/Contractor's own expense, shall defend each such action, suit, or proceeding or cause the same to be resisted and defended by counsel designated by the Indemnified Person and reasonably approved by Design-BUILDER/ Contractor (provided that in all instances the County Attorney of Fulton County Georgia shall be acceptable, and, for the avoidance of doubt, is the only counsel authorized to represent the County). If any such action, suit or proceedings should result in final judgment against the Indemnified Person, Design-BUILDER/Contractor shall promptly satisfy and discharge such judgment or cause such judgment to be promptly satisfied and discharged. Within ten (10) Business Days after receiving written notice of the indemnification request, Design-BUILDER/Contractor shall acknowledge in writing delivered to the Indemnified Person (with a copy to the County Attorney) that Design-BUILDER/Contractor is defending the claim as required hereunder.

24.4 Separate Counsel.

24.4.1 Mandatory Separate Counsel. In the event that there is any potential conflict of interest that could reasonably arise in the representation of any Indemnified Person and Design-BUILDER/Contractor in the defense of any action, suit or proceeding pursuant to Section 22.3 above or in the event that state or local law requires the use of specific counsel, (i) such Indemnified Person may elect in its sole and absolute discretion whether to waive such conflict of interest, and (ii) unless such Indemnified Person (and, as applicable, Design-BUILDER/ Contractor) elects to waive such conflict of interest, or in any event if required by state or local law, then the counsel designated by the Indemnified Person shall solely represent such Indemnified Person and, if applicable, Design-BUILDER/Contractor shall retain its own separate counsel, each at Design-BUILDER/Contractor's sole cost and expense.

24.4.2 Voluntary Separate Counsel. Notwithstanding Design-BUILDER/Contractor's obligation to defend, where applicable pursuant to Section 22.3, a claim, the Indemnified Person may retain separate counsel to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations, provided that for so long as Design-BUILDER/Contractor has complied with all of Design-BUILDER/Contractor's obligations with respect to such claim, the cost of such separate counsel shall be at the sole cost and expense of such Indemnified Person (provided that if Design-BUILDER/Contractor has not complied with all of Design-BUILDER/Contractor's obligations with respect to such claim, Design-BUILDER/Contractor shall be obligated to pay

the cost and expense of such separate counsel). Design-Builder/Contractor may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that adversely affect or materially impair the reputation and standing of the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that Design-Builder/ Contractor or its insurer does not fund in full, (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement, or (iv) directly involves the County (in which case the County of Fulton County, Georgia shall be the only counsel authorized to represent the County with respect to any such settlement).

24.5 Survival. The provisions of this Article will survive any expiration or earlier termination of this Agreement and any closing, settlement or other similar event which occurs under this Agreement.

ARTICLE 25. REPRESENTATIONS AND WARRANTIES

Design-Builder makes the following representations and warranties regarding its capacity to contract and to perform the work/services of which the County has relied upon:

1. Design-Builder is duly organized and validly existing in good standing under the laws of the state(s) in which it is organized and is qualified to do business and in all jurisdictions in which it is operating, and has the power and authority to execute and deliver and to perform its obligations under this Agreement and the documents to which it is signatory.
2. The execution, delivery and performance by Design-Builder and its undersigned representative(s) of this Agreement and other documents to which Design-Builder is a signatory do not require the approval or consent of any other person, entity or government agency and do not result in any breach of any agreement to which Design-Builder is a party or by which it is bound, unless otherwise stated in writing.
3. No action, suit or proceeding to which Design-Builder is a party is pending or threatened that would restrain or question this Agreement or the enjoyment of rights or benefits contemplated herein.
4. Design-Builder has examined and carefully studied the Contract Documents, data and other referenced items identified in the Contract Documents.
5. Design-Builder has visited the site and conducted a thorough examination of the site and adjacent areas, and is familiar with and satisfied as to the general, local and site conditions that may affect cost, progress and performance of the work.
6. Design-Builder is familiar with and is satisfied as to all laws and regulations that may affect cost, progress, and performance of work.
7. Design-Builder has carefully studied all: (a) reports of explorations and tests of subsurface conditions at or adjacent to the site, and all drawings of physical

conditions relating to existing surface or subsurface structures at the site, if any, that Owner has identified or made available to Design-Builder, especially with respect to technical data, reports and drawings, and (b) reports and drawings relating to hazardous environmental conditions, if any, at or adjacent to the site, that Owner has identified or made available to Design-Builder.

8. Design-Builder has considered the information known to Design-Builder itself, and to construction subcontractors and project design professionals that Design-Builder has selected; information commonly known to design professionals, design-builders, and contractors doing business with the locality of the site; information and observations obtained from visits to the site; the contract documents; and the site-related reports and drawings (if any) identified in the contract documents or otherwise made available to Design-Builder, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Design-Builder; and (3) Design-Builder's safety precautions and programs.
9. Based on the information and observations referred to in the preceding paragraph, Design-Builder agrees that no further examinations, investigations, explorations, test, studies, or data are necessary prior to entry into the Contract at the contract price, subject to the contract times.
10. Design-Builder is aware of the general nature of work to be performed by Owner and others at the site that relates to the Work as indicated in the contract documents.
11. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing the Work.

ARTICLE 26. **CONFIDENTIALITY**

Design-Builder agrees that its conclusions and any reports are for the confidential information of County and that it will not disclose its conclusions in whole or in part to any persons whatsoever, other than to submit its written documentation to County, and will only discuss the same with it or its authorized representatives, except as required under this Agreement to provide information to the public. Upon completion of this Agreement term, all documents, reports, maps, data and studies prepared by Design-Builder pursuant thereto and any equipment paid for by County as a result of this Agreement, shall become the property of the County and be delivered to the User Department's Representative.

Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under this Agreement shall not be presented publicly or published without prior approval in writing of County.

It is further agreed that if any information concerning the Project, its conduct results, or data gathered or processed should be released by Design-Builder without prior approval from County, the release of the same shall constitute grounds for termination of this

Agreement without indemnity to Design-Builder, but should any such information be released by County or by Design-Builder with such prior written approval, the same shall be regarded as Public information and no longer subject to the restrictions of this Agreement.

ARTICLE 27. OWNERSHIP OF INTELLECTUAL PROPERTY AND INFORMATION

Design-Builder agrees that Fulton County is the sole owner of all information, data, and materials that are developed or prepared subject to this Agreement. Design-Builder or any sub Design- Builder is not allowed to use or sell any information subject to this contract for educational, publication, profit, research or any other purpose without the written and authorized consent of the County. All electronic files used in connection to this Agreement, which are by definition, any custom software files used in connection to this Agreement, (collectively, the "Software"), shall be turned over to the County for its use after termination hereof and Design-Builder shall have no interest of any kind in such electronic files. Any required licenses and fees for the Software or other required materials shall be purchased and/or paid for by Design-Builder and registered in the name of the County, if possible. The Software as defined hereunder, specifically excludes all software, documentation, information, and materials in which Design-Builder has pre-existing proprietary rights and/or has otherwise been licensed to Design-Builder prior to this Agreement, and any upgrades, updates, modifications or enhancements thereto. Design-Builder agrees to provide at no cost to County any upgrades to any software used in connection with this Agreement which may be subsequently developed or upgraded for a period of three (3) years from the date of completion of the work under the Agreement, except in the case of commercial Software licensed to the County. Any information developed for use in connection with this Agreement may be released as public domain information by the County at its sole discretion. 14

ARTICLE 28. COVENANT AGAINST CONTINGENT FEES

Design-Builder warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees maintained by Design-Builder for the purpose of securing business and that Design-Builder has not received any non-County fee related to this Agreement without the prior written consent of County. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Contract Price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

ARTICLE 29. INSURANCE

Design-Builder agrees to obtain and maintain during the entire term of this Agreement, all of the insurance required as specified in the Agreement documents, Exhibit H, Insurance and Risk Management Forms, with the County as an additional insured and shall furnish the County a Certificate of Insurance showing the required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the

requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

ARTICLE 30. **PROHIBITED INTEREST**

Section 30.01 **Conflict of interest:**

Design-Builder agrees that it presently has no interest and shall acquire no interest direct or indirect that would conflict in any manner or degree with the performance of its service hereunder. Design-Builder further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

Section 30.02 **Interest of Public Officials:**

No member, officer or employee of County during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

ARTICLE 31. **SUBCONTRACTING**

Design-Builder shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of County.

ARTICLE 32. **ASSIGNABILITY**

Design-Builder shall not assign or subcontract this Agreement or any portion thereof without the prior expressed written consent of County. Any attempted assignment or subcontracting by Design-Builder without the prior expressed written consent of County shall at County's sole option terminate this Agreement without any notice to Design-Builder of such termination. Design-Builder binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

ARTICLE 33. **ANTI-KICKBACK CLAUSE**

Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. Design-Builder hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

ARTICLE 34. **AUDITS AND INSPECTORS**

At any time during normal business hours and as often as County may deem necessary, Design-Builder shall make available to County and/or representatives of the County for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit County and/or representative of the County to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Design-Builder's records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by Design-Builder. To the extent County audits or examines such Information related to this Agreement, County shall not disclose or otherwise make available to third parties any such Information without Design-Builder's prior written consent unless required to do so by a court order. Nothing in this Agreement shall be construed as granting County any right to make copies, excerpts or transcripts of such information outside the area covered by this Agreement without the prior written consent of Design-Builder. Design-Builder shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for eight years from the date of final payment under the Agreement, for inspection by County or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to County. Design-Builder agrees that the provisions of this Article shall be included in any Agreements it may make with any subDesign- Builder, assignee or transferee.

ARTICLE 35. ACCOUNTING SYSTEM

Design-Builder shall have an accounting system, which is established, and maintaining in accordance with generally accepted accounting principles. Design-Builder must account for cost in a manner consistent with generally accepted accounting procedures, as approved by Fulton County.

ARTICLE 36. VERBAL AGREEMENT

No verbal agreement or conversation with any officer, agent or employee of County either before, during or after the execution of this Agreement, shall affect or modify any of the terms of obligations herein contained, nor shall such verbal agreement or conversation entitle Design-Builder to any additional payment whatsoever under the terms of this Agreement. All changes to this shall be in writing and the form of a change order in supplemental agreement, approved by the County, and entered on the Minutes of the Board of Commissioners.

ARTICLE 37. NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to County, shall be addressed as follows:

Director,
Department of Public Works
141 Pryor Street, SW, Suite 6000
Atlanta, Georgia 30303
Telephone: (404) 612-2804
Email: david.clark@fultoncountyga.gov
Attention: David Clark

With a copy to:

Department of Purchasing & Contract Compliance
Chief Purchasing Agent
130 Peachtree Street, S.W. Suite 1168
Atlanta, Georgia 30303
Telephone: (404) 612-5800
Email: felicia.strong-whitaker@fultoncountyga.gov
Attention: Felicia Strong-Whitaker

With a copy to:

Office of the County Attorney
ATTN: County Attorney
141 Pryor Street, S.W. Suite 4038
Atlanta, Georgia 30303
Telephone: (404) 612-0246

Notices to Design-Builder shall be addressed as follows:

Scott N. Cline
Ruby-Collins/Brown and Caldwell joint venture
990 Hammond Drive, Suite 500
Atlanta, Georgia 30328
Telephone: (770) 432-2900
Email: sccline@ruby-collins.com
Attention: Scott N. Cline

ARTICLE 38. JURISDICTION

This Agreement will be executed and implemented in Fulton County. Further, this Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of all litigation arising from this Agreement shall be in the Fulton County Superior Courts. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect. Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

ARTICLE 39. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this Agreement, Design-Builder agrees as follows:

Section 36.01 Design-Builder will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 36.02 Design-Builder will, in all solicitations or advertisements for employees placed by, or on behalf of, Design-Builder state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 36.03 Design-Builder will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each sub-Design-Builder, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 40. FORCE MAJEURE

Neither County nor Design-Builder shall be deemed in violation of this Agreement if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation, provided however, that nothing herein shall relieve or be construed to relieve Design-Builder from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

ARTICLE 41. OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq., applies to this Agreement. The Design-Builder acknowledges that any documents or computerized data provided to the County by the Design-Builder may be subject to release to the public. The Design-Builder also acknowledges that documents and computerized data created or held by the Design-Builder in relation to the Agreement may be subject to release to the public, to include documents turned over to the County. The Design-Builder shall cooperate with and provide assistance to the County in rapidly responding to Open Records Act requests. The Design-Builder shall notify the County of any Open Records Act requests no later than 24 hours following receipt of any such requests by the Design-Builder. The Design-Builder shall promptly comply with the instructions or requests of the County in relation to responding to Open Records Act requests. 18

ARTICLE 42. DESIGN-BUILDER'S COMPLIANCE WITH ALL ASSURANCES OR PROMISES MADE IN RESPONSE TO PROCUREMENT

Where the procurement documents do not place a degree or level of service relating to the scope of work, M/FBE participation, or any other matter relating to the services being procured, should any Design-Builder submit a response to the County promising to provide a certain level of service for the scope of work, M/FBE participation, or any other matter, including where such promises or assurances are greater than what is required by the procurement documents, and should this response containing these promises or

assurances be accepted by the County and made a part of the Contract Documents, then the degree or level of service promised relating to the scope of work, M/FBE participation, or other matter shall be considered to be a material part of the Agreement between the Design-Builder and the County, such that the Design-Builder's failure to provide the agreed upon degree or level of service or participation shall be a material breach of the Agreement giving the County just cause to terminate the Agreement for cause, pursuant to ARTICLE 14 of the Agreement.

ARTICLE 43. INVOICING AND PAYMENT

Design-Builder shall submit monthly invoices for work performed during the previous calendar month, in a form acceptable to the County and accompanied by all support documentation requested by the County, for payment and for services that were completed during the preceding phase. The County shall review for approval of said invoices. The County shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by the County, are reasonably in excess of the actual stage of completion.

Time of Payment: The County shall make payments to Design-Builder within thirty (30) days after receipt of a proper invoice. Parties hereto expressly agree that the above contract term shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. 13-11-1 et seq., pursuant to 13-11-7(b), and the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Agreement; parties further agree that the County shall not be liable for any interest or penalty arising from late payments.

Submittal of Invoices: Invoices shall be submitted as follows:

Via Mail:

Fulton County Government
141 Pryor Street, SW
Suite 7001
Atlanta, Georgia 30303
Attn: Finance Department – Accounts Payable

OR

Via Email:

Email: Accounts.Payable@fultoncountyga.gov

At minimum, original invoices must reference all of the following information:

1) Vendor Information

- a. Vendor Name
- b. Vendor Address
- c. Vendor Code
- d. Vendor Contact Information
- e. Remittance Address

2) Invoice Details

- a. Invoice Date
- b. Invoice Number (uniquely numbered, no duplicates)
- c. Purchase Order Reference Number
- d. Date(s) of Services Performed
- e. Itemization of Services Provided/Commodity Units

3) Fulton County Department Information (needed for invoice approval)

- a. Department Name
- b. Department Representative Name

Design-Builder's cumulative invoices shall not exceed the total not-to-exceed fee established for this Agreement.

County's Right to Withhold Payments: The County may withhold payments, not to exceed the total of two months' fees of the applicable SOW, for services that involve disputed costs, involve disputed audits, or are otherwise performed in an inadequate fashion. Payments withheld by the County will be released and paid to the Design-Builder when the services are subsequently performed adequately and on a timely basis, the causes for disputes are reconciled or any other remedies or actions stipulated by the County are satisfied. If there is a good faith dispute regarding a portion of an invoice, Design-Builder will notify County and detail the dispute before the invoice date. The County shall promptly pay any undisputed items contained in such invoices. Upon resolution of the dispute, any disputed amounts owed to Design-Builder will be promptly paid by County.

Payment of Subcontractors/Sub-consultants/Suppliers: The Design-Builder must certify in writing that all subcontractors/sub-consultants of the Design-Builder and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime Design-Builder is unable to pay subcontractors/sub-consultants or suppliers until it has received a progress payment from Fulton County, the prime Design-Builder shall pay all subcontractors/sub-consultants or supplier funds due from said progress payments within forty eight (48) hours of receipt of

payment from Fulton County and in no event later than fifteen days as provided for by State Law.

Acceptance of Payments by Design-Builder; Release. The acceptance by the Design-Builder of any payment for services under this Agreement will, in each instance, operate as, and be a release to the County from, all claim and liability to the Design-Builder for work performed or furnished for or relating to the service for which payment was accepted, unless the Design-Builder within five (5) days of its receipt of a payment, advises the County in writing of a specific claim it contends is not released by that payment.

ARTICLE 44 . **TAXES**

The Design-Builder shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Design-Builder which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Design-Builder shall maintain records pertaining to such taxes as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying. The Design-Builder shall apply for any and all tax exemptions which may be applicable and shall timely request from the County such documents and information as may be necessary to obtain such tax exemptions. The County shall have no liability to the Design-Builder for payment of any tax from which it is exempt.

ARTICLE 45. **PERMITS, LICENSES AND BONDS**

All permits and licenses necessary for the work shall be secured and paid for by the Design-Builder. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Design-Builder, the Design-Builder shall not be entitled to additional compensation or time.

ARTICLE 46. **NON-APPROPRIATION**

This Agreement states the total obligation of the County to the Design-Builder for the calendar year of execution. Notwithstanding anything contained in this Agreement, the obligation of the County to make payments provided under this Agreement shall be subject to annual appropriations of funds thereof by the governing body of the County and such obligation shall not constitute a pledge of the full faith and credit of the County within the meaning of any constitutional debt limitation. The Director of Finance shall deliver written notice to the Design-Builder in the event the County does not intend to budget funds for the succeeding Contract year. Notwithstanding anything contained in this Agreement, if sufficient funds have not been appropriated to support continuation of this Agreement for an additional calendar year or an additional term of the Agreement, this Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year of its execution and at the close of each succeeding calendar year of which it may be renewed, unless a shorter termination period is provided or the County suspends performance pending the appropriation of funds.

ARTICLE 47. **WAGE CLAUSE**

Design-Builder shall agree that in the performance of this Agreement the Design-Builder will comply with all lawful agreements, if any, which the Design-Builder had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

IN WITNESS THEREOF, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as attested and witnessed and their corporate seals to be hereunto affixed as of the day and year date first above written.

OWNER:

FULTON COUNTY, GEORGIA

Signed by:

Robert L. Pitts

14E1B4AA5F6A44A...

Chairman

Fulton County Board of Commissioners

ATTEST:

Signed by:

Nikki D. Carr

EEC476C4832B48D...

Clerk

Clerk to the Commission

(Affix Seal)



APPROVED AS TO FORM:

Signed by:

Denval Stewart

8B574564AFF0466...

County Attorney

APPROVED AS TO CONTENT:

DocuSigned by:

David Clark

65CE1C9FDD834B8...

Director

Department of Public Works

CONTRACTOR:

**RUBY-COLLINS, INC./BROWN and
CALDWELL JOINT VENTURE**

DocuSigned by:

Scott M. Cline

61857BF37AA14D5...

Managing Member of joint venture

ATTEST:

Nikki D. Carr

Notary Public

County: Paulding

Commission Expires: 09/02/2028

Signed by:

(Affix Seal)



ITEM#: 25-0264 **RM:** 4/2/2025
REGULAR MEETING

ITEM#: 2ND **RM:**
SECOND REGULAR MEETING

EXHIBIT A

GENERAL CONDITIONS

SECTION 6 – GENERAL CONDITIONS

00700-1 FAMILIARITY WITH SITE

Execution of this agreement by the Contractor is a representation that the Contractor has visited the site, has become familiar with the local conditions under which the work is to be performed, and has correlated personal observations with the requirements of this agreement.

00700-2 CONTRACT DOCUMENTS

This agreement consists of Owner's invitation for bid, instructions to bidders, bid form, performance bond, payment bond, acknowledgments, the contract, general conditions, special conditions, specifications, plans, drawings, exhibits, addenda, and written change orders.

- A. Notice of Award of Contract:
- B. Execution of Contract Documents

Upon notification of Award of Contract, the Owner shall furnish the Contractor the conformed copies of Contract Documents for execution by the Contractor and the Contractor's surety.

Within ten (10) days after receipt the Contractor shall return all the documents properly executed by the Contractor and the Contractor's surety. Attached to each document shall be an original power-of-attorney for the person executing the bonds for the surety and certificates of insurance for the required insurance coverage.

After receipt of the documents executed by the Contractor and his surety with the power-of-attorney and certificates of insurance, the Owner shall complete the execution of the documents. Distribution of the completed documents will be made upon completion.

Should the Contractor and/or Surety fail to execute the documents within the time specified; the Owner shall have the right to proceed on the Bid Bond accompanying the bid.

If the Owner fails to execute the documents within the time limit specified, the Contractor shall have the right to withdraw the Contractor's bid without penalty.

Drawings and Specifications:

The Drawings, Specifications, Contract Documents, and all supplemental documents, are considered essential parts of the Contract, and requirements occurring in one are as binding as though occurring in all. They are intended to define, describe and provide for all Work necessary to complete the Project in an acceptable manner, ready for use, occupancy, or operation by the Owner.

In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over scale dimensions, and detailed Drawings shall govern over general Drawings.

In cases where products or quantities are omitted from the Specifications, the description and quantities shown on the Drawings shall govern.

Any ambiguities or need for clarification of the Drawings or Specifications shall be immediately reported to the Construction Manager in writing. Any such ambiguity or need for clarification shall be handled by the Construction Manager in writing. No clarification of the Drawings and Specifications hereunder by the Construction Manager shall entitle the Contractor to any additional monies unless a Change Order has been processed as provided by "Changes in the Contract" hereof.

Any work done by the Contractor following a discovery of such differing site condition or ambiguity or need for clarification in the Contract Drawings and Specifications prior to a written report to the Construction Manager shall not entitle the Contractor to additional monies and shall be done at the Contractor's risk.

The Construction Manager will furnish the Contractor five (5) copies of the Contract Drawings and the Specifications, one copy of which the Contractor shall have available at all times on the Project site.

00700-3 DEFINITIONS

The following terms as used in this agreement are defined as follows to the extent the definitions herein differ or conflict with those in the Instructions for Bidders, Section 00100, the definitions herein shall control.

TERM	DEFINITION
ADDENDUM	Revision to the RFP documents issued by the County prior to the receipt of proposals.
AGREEMENT	refers to the executed contract between the County and Contracting Entity
ALTERNATE BIDS	the amount stated in the bid or proposal to be added to or deducted from the amount of the base bid or base proposal if the corresponding change in project scope or alternate materials or methods of construction is accepted.
APPROVE	Where used in conjunction with the County's response to submittals, requests, applications, inquiries, reports and claims, the meaning of the term "approved" shall be held to limitations of the County's responsibilities and duties as described herein. In no case shall "approval" be interpreted as a release of the D/B Company, PM/CM or other contractors from responsibilities to fulfill the requirements of their Agreements and Contract Documents.
BASE BID	the amount of money stated in the bid or proposal as the sum for which the bidder or proposer offers to perform the work.
BID BOND	A bond with good and sufficient surety or sureties for the faithful acceptance of the contract payable to, in favor of, and for the protection of the governmental entity for which the contract is to be awarded.
CALENDAR DAY	Every day shown on the calendar.
CHANGE ORDER	A written order signed by the Owner and Contractor and, stating their agreement upon all of the following: (1) change/modification in the work; (2) the amount of the modification, if any, in the Agreement Price; and (3) the extent of the modification, if any, in the Agreement time.
CONSTRUCTION MANAGER	The individual designated by the Public Works Department as the designated representative for the project.
CONTACT PERSON	Purchasing staff designated by the Fulton County Department of Purchasing and Contract Compliance to submit any questions and suggestions to.
CONTRACT COMPLETION	The established completion date(s) set forth in the contract.
CONTRACT DOCUMENTS	The Contract Documents include the Contract Agreement, Contractor's Bid (including all documentation accompanying the Bid and any post-Bid documentation required by the County prior to the Notice of Award), Bonds, all Special Conditions, General Conditions, Supplementary Conditions,

	Specifications, Drawings and addenda, together with written amendments, change orders, field orders and the Construction Manager's written interpretations and clarifications issued in accordance with the General Conditions on or after the date of the Contract Agreement. Shop drawing submittals reviewed in accordance with the General Conditions, geotechnical investigations and soils report and drawings of physical conditions in or relating to existing surface structures at or contiguous to the site are not Contract Documents. The Contract Documents shall define and describe the complete work to which they relate. May also be referred to Project Manual.
CONTRACT TIME	shall mean the number of consecutive calendar days as provided in the Contract Agreement for completion of the Work, to be computed from the date of Notice to Proceed.
CONTRACTOR	Or Progressive Design/Build Company. The selected offeror with whom the County executes the Progressive Design/Build Contract.
CONTRACTOR'S REPRESENTATIVE	the Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions and who shall supervise and direct the construction
COUNTY	Or Owner. Fulton County Government and its authorized representatives
DAY	Every day shown on the calendar, each consisting of twenty-four hours lasting from midnight of one day to midnight the next day.
DEPARTMENT OF PUBLIC WORKS	the Fulton County Department responsible for this project. May also be referred to DPW
DESIGN-BUILDER	see PROGRESSIVE DESIGN BUILD COMPANY
DIRECTOR	Director of the Public Works Department of Fulton County, Georgia or the designee thereof.
FINAL COMPLETION	or Contract Completion. The date of final completion of the work is the date certified by the Engineer and the Construction Manager when all construction is fully complete, including certification of all punch list items, and when all records documentation and other closeout items required by the Contract Documents have been reviewed and found acceptable by the County.
GENERAL CONDITIONS	the General Conditions of the Agreement for construction that govern the rights, duties, and obligations of the parties.
GUARANTEED MAXIMUM PRICE	or Contract Price. The full payment for performance of the Work and covers all costs of whatever nature incurred by the Contractor in accomplishing the work in accordance with the provisions of the contract. The contractor is responsible for cost overruns, unless the GMP has been increased via formal change order (only as a result of additional scope request from the County, not price overruns, errors or omissions).

INSPECTOR	an authorized representative of the DPW assigned to make all necessary inspections of any or all portions of the work performed or being performed, or of the materials furnished or being furnished by the Contractor
JOBSITE	location where construction activity shall be performed under this contract.
JOHNS CREEK ENVIRONMENTAL CAMPUS	or JCEC, is the location that the Work is to take place.
JOINT VENTURE (JV)	A contractual agreement joining two or more persons, partnerships, corporations or any combination of business entities partnering as one firm for the purpose of executing a particular project or event. Every entity agrees on percentage of profits, losses and ownership within the organization.
LIQUIDATED DAMAGES	shall mean the amount, stated in the Contract Agreement, which the Contractor agrees to pay to the Owner for each consecutive calendar day beyond the Contract time required to complete the Project or for failing to comply with associated milestones. Liquidated Damages will end upon written notification from the Owner of Final Acceptance of the Project or upon written notification of from the Owner of completion of the milestone. Fulton County will impose a liquidated damage of one thousand, five hundred dollars (\$1,000.00) per day for delays in meeting the substantial completion date.
MATERIALS	any substance, materials, equipment for use in the construction of the contract work.
MEMBRANE SYSTEM	All of the components required for a functioning membrane system, and includes membrane filters, instrumentation, controls, electrical gear, pumps, blowers, compressors, chemical systems, supports, gates, valves, piping, wiring, lifting devices.
MODIFICATIONS	Binding changes, addenda, revisions, or the like, to the Work or the Agreement documents, including changes to work made by Change Order or Change Directive
NOTICE TO PROCEED	A written communication issued by the County to the Contractor authorizing it to proceed with the work, establishing the date of commencement and completion of the work, and providing other direction to the Contractor.
OFFEROR	The entity of individual submitting a proposal in response to this RFP.
OWNER	Fulton County Government
OWNER SUPPLIED PRODUCTS	Materials, equipment or systems purchased by the Owner for complete installation by the Contractor
OWNER'S REPRESENTATIVE TEAM	the Owner's Representative Team shall include staff from the following departments: Public Works, Risk Management and Purchasing & Contract Compliance.

PAYMENT BOND	A bond with good and sufficient surety or sureties payable to the governmental entity for which the work is to be done and intended for the use and protection of all Sub-Contractors and all persons supplying labor, materials, machinery, and equipment in the prosecution of the work provided for in the public works construction contract.
PERFORMANCE BOND	A bond with good and sufficient surety or sureties for the faithful performance of the contract and to indemnify the governmental entity for any damages occasioned by a failure to perform the same within the prescribed time. Such bond shall be payable to, in favor of, and for the protection of the governmental entity for which the work is to be done.
PLANS	that portion of the Agreement documents describing in drawings, the shapes, outlines, dimensions, characteristics, scope and other similar requirements governing the work, or portions thereof, prepared by the Designer and including revisions thereto. The term is used interchangeably with the word "Drawings" and includes without limitation Standard Details and Drawings.
PRODUCTS	shall mean materials or equipment permanently incorporated into the work.
PROGRESS DESIGN BUILD COMPANY'S REPRESENTATIVE	The PDB Company's executive representative who is present on the work during progress, authorized to receive and fulfill instructions and who shall supervise and direct the construction
PROGRESSIVE DESIGN BUILD (PDB)	A flexible contracting method that allows the Owner and Design-Build to maximize the benefits of design-build. In a typical application of Progressive Design-Build, the Owner selects the Design-Build primarily based on qualifications, rather than price; the parties enter into the contract early in the design phase, allowing substantial design input from both parties; and the determination of the final contract price (in particular construction cost) is deferred until a point when the design is well developed and both parties have sufficient information to establish a fair final price (Completion Stage Price) – whether a stipulated amount (lump sum) or a Guaranteed Maximum Price (GMP).
PROGRESSIVE DESIGN BUILD COMPANY (PDBC)	shall mean the single entity contractually responsible to the Owner for development and delivery of the Project.
PROGRESSIVE DESIGN BUILD CONTRACT	the entire and integrated agreement between the Count and the D/B Company concerning the Design/Build Project
PROGRESSIVE DESIGN BUILD PROJECT	the Design/Build work necessary for the D/B Company to meet the obligations of the Design/Build Contract.
PROJECT	The project is the total design and construction of the Johns Creek Environmental Campus Membrane

	Upgrade and Expansion project under a Progressive design/build contract. The project and scope of work will be developed through Phases 1A, 1B, and 2.
PROJECT MANAGER	The person designated as in charge to lead the day-to-day activities to manage the project schedules.
PROJECT MANUAL	The Contract Documents.
PROPOSAL	The document submitted by the offeror in response to this RFP.
PROPOSAL BOND OR GUARANTY	The security furnished with the proposal to guarantee that the Offeror will enter into a contract if their proposal is accepted by the County.
PROPOSER	The entity or individual submitting a proposal in response to his RFP.
PROVIDE	shall mean to procure, furnish and install.
REQUEST FOR PROPOSAL (RFP)	All documents, whether attached or incorporated by reference, utilized for soliciting sealed proposals.
RESPONSIBLE OFFEROR	A person or entity that has the capability in all respects to perform fully and reliably the contract requirements.
RESPONSIVE OFFEROR	A person or entity that has submitted a bid or proposal that conforms in all material respects to the requirements set forth in the invitation for bids or request for proposals.
SCOPE OF WORK	All of the services specified, indicated, shown or contemplated by the contract documents, and furnishing by the Contractor of all materials, equipment, labor, methods, processes, construction and manufacturing materials and equipment, tools, plans, supplies, power, water, transportation and other things necessary to complete such services in accordance with the contract documents to insure a functional and complete facility. see also Project.
SUBCONTRACTOR/SUB-CONSULTANT	An individual, firm, corporation or any combination thereof having a direct contract with Consultant/Contractor for the performance of a part of the work.
SUBSTANTIAL COMPLETION	The date when all or a part of the work, as established pursuant to General Condition 0700-81, is sufficiently completed in accordance with the requirements of the contract documents so that the identified portion of the work can be utilized for the purposes for which it is intended. Substantial completion will be recommended by the Design Engineer of Record for approval by Fulton County.
WRITTEN NOTICE	A written statement transmitted from one party to an authorized representative of another party.

00700-4 CODES

All codes, specifications, and standards referenced in the contract documents shall be the latest editions, amendments and revisions of such referenced standards in effect as of the date of the request for proposals for this contract.

00700-5 REVIEW OF CONTRACT DOCUMENTS

Before making its proposal to the County, and continuously after the execution of the agreement, the Contractor shall carefully study and compare the contract documents and shall at once report to the Construction Manager any error, ambiguity, inconsistency or omission that may be discovered, including any requirement which may be contrary to any law, ordinance, rule, or regulation of any public authority bearing on the performance of the work. By submitting its proposal, the Contractor agrees that the contract documents, along with any supplementary written instructions issued by or through the Construction Manager that have become a part of the contract documents, appear accurate, consistent and complete insofar as can be reasonably determined. If the Contractor has timely reported in writing any error, inconsistency, or omission to the Construction Manager, has properly stopped the affected work until instructed to proceed, and has otherwise followed the instructions of the Construction Manager, the Contractor shall not be liable to the County for any damage resulting from any such error, inconsistency, or omission in the contract documents. The Contractor shall not perform any portion of the work without the contract documents, approved plans, specifications, products and data, or samples for such portion of the work. For purposes of this section "timely" is defined as the time period in which the contractor discovers, or should have discovered, the error, inconsistency, or omission, with the exercise of reasonable diligence.

00700-6 STRICT COMPLIANCE

No observation, inspection, test or approval of the County or Construction Manager shall relieve the Contractor from its obligation to perform the work in strict conformity with the contract documents except as provided in General Condition 00700-48.

00700-7 APPLICABLE LAW

All applicable State laws, County ordinances, codes, and rules and regulations of all authorities having jurisdiction over the construction of the project shall apply to this agreement. The Contractor shall comply with the requirements of any Fulton County program concerning non-discrimination in contracting. All work performed within the right of way of the Georgia Department of Transportation and any railroad crossing shall be in accordance with Georgia Department of Transportation regulations, policies and procedures and, where applicable, those of any affected railroad. The Contractor shall comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work as specified and the Contractor agrees to indemnify and hold harmless the County, its officers, agents and employees, as well as the Construction Manager and the Program Manager against any claim or liability arising from or based on the violation of any law, ordinance, regulation, order or decree affecting the conduct of the work, whether occasioned by the Contractor, his agents or employees.

00700-8 PERMITS, LICENSES AND BONDS

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Contractor, the Contractor shall not be entitled to additional compensation or time. The Contractor shall obtain and keep in force at all times performance and payment bonds payable to Fulton County in penal amounts equal to 100% of the Contract price.

00700-9 TAXES

- A. The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes and levies as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying. The Contractor shall apply for any and all tax exemptions which may be applicable and shall timely request from the County such documents and information as may be necessary to obtain such tax exemptions. The County shall have no liability to the Contractor for payment of any tax from which it is exempt.

- B. The Contractor is obligated to comply with all local and State Sales and Use Tax laws. The Contractor shall provide the Owner with documentation to assist the Owner in obtaining sales and/or use tax refunds for eligible machinery and equipment used for the primary purpose of reducing or eliminating air or water pollution as provided for in Chapter 48-8-3 (36) and (37) of the Official Code of Georgia. All taxes shall be paid by the Contractor. All refunds will accrue to the Owner.

Acceptance of the project as complete and final payment will not be made by the Owner until the Contractor has fully complied with this requirement.

00700-10 DELINQUENT CONTRACTORS

The County shall not pay any claim, debt, demand or account whatsoever to any person firm or corporation who is in arrears to the County for taxes. The County shall be entitled to a counterclaim, back charge, and offset for any such debt in the amount of taxes in arrears, and no assignment or transfer of such debt after the taxes become due shall affect the right of the County to offset any taxes owed against said debt.

00700-11 LIEN WAIVERS

The Contractor shall furnish the County with evidence that all persons who have performed work or furnished materials pursuant to this agreement have been paid in full prior to submitting its demand for final payment pursuant to this agreement. A final affidavit, Exhibit A, must be completed, and submitted to comply with requirements of 00700-11. In the event that such evidence is not furnished, the County may retain sufficient sums necessary to meet all lawful claims of such laborers and material men. The County assumes no obligation nor in any way undertakes to pay such lawful claims from any funds due or that may become due to the Contractor.

00700-12 MEASUREMENT

All items of work to be paid for per unit of measurement shall be subject to inspection, measurement, and confirmation by the Construction Manager.

00700-13 ASSIGNMENT

The Contractor shall not assign any portion of this agreement or moneys due there from (include factoring of receivables) without the prior written consent of the County. The Contractor shall retain personal control and shall provide personal attention to the fulfillment of its obligations pursuant to this agreement. Any assignment without the express written consent of the County shall render this contract voidable at the sole option of the County.

00700-14 FOREIGN CONTRACTORS

In the event that the Contractor is a foreign corporation, partnership, or sole proprietorship, the Contractor hereby irrevocably appoints the Secretary of State of Georgia as its agent for service of all legal process for the purpose of this contract only.

00700-15 INDEMNIFICATION

The Contractor hereby assumes the entire responsibility and liability for any and all injury to or death of any and all persons, including the Contractor's agents, servants, and employees, and in addition thereto, for any and all damages to property caused by or resulting from or arising out of any act or omission in connection with this contract or the prosecution of work hereunder, whether caused by the Contractor or the Contractor's agents, Servants, or employees, or by any of the Contractor's subcontractors or suppliers, and the Contractor shall indemnify and hold harmless the County, the Construction Manager, County's Commissioners, officers, employees, successors, assigns and agents, or any of their subcontractors from and against any and all loss and/or expense which they or any of them may suffer or pay as a result of claims or suits due to, because of, or arising out of any and all such injuries, deaths and/or damage, irrespective of County or Construction Manager negligence (except that no party shall be indemnified for their own sole negligence). The Contractor, if requested, shall assume and defend at

the Contractor's own expense, any suit, action or other legal proceedings arising there from, and the Contractor hereby agrees to satisfy, pay, and cause to be discharged of record any judgment which may be rendered against the County and the Construction Manager arising there from.

In the event of any such loss, expense, damage, or injury, or if any claim or demand for damages as heretofore set forth is made against the County or the Construction Manager, the County may withhold from any payment due or thereafter to become due to the Contractor under the terms of this Contract, an amount sufficient in its judgment to protect and indemnify it and the Construction Manager, County's Commissioners, officers, employees, successors, assigns and agents from any and all claims, expense, loss, damages, or injury; and the County, in its discretion, may require the Contractor to furnish a surety bond satisfactory to the County providing for such protection and indemnity, which bond shall be furnished by the Contractor within five (5) days after written demand has been made therefore. The expense of said Bond shall be borne by the Contractor.

00700-16 SUPERVISION OF WORK AND COORDINATION WITH OTHERS

The Contractor shall supervise and direct the work using the Contractor's best skill and attention. The Contractor shall be solely responsible for all construction methods and procedures and shall coordinate all portions of the work pursuant to the contract subject to the overall coordination of the Construction Manager. All work pursuant to this agreement shall be performed in a skillful and workmanlike manner.

The County reserves the right to perform work related to the Project with the County's own forces and to award separate contracts in connection with other portions of the project, other work on the site under these or similar conditions of the contract, or work which has been extracted from the Contractor's work by the County.

When separate contracts are awarded for different portions of the project or other work on the site, the term "separate contractor" in the Contract Documents in each case shall mean the contractor who executes each separate County Agreement.

The Contractor shall cooperate with the County and separate contractors in arranging the introduction and storage of materials and equipment and execution of their work, and shall cooperate in coordinating connection of its work with theirs as required by the Contract Documents.

If any part of the Contractor's Work depends for proper execution or results upon the work of the County or any separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Construction Manager any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results within fourteen (14) days of discovery of such discrepancy or defect. Failure of the Contractor to so report in writing shall constitute an acceptance of the County's or separate contractor's work as fit and proper to receive the Work, except as to any defects which may subsequently become apparent in such work by others.

Any costs caused by defective or untimely work shall be borne by the party responsible therefore.

Should the Contractor wrongfully cause damage to the work or property of the County or to other work or property on the site, including the work of separate contractors, the Contractor shall promptly remedy such damage at the Contractor's expense.

Should the Contractor be caused damage by any other contractor on the Project, by reason of such other contractor's failure to perform properly his contract with the County, no action shall lie against the County or the Construction Manager inasmuch as the parties to this agreement are the only beneficiaries hereof and there are no third party beneficiaries and neither the County nor the Construction Manager shall have liabilities therefore, but the Contractor may assert his claim for damages solely against such other contractor. The Contractor shall not be excused from performance of the contract by reason of any dispute as to damages with any other contractor or third party.

Where the Work of this Contract shall be performed concurrently in the same areas as other construction work, the Contractor shall coordinate with the Construction Manager and the separate contractors in

establishing mutually acceptable schedules and procedures that shall permit all jobs to proceed with minimum interference.

If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up, the County may clean up and charge the cost thereof to the Contractor or contractors responsible therefore as the County shall determine to be just.

00700-17 ADMINISTRATION OF CONTRACT

The Program Manager and the Construction Manager shall provide administration services as hereinafter described.

For the administration of this Contract, the Construction Manager shall serve as the County's primary representative during design and construction and until final payment to the Contractor is due. The Construction Manager shall advise and consult with the County and the Program Manager. The primary point of contact for the Contractor shall be the Construction Manager. All correspondence from the Contractor to the County shall be forwarded through the Construction Manager. Likewise, all correspondence and instructions to the Contractor shall be forwarded through the Construction Manager. The Construction Manager will determine in general that the construction is being performed in accordance with design and engineering requirements, and will endeavor to guard the County against defects and deficiencies in the Work.

The Construction Manager will not be responsible for or have control or charge of construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor will it be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Construction Manager will not be responsible for or have control or charge over the acts or omissions of the Contractor, its engineers, consultants, subcontractors, or any of their agents or employees, or any other persons performing the Work.

Based on the Construction Manager's observations regarding the Contractor's Applications for Payment, the Construction Manager shall determine the amounts owing to the Contractor, in accordance with the payment terms of the Contract, and shall issue Certificates for Payment in such amount to the County.

The Construction Manager shall render interpretations necessary for the proper execution or progress of the Work. Either party to the Contract may make written requests to the Construction Manager for such interpretations.

Claims, disputes and other matters in question between the Contractor and the County relating to the progress of the Work or the interpretation of the Contract Documents shall be referred to the Construction Manager for interpretation.

All interpretations of the Construction Manager shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in graphic form.

Except as otherwise provided in this Contract, the Construction Manager shall issue a decision on any disagreement concerning a question of fact arising under this Contract. The Construction Manager shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Construction Manager shall be final and conclusive unless, within thirty (30) days from the date of receipt of such copy, the Contractor files a written appeal with the Director of Public Works and mails or otherwise furnishes the Construction Manager a copy of such appeal. The decision of the Director of Public Works or the Director's duly authorized representative for the determination of such appeals shall be final and conclusive. Such final decision shall not be pleaded in any suit involving a question of fact arising under this Contract, provided such is not fraudulent, capricious, arbitrary, so grossly erroneous as necessarily implying bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of Contractor's appeal. Pending any final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract as directed by the Construction Manager.

The Construction Manager shall have authority to reject Work which does not conform to the Contract Documents. Whenever, in the Construction Manager's opinion, it is considered necessary or advisable for the implementation of the intent of the Contract Documents, the County shall have authority to require special inspection or testing of the Work whether or not such Work be then fabricated, installed or completed. The Contractor shall pay for such special inspection or testing if the Work so inspected or tested is found not to comply with the requirements of the contract; the County shall pay for special inspection and testing if the Work is found to comply with the contract. Neither the Construction Manager's authority to act under this Subparagraph, nor any decision made by the Construction Manager in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Construction Manager to the Contractor, any subcontractor, any of their agents or employees, or any other person performing any of the Work.

The Contractor shall provide such shop drawings, product data, and samples as may be required by the Construction Manager and/or as required by these Contract Documents.

The Construction Manager shall conduct inspections to determine Substantial Completion and Final Completion, and shall receive and forward to the County for review written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Construction Manager shall approve and issue Certificates for Payment upon compliance with Substantial and Final Completion requirements indicated in General Conditions 00700-81, 00700-82, 00700-84 and 00700-85 of this Agreement.

Except as provided in General Condition 00700-48, the Contractor shall not be relieved from the Contractor's obligations to perform the work in accordance with the contract documents by the activities or duties of the County or any of its officers, employees, or agents, including inspections, tests or approvals, required or performed pursuant to this agreement.

00700-18 RESPONSIBILITY FOR ACTS OF EMPLOYEES

The Contractor shall employ only competent and skilled personnel. The Contractor shall, upon demand from the Construction Manager, immediately remove any superintendent, foreman or workman whom the Construction Manager may consider incompetent or undesirable.

The Contractor shall be responsible to the County for the acts and omissions of the Contractor's employees, subcontractors, and agents as well as any other persons performing work pursuant to this agreement for the Contractor.

00700-19 LABOR, MATERIALS, SUPPLIES, AND EQUIPMENT

Unless otherwise provided in this agreement, the Contractor shall make all arrangements with necessary support agencies and utility companies provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the execution and completion of the work.

00700-20 DISCIPLINE ON WORK SITE

The Contractor shall enforce strict discipline and good order among its employees and subcontractors at all times during the performance of the work, to include compliance with the Fulton County Drug Free Work Place Policy. The Contractor shall not employ any subcontractor who is not skilled in the task assigned to it. The Construction Manager may, by written notice, require the Contractor to remove from the work any subcontractor or employee deemed by the Construction Manager to be incompetent.

00700-21 HOURS OF OPERATION

All work at the construction site shall be performed during regular business hours of the Fulton County government, except upon the Construction Manager's prior written consent to other work hours. It is further understood that the Contractor's construction schedule is based on a normal 40 hours, five day work week, less Fulton County-recognized holidays. Contractors work schedule shall not violate Fulton County Noise Ordinance by working hours inconsistent with the Fulton County Noise Ordinance. The

County's current noise ordinance or other applicable ordinance shall govern. If the Contractor desires to work in excess of this limit, the Contractor shall submit a written request to the Construction Manager, a minimum of five days prior to the desired work date. The Contractor shall be responsible for any additional expenses incurred by the Owner as a result of the extended work hours, including resident inspection overtime. The cost associated with resident inspector overtime shall be deducted from the Contractor monthly payment request.

00700-22 FAMILIARITY WITH WORK CONDITIONS

The Contractor shall take all steps necessary to ascertain the nature and location of the work and the general and local conditions which may affect the work or the cost thereof. The Contractor's failure to fully acquaint itself with the conditions which may affect the work, including, but not limited to conditions relating to transportation, handling, storage of materials, availability of utilities, labor, water, roads, weather, topographic and subsurface conditions, other separate contracts to be entered into by the County relating to the project which may affect the work of the Contractor, applicable provisions of law, and the character and availability of equipment and facilities necessary prior to and during the performance of the work shall not relieve the Contractor of its responsibilities pursuant to this agreement and shall not constitute a basis for an equitable adjustment of the contract terms. The County reserves the right to perform with its own forces or to contract with other entities for other portions of the project work, in which case the Contractor's responsibility to assure its familiarity with work conditions hereunder shall include all coordination with such other contractors and the County necessary to insure that there is no interference between contractors as will delay or hinder any contractor in its prosecution of work on the project. The County assumes no responsibility for any understandings or representations concerning conditions of the work made by any of its officers, agents, or employees prior to the execution of this agreement.

00700-23 RIGHT OF ENTRY

The County reserves the right to enter the site of the work by such agent, including the Construction Manager, as it may elect for the purpose of inspecting the work or installing such collateral work as the County may desire. The Contractor shall provide safe facilities for such access so that the County and its agents may perform their functions.

00700-24 NOTICES

Any notice, order, instruction, claim or other written communication required pursuant to this agreement shall be deemed to have been delivered or received as follows:

Upon personal delivery to the Contractor, its authorized representative, or the Construction Manager on behalf of the County. Personal delivery may be accomplished by in-person hand delivery or bona fide overnight express service.

Three days after depositing in the United States mail a certified letter addressed to the Contractor or the Construction Manager for the County. For purposes of mailed notices, the County's mailing address shall be 141 Pryor Street, 6th Floor, Atlanta, Georgia 30303, or as the County shall have otherwise notified the Contractor. The Contractor's mailing address shall be the address stated in its proposal or as it shall have most recently notified the Construction Manager in writing.

00700-25 SAFETY

SAFETY, HEALTH AND LOSS PREVENTION

The Contractor shall be responsible for implementing a comprehensive project-specific safety, health and loss prevention program and employee substance abuse program for this project. All Sub-Contractors must either implement their own program or follow the Contractor's safety, health and loss prevention program and employee substance abuse program.

The Contractor's safety, health and loss prevention program and employee substance abuse program must meet or exceed all governmental regulations (OSHA, EPA, DOT, State, local), and any other specific Fulton County requirements

COUNTY'S SAFETY, HEALTH, AND LOSS PREVENTION PROCESS GUIDELINES AND REQUIREMENTS

The County and its agents reserve the right, but assume no duty, to establish and enforce safety, health, and loss prevention guidelines and to make the appropriate changes in the guidelines, for the protection of persons and property and to review the efficiency of all protective measures taken by the Contractor. The Contractor shall comply with all safety, health, and loss prevention process guidelines and requirements and changes made by the County or its agent(s). The issuance of any such guidelines or changes by the County or its agent(s) shall not relieve the Contractor of its duties and responsibilities under this Agreement, and the County or its agent(s) shall not thereby assume, nor be deemed to have assumed, any such duties or responsibilities of the Contractor.

COMPLIANCE OF WORK, EQUIPMENT, AND PROCEDURES WITH ALL APPLICABLE LAWS and REGULATIONS

All Work, whether performed by the Contractor or its Sub-Contractors of any tier, or anyone directly or indirectly employed by any of them, and all equipment, appliances, machinery, materials, tools and like items incorporated or used in the Work, shall be in compliance with and conform to:

All applicable laws, ordinances, rules, regulations and orders of any public, quasi-public or other governmental authority relating to the safety of persons and their protection against injury, specifically including, but in no event limited to, the Federal Occupational Safety and Health Act of 1970, as amended, and all rules and regulations now or hereafter in effect pursuant to said Act.

All rules, regulations, and requirements of the County or its agent(s) and its insurance carriers relating there to. In the event of a conflict or differing requirements the more stringent shall govern.

PROTECTION OF THE WORK

The Contractor shall, throughout the performance of the Work, maintain adequate and continuous protection of all Work and temporary facilities against loss or damage from whatever cause, shall protect the property of the County and third parties from loss or damage from whatever cause arising out of the performance of the Work, and shall comply with the requirements of the County or its agent(s) and its insurance carriers, and with all applicable laws, codes, rules and regulations, (as same may be amended) with respect to the prevention of loss or damage to property as a result of fire or other hazards.

The County or its agent(s) may, but shall not be required to, make periodic inspections of the Project work area. In such event, however, the Contractor shall not be relieved of its aforesaid responsibilities and the County or its agent(s) shall not assume, nor shall it be deemed to have assumed, any responsibility otherwise imposed upon the assurance of Contractor by this Agreement.

SAFETY EQUIPMENT

1. The Contractor shall provide to each worker on the Project work area the proper safety equipment for the duties being performed by that worker and will not permit any worker on the Project work area who fails or refuses to use the same. The County or its agent shall have the right, but not the obligation, to order the removal of a worker from the Project work site for his/her failure to comply with safe practices or substance abuse policies.

EMERGENCIES

1. In any emergency affecting the safety of persons or property, or in the event of a claimed violation of any federal or state safety or health law or regulation, arising out of or in any way connected with the Work or its performance, the Contractor shall act immediately to prevent threatened damage, injury or loss and to remedy said violation. Failing such action the County or its agent(s) may immediately take whatever steps it deems necessary including, but not limited to, suspending the Work as provided in this Agreement.

2. The County or its agent(s) may offset any and all costs or expenses of whatever nature, including attorneys' fees, paid or incurred by the County or its agent(s) (whether such fees are for in-house counsel or counsel retained by the County or its agent), in taking the steps authorized by Section 00700-25(G)

(1) above against any sums then or thereafter due to the Contractor. The Contractor shall defend, indemnify and hold the County, its officers, agents, and employees harmless against any and all costs or expenses caused by or arising from the exercise by the County of its authority to act in an emergency as set out herein. If the Contractor shall be entitled to any additional compensation or extension of time change order on account of emergency work not due to the fault or neglect of the Contractor or its Sub-Contractors, such additional compensation or extension of time shall be determined in accordance with General Condition

00700-52 and General Condition 00700-87 of this Agreement.

SUSPENSION OF THE WORK

1. Should, in the judgment of the County or its agent(s), the Contractor or any Sub-Contractor fail to provide a safe and healthy work place, the County or its agent shall have the right, but not the obligation, to suspend work in the unsafe areas until deficiencies are corrected. All costs of any nature (including, without limitation, overtime pay, liquidated damages or other costs arising out of delays) resulting from the suspension, by whomsoever incurred, shall be borne by the Contractor.

2. Should the Contractor or any Sub-Contractor fail to provide a safe and healthy work place after being formally notified in writing by the County or its agents of such non-compliance, the contract may be terminated following the termination provision of the contract.

CONTRACTOR'S INDEMNITY OF THE COUNTY FOR CONTRACTOR'S NON-COMPLIANCE WITH SAFETY PROGRAM

1. The Contractor recognizes that it has sole responsibility to assure its Safety Program is implemented and to assure its construction services are safely provided. The Contractor shall indemnify, defend and hold the County and its agents harmless, from and against any and all liability (whether public or private), penalties (contractual or otherwise), losses, damages, costs, attorneys' fees, expenses, causes of action, claims or judgments resulting, either in whole or in part, from any failure of the Contractor, its Sub-Contractors of any tier or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, to comply with the safety requirements of the contract. The Contractor shall not be relieved of its responsibilities under the safety requirements of the Contract should the County or its agent(s) act or fail to act pursuant to its rights hereunder.

2. The Contractor shall not raise as a defense to its obligation to indemnify under this Subparagraph I any failure of those indemnified hereunder to assure Contractor operates safely, it being understood and agreed that no such failure shall relieve the Contractor from its obligation to assure safe operations or from its obligation to so indemnify. The Contractor also hereby waives any rights it may have to seek contribution, either directly or indirectly, from those indemnified hereunder.

3. In any and all claims against those indemnified hereunder by any employee of the Contractor, any Sub-Contractor of any tier or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Subparagraph I shall not be limited in any way as to the amount or type of damages, compensation or benefits payable by or for the Contractor or any Sub-Contractor of any tier under any workers' compensation act, disability benefit or other employee benefit acts.

00700-26 BLASTING AND EXCAVATION

The Contractor acknowledges that it is fully aware of the contents and requirements of O.C.G.A. § 25-9-1 through 25-9-12 concerning blasting and excavation near underground gas pipes and facilities and shall fully comply therewith.

00700-27 HIGH VOLTAGE LINES

The Contractor acknowledges that it is fully aware of the contents and requirements O.C.G.A. § 46-3-30 through 46-3-39 concerning safeguards against contact with high voltage lines, and the Contractor shall fully comply with said provisions.

00700-28 SCAFFOLDING AND STAGING

The Contractor acknowledges that it is the person responsible for employing and directing others to perform labor within the meaning of O.C.G.A. § 34-1-1 and agrees to comply with said provisions.

00700-29 CLEAN-UP

The Contractor shall clean up all refuse, rubbish, scrap materials, and debris caused by its operations to the end that the site of the work shall present a neat, orderly and workmanlike appearance at all times.

00700-30 PROTECTION OF WORK

The Contractor shall be responsible for maintenance and protection of the work, which shall include any County-furnished supplies, material, equipment, until final completion of this agreement and acceptance of the work as defined herein. Any portion of the work suffering injury, damage or loss shall be considered defective and shall be corrected or replaced by the Contractor without additional cost to the County.

00700-31 REJECTED WORK

The Contractor shall promptly remove from the project all work rejected by the Construction Manager for failure to comply with the contract documents and the Contractor shall promptly replace and re-execute the work in accordance with the contract documents and without expense to the County. The Contractor shall also bear the expense of making good all work of other Contractors destroyed or damaged by such removal or replacement.

00700-32 DEFECTIVE WORK

If the Contractor defaults or neglects to carry out any portion of the work in accordance with the contract documents, and fails within three days after receipt of written notice from the Construction Manager to commence and continue correction of such default or neglect with diligence and promptness, the County may, after three days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the County may have, make good such deficiencies and complete all or any portion of any work through such means as the County may select, including the use of a separate Contractor. In such case, an appropriate change order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies. In the event the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County on demand.

The County may, at its option, accept defective or nonconforming work instead of requiring its removal or correction. In such case, a change order shall be issued reducing the price due the contractor to the extent appropriate and equitable. Such contract price adjustment shall be effected whether or not final payment has been made.

00700-33 WARRANTY OF NEW MATERIALS

The Contractor warrants to the County that all materials and equipment furnished under this contract will be new unless otherwise specified, and the Contractor further warrants that all work will be of good quality, free from faults and defects, and in conformance with the contract documents. The warranty set forth in this paragraph shall survive final acceptance of the work.

00700-34 CONTRACTOR'S WARRANTY OF THE WORK

If within one year after the date of issuance of the certificate of final payment pursuant to General Condition 84, or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the contract documents, any of the work is found to be defective or not in accordance with the contract documents, the Contractor shall correct such work promptly after receipt of written notice from the Construction Manager to do so. This obligation shall survive both final payment for the work and termination of the contract.

00700-35 ASSIGNMENT OF MANUFACTURERS' WARRANTIES

Without limiting the responsibility or liability of the Contractor pursuant to this agreement, all warranties given by manufacturers on materials or equipment incorporated in the work are hereby assigned by the Contractor to the County. If requested, the Contractor shall execute formal assignments of said manufacturer's warranties to the County. All such warranties shall be directly enforceable by the County.

00700-36 WARRANTIES IMPLIED BY LAW

The warranties contained in this agreement, as well as those warranties implied by law, shall be deemed cumulative and shall not be deemed alternative or exclusive. No one or more of the warranties contained herein shall be deemed to alter or limit any other.

00700-37 STOP WORK ORDERS

In the event that the Contractor fails to correct defective work as required by the contract documents or fails to carry out the work in accordance with contract documents, the Construction Manager, in writing, may order the Contractor to stop work until the cause for such order has been eliminated. This right of the County to stop work shall not give rise to any duty on the part of the County or the Construction Manager to execute this right for the benefit of the Contractor or for any other person or entity.

00700-38 TERMINATION FOR CAUSE

If the Contractor is adjudged bankrupt, makes a general assignment for the benefit of creditors, suffers the appointment of a receiver on account of its insolvency, fails to supply sufficient properly skilled workers or materials, fails to make prompt payment to subcontractors or materialmen, disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, fails to diligently prosecute the work, or is otherwise guilty of a material violation of this agreement and fails within seven days after receipt of written notice to commence and continue correction of such default, neglect, or violation with diligence and promptness, the County may, after seven days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the County may have, terminate the employment of the Contractor and take possession of the site as well as all materials, equipment, tools, construction equipment and machinery thereon. The County may finish the work by whatever methods the County deems expedient. In such case, the Contractor shall not be entitled to receive any further payment until the work is completed.

Upon completion of the work, the County shall determine in its sole discretion whether the Contractor is due any compensation for those services the Contractor performed prior to the termination to the satisfaction of the County ("Unpaid Satisfactory Work"), and shall compensate Contractor for the same. The County shall further determine in its sole discretion whether the County's completion of the work was made more costly as a result of failures, acts, or omissions of the Contractor, and if so, shall deduct such amounts ("Overages") from any amounts that may be due to the Contractor. In the event that the Overages exceed the Unpaid Satisfactory Work, the Contractor shall immediately pay the difference to the County on demand. These obligations for payment shall survive the termination of the contract. Termination of this agreement pursuant to this paragraph may result in disqualification of the Contractor from bidding on future County contracts.

00700-39 TERMINATION FOR CONVENIENCE

The County may, at any time upon written notice to the Contractor, terminate the whole or any portion of the work for the convenience of the County. The effective date of the termination shall be provided in the written notice. Said termination shall be without prejudice to any right or remedy of the County provided herein. In addition, in the event this agreement has been terminated by the County through the Termination for Cause provisions due to a claim of default by the Contractor, and it is later determined that the Contractor was not in default pursuant to the provisions of this agreement at the time of termination, then such termination shall be considered a Termination for Convenience pursuant to this paragraph and administered according to the provisions related to Termination for Convenience set out in this Contract.

00700-40 TERMINATION FOR CONVENIENCE - PAYMENT

If the Contract is terminated for convenience by the Owner as provided in this article, Contractor will be paid compensation for those services actually performed as approved by the Owner or his representative. Partially completed tasks will be compensated for based on a signed statement of completion prepared by the Project Manager and submitted to the Contractor which shall itemize each task element and briefly state what work has been completed and what work remains to be done. Contractor shall also be paid for reasonable costs for the orderly filing and closing of the project.

00700-41 TERMINATION FOR CONVENIENCE - PAYMENT LIMITATIONS

Except for normal spoilage, and except to the extent that the County shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as determined by the Construction Manager, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the County or to another buyer.

00700-42 COST TO CURE

If the County terminates for cause the whole or any part of the work pursuant to this agreement, then the County may procure upon such terms and in such manner as the Construction Manager may deem appropriate, supplies or services similar to those so terminated, for the purpose of completing the work for which the Contractor was contractually engaged, and the Contractor shall be liable to the County for any excess costs for such similar supplies or services. The Contractor shall continue the performance of this agreement to the extent not terminated hereunder.

00700-43 ATTORNEY'S FEES

Should the Contractor default pursuant to any of the provisions of this agreement, the Contractor and its surety shall pay to the County such reasonable attorney's fees as the County may expend as a result thereof and all costs, expenses, and filing fees incidental thereto.

00700-44 CONTRACTOR'S RESPONSIBILITIES UPON TERMINATION

After receipt of a notice of termination from the County, and except as otherwise directed by the Construction Manager, the Contractor shall:

1. Stop work under the contract on the date and to the extent specified in the notice of termination;
2. Place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the agreement as is not terminated;
3. Unless otherwise directed by the Construction Manager, terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
4. Assign to the County in the manner, at the times, and to the extent directed by the Construction Manager, all of the rights, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, at its discretion, to settle or pay any and all claims arising out of the termination of such orders or subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts with the approval or ratification of the Construction Manager, to the extent the Construction Manager may require, which approval or ratification shall be final for all purposes;
6. Transfer title and deliver to the entity or entities designated by the Construction Manager, in the manner, at the times, and to the extent, if any, directed by the Construction Manager, and to the extent specifically produced or specifically acquired by the Contractor for the performance of such portion of the work as has been terminated:

The fabricated or un-fabricated parts, work, and progress, partially completed supplies, and equipment, materials, parts, tools, dyes, jigs, and other fixtures, completed work, supplies, and other material produced as a part of or acquired in connection with the performance of the work terminated by the notice of termination; and

The completed or partially completed plans, drawings, information, and other property to the work.

7. Use its best efforts to sell in the manner, at the times, to the extent, and at the prices directed or authorized by the Construction Manager, any property described in Section 6 of this paragraph, provided,

however, that the Contractor shall not be required to extend credit to any buyer and further provided that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the County to the Contractor pursuant to this agreement.

8. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and

9. Take such action as may be necessary, or as the Construction Manager may direct, for the protection and preservation of the property related to the agreement which is in the possession of the Contractor and in which the County has or may acquire an interest.

00700-45 RECORDS

The Contractor shall preserve and make available to the County all of its records, books, documents and other evidence bearing on the costs and expenses of the Contractor and any subcontractor pursuant to this agreement upon three days advance notice to the Contractor.

00700-46 DEDUCTIONS

In arriving at any amount due the Contractor pursuant to the terms of this agreement, there shall be deducted all liquidated damages, advance payments made to the Contractor applicable to the termination portion of the contract, the amount of any claim which the County may have against the Contractor, the amount determined by the Construction Manager to be necessary to protect the County against loss due to outstanding potential liens or claims, and the agreed price of any materials acquired or sold by the Contractor and not otherwise recovered by or credited to the County.

00700-47 REIMBURSEMENT OF THE COUNTY

In the event of termination for cause or convenience, the Contractor shall refund to the County any amount paid by the County to the Contractor in excess of the costs properly reimbursable to the Contractor.

00700-48 SUSPENSION, INTERRUPTION, DELAY, DAMAGES

The Contractor shall be entitled to only those damages and that relief from termination by the County as specifically set forth in this agreement. The Construction Manager may issue a written order requiring the Contractor to suspend, delay or interrupt all or any part of the work for such period of time as the County may determine to be appropriate for the convenience of the County. If the performance of the work is interrupted for an unreasonable period of time by an act of the County or any of its officers, agents, employees, contractors, or consultants in the administration of this agreement, an equitable adjustment shall be made for any increase in the Contractor's costs of performance and any increase in the time required for performance of the work necessarily caused by the unreasonable suspension, delay, or interruption. Any equitable adjustment shall be reduced to writing and shall constitute a modification to this agreement. In no event, however, shall an equitable adjustment be made to the extent that performance of this agreement would have been suspended, delayed or interrupted by any other cause, including the fault or negligence of the Contractor. No claim for an equitable adjustment pursuant to this paragraph shall be permitted before the Contractor shall have notified the Construction Manager in writing of the act or failure to act involved, and no claim shall be allowed unless asserted in writing to the Construction Manager within ten days after the termination of such suspension, delay or interruption.

00700-49 COMMENCEMENT AND DURATION OF WORK

The County may issue a Notice to Proceed at any time within 120 days following execution of the contract by the County. The Contractor shall commence work pursuant to this agreement within ten days of mailing or delivery of written notice to proceed. The Contractor shall diligently conduct the work to completion within the time specified therefore in the Agreement. The capacity of the Contractor's construction and manufacturing equipment and plan, sequence and method of operation and forces employed, including management and supervisory personnel, shall be such as to insure completion of the work within the time specified in the Agreement. The Contractor and County hereby agree that the contract time for completion of the work is reasonable taking into consideration the average climatic

conditions prevailing in the locality of the work and anticipated work schedules of other contractors whose activities are in conjunction with or may affect the work under this contract.

00700-50 TIME OF THE ESSENCE

All time limits stated in this agreement are of the essence of this contract.

00700-51 IMPACT DAMAGES

Except as specifically provided pursuant to a stop work order or change order, the Contractor shall not be entitled to payment or compensation of any kind from the County for direct or indirect or impact damages including, but not limited to, costs of acceleration arising because of delay, disruption, interference or hindrance from any cause whatsoever whether such delay, disruption, interference or hindrance is reasonable or unreasonable, foreseeable or unforeseeable, or avoidable, provided, however, that this provision shall not preclude the recovery of damages by the Contractor for hindrances or delays due solely to fraud or bad faith on the part of the County, its agents, or employees. The Contractor shall be entitled only to extensions in the time required for performance of the work as specifically provided in the contract.

00700-52 DELAY

The Contractor may be entitled to an extension of the contract time, but not an increase in the contract price or damages, for delays arising from unforeseeable causes beyond the control and without the fault or negligence of the Contractor or its subcontractors for labor strikes, acts of God, acts of the public enemy, acts of the state, federal or local government in its sovereign capacity, by acts of another separate contractor, or by an act or neglect of the County.

00700-53 INCLEMENT WEATHER

The Contractor shall not be entitled to an extension of the contract time due to normal inclement weather. Unless the Contractor can substantiate to the satisfaction of the Construction Manager that there was greater than normal inclement weather and that such greater than normal inclement weather actually delayed the work, the Contractor shall not be entitled to an extension of time therefore. The following shall be considered the normal inclement weather days for each month listed, and extensions of time shall be granted in increments of not less than one half day only for inclement weather in excess of the days set out.

January	10 days
February	10 days
March	7 days
April	6 days
May	4 days
June	3 days
July	4 days
August	2 days
September	2 days
October	3 days
November	6 days
December	9 days

00700-54 DELAY - NOTICE AND CLAIM

The Contractor shall not receive an extension of time unless a Notice of Delay is filed with the Construction Manager within ten days of the first instance of such delay, disruption, interference or hindrance and a written Statement of the Claim is filed with the Construction Manager within 20 days of the first such instance. In the event that the Contractor fails to comply with this provision, it waives any claim which it may have for an extension of time pursuant to this agreement.

00700-55 STATEMENT OF CLAIM - CONTENTS

The Statement of Claim referenced in Article 00700-54 shall include specific information concerning the nature of the delay, the date of commencement of the delay, the construction activities affected by the delay, the person or organization responsible for the delay, the anticipated extent of the delay, and any recommended action to avoid or minimize the delay.

00700-56 WORK BEHIND SCHEDULE, REMEDY BY CONTRACTOR

If the work actually in place falls behind the currently updated and approved schedule, and it becomes apparent from the current schedule that work will not be completed within the contract time, the Contractor agrees that it will, as necessary, or as directed by the Construction Manager, take action at no additional cost to the County to improve the progress of the work, including increasing manpower, increasing the number of working hours per shift or shifts per working day, increasing the amount of equipment at the site, and any other measure reasonably required to complete the work in a timely fashion.

00700-57 DILIGENCE

The Contractor's failure to substantially comply with the requirements of the preceding paragraph may be grounds for determination by the County that the Contractor is failing to prosecute the work with such diligence as will insure its completion within the time specified. In such event, the County shall have the right to furnish, from its own forces or by contract, such additional labor and materials as may be required to comply with the schedule after 48 hours written notice to the Contractor, and the Contractor shall be liable for such costs incurred by the County.

00700-58 SET-OFFS

Any monies due to the Contractor pursuant to the preceding paragraph of this agreement may be deducted by the County against monies due from the County to the Contractor.

00700-59 REMEDIES CUMULATIVE

The remedies of the County under Articles 00700-56, 00700-57, and 00700-58 are in addition to and without prejudice to all of the rights and remedies of the County at law, in equity, or contained in this agreement.

00700-60 TITLE TO MATERIALS

No materials or supplies shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sales contract or other agreement by which any interest is retained by the seller. The Contractor hereby warrants that it has good and marketable title to all materials and supplies used by it in the work, and the Contractor further warrants that all materials and supplies shall be free from all liens, claims, or encumbrances at the time of incorporation in the work.

00700-61 INSPECTION OF MATERIALS

All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards and in accordance with the requirements of the contract documents. Additional tests performed after the rejection of materials or equipment shall be at the Contractor's expense.

00700-62 CONSTRUCTION MANAGER'S PRESENCE DURING TESTING

All tests performed by the Contractor shall be witnessed by the Construction Manager unless the requirement therefore is waived in writing. The Construction Manager may perform additional tests on materials previously tested by the Contractor, and the Contractor shall furnish samples for this purpose as requested.

00700-63 MATERIALS INCORPORATED IN WORK

The Contractor shall furnish all materials and equipment to be incorporated in the work. All such materials or equipment shall be new and of the highest quality available. Manufactured materials and equipment

shall be obtained from sources which are currently manufacturing such materials, except as otherwise specifically approved by the Construction Manager.

00700-64 STORAGE OF MATERIALS

Materials and equipment to be incorporated in the work shall be stored in such a manner as to preserve their quality and fitness for the work and to facilitate inspection.

00700-65 PAYROLL REPORTS

The Contractor may be required to furnish payroll reports to the Construction Manager as required by the Owner Controlled Insurance Program.

00700-66 CONTRACTORS' REPRESENTATIVE

Before beginning work, the PDBC shall notify the Construction Manager in writing of the key personnel within its organization who shall have complete authority to supervise the work, receive orders from the Construction Manager, and represent the Contractor in all matters arising pursuant to this agreement. The PDBC shall maintain its key personnel and availability as proposed by the PDBC in the proposal to this RFP. The Contractor's key personnel shall be present at or about the site of work while the work is in progress. .

00700-67 SPECIALTY SUB-CONTRACTORS

The Contractor may utilize the services of specialty subcontractors on those parts of the project which, under normal contracting practices, are performed by specialty subcontractors. The Contractor shall not award more than seventy-five percent of the work to subcontractors.

00700-68 INSPECTION BY THE CONSTRUCTION MANAGER

All work pursuant to this agreement shall be subject to inspection by the Construction Manager for conformity with contract drawings and specifications. The Contractor shall give the Construction Manager reasonable advance notice of operations requiring special inspection of a portion of the work.

00700-69 WORK COVERED PRIOR TO CONSTRUCTION MANAGER'S INSPECTION

In the event that work is covered or completed without the approval of the Construction Manager, and such approval is required by the specifications or required in advance by the Construction Manager, the Contractor shall bear all costs involved in inspection notwithstanding conformance of such portion of the work to the contract drawings and specifications.

00700-70 SCHEDULING OF THE WORK

The work of this contract shall be planned, scheduled, executed, and reported as required by the Contract Documents.

00700-71 PROGRESS ESTIMATES

The Contractor shall prepare a written report for the Construction Manager's approval, on County forms, of the total value of work performed and materials and equipment obtained to the date of submission. Such a report must accompany each request for a progress payment and is subject to review and approval by the Construction Manager. Approval of a progress estimate or tendering of a progress payment shall not be considered an approval or acceptance of any work performed, and all estimates and payments shall be subject to correction in subsequent estimates. Progress payments shall be made for all completed activities and for materials suitably stored on-site.

00700-72 PROGRESS PAYMENTS

Upon approval of each monthly estimate of work performed and materials furnished, the Construction Manager shall approve payment to the Contractor for the estimated value of such work, materials, and equipment, less the amount of all prior payments and any liquidated damages. The Contractor will be paid 100 percent, less retainage, of the cost of materials received and properly stored on-site but not

incorporated into the work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale to establish the County's title to such materials or equipment. The Contractor's request for payment shall provide sufficient detail as to the work completed or materials purchased for which payment is requested to permit meaningful review by the Construction Manager.

00700-73 TIME OF PAYMENT

The Contractor will be paid within 45 days following receipt of an approved Progress Estimate. The Contractor expressly agrees that the payment provisions within this Contract shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. §13-11-1 et seq., and that the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Contract. The County shall not be liable for any late payment interest or penalty.

Submittal of Invoices: Invoices shall be submitted as follows:

Via Mail:

Fulton County Government
141 Pryor Street, SW
Suite 7001
Atlanta, Georgia 30303
Attn: Finance Department – Accounts Payable

OR

Via Email:

Email: Accounts.Payable@fultoncountyga.gov

At minimum, original invoices must reference all of the following information:

- 1) Vendor Information
 - a. Vendor Name
 - b. Vendor Address
 - c. Vendor Code
 - d. Vendor Contact Information
 - e. Remittance Address
- 2) Invoice Details
 - a. Invoice Date
 - b. Invoice Number (uniquely numbered, no duplicates)
 - c. Purchase Order Reference Number
 - d. Date(s) of Services Performed
 - e. A written report of the total value of work performed and materials and equipment obtained to the date of submission
- 3) Fulton County Department Information (needed for invoice approval)
 - a. Department Name
 - b. Department Representative Name

00700-74 RETAINAGE

The County shall retain from each progress payment ten percent of the estimated value of the work performed until the progress payments, including retainage, total 50 percent of the contract price. If a contract includes two or more projects or assignments that have been separately priced and have separate budgets, and the performances of such projects or assignments are not related to or dependent

upon the performance of any other, the 50 per cent limit shall be based upon the price for each individual project or assignment. Thereafter, no further retainage shall be withheld so long as the Contractor is making satisfactory progress to insure completion of the work within the time specified therefore. The County may reinstate the ten percent retainage in the event the Construction Manager determines that the Contractor is not making satisfactory progress to complete the work within the time specified in this agreement or in the event that the Construction Manager provides a specific cause for such withholding. The County may also withhold retainage upon substantial completion of the work as provided in O.C.G.A. §13-10-81(c). Interest may be paid upon the retainage in accordance with Georgia law.

00700-75 PAYMENT OF SUBCONTRACTORS

The Contractor shall promptly pay each subcontractor upon the receipt of payment from the County. Such payment shall be made from the amount paid to the Contractor pursuant to the subcontractor's work. The Contractor shall also maintain the records of the percentage retained from payments to the Contractor pursuant to such subcontractor's work. The Contractor shall procure agreements from each subcontractor requiring each subcontractor to pay their subcontractors, agents and employees in a similar manner. The County reserves the right to inquire of any subcontractor, supplier, materialmen, or subconsultant, the status of any indebtedness of the Contractor. The County further reserves the right to require the Contractor to designate on each instrument of payment exceeding \$400.00 to subcontractors, suppliers, materialmen, and subconsultants that such payment is on account of the work under this Contract.

00700-76 COUNTY'S RESPONSIBILITIES TO SUBCONTRACTORS

Neither the County nor the Construction Manager shall have any obligation to pay any subcontractor except as otherwise required by law.

00700-77 PROGRESS PAYMENTS - ACCEPTANCE OF WORK

Certification of progress payments, as well as the actual payment thereof, shall not constitute the County's acceptance of work performed pursuant to this agreement.

00700-78 PAYMENTS IN TRUST

All sums paid to the Contractor pursuant to this agreement are hereby declared to constitute trust funds in the hands of the contractor to be applied first to the payment of claims of subcontractors, laborers, and suppliers arising out of the work, to claims for utilities furnished and taxes imposed, and to the payment of premiums on surety and other bonds and on insurance for any other application.

00700-79 JOINT PAYMENTS

The County reserves the right to issue any progress payment or final payment by check jointly to the Contractor and any subcontractor or supplier.

00700-80 RIGHT TO WITHHOLD PAYMENT

The Construction Manager may decline to approve payment and may withhold payment in whole or in part to the extent reasonable and necessary to protect the County against loss due to defective work, probable or actual third party claims, the Contractor's failure to pay subcontractors or materialmen, reasonable evidence that the work will not be completed within the contract time or contract price or damage to the County or any other contractor on the project.

00700-81 CERTIFICATE OF SUBSTANTIAL COMPLETION

Upon the Contractor's submission of a request for a certificate of Substantial Completion, the Construction Manager shall inspect the work and determine whether the work is Substantially Complete. If the work is Substantially Complete, the Construction Manager shall issue a certificate of Substantial Completion of the work which shall establish the date of Substantial Completion, shall state the responsibilities of the County and the Contractor for security, maintenance, heat, utilities, damage to the work and insurance, and shall fix the time within which the Contractor shall complete the items submitted by the Contractor as requiring correction or further work. The certificate of substantial completion of the

work shall be submitted to the County and the Contractor for their written acceptance of the responsibilities assigned to them pursuant to such certificate.

If in the sole opinion of the Construction Manager, the work is not substantially complete, the Construction Manager shall notify the Contractor of such, in writing, and outline requirements to be met to achieve Substantial Completion.

00700-82 PAYMENT UPON SUBSTANTIAL COMPLETION

Upon Substantial Completion of the work and upon application by the Contractor and approval by the Construction Manager, the County shall make payment reflecting 100% work completed, less value of work remaining as determined by Construction Manager and any authorized retainage.

00700-83 COMMENCEMENT OF WARRANTIES

Warranties required by this agreement shall commence on the date of final completion of the project as determined under Article 00700-84 unless otherwise provided in the certificate of Substantial Completion.

00700-84 FINAL PAYMENT - WAIVER OF CLAIMS, DISPUTE OF FINAL PAYMENT

The acceptance of the Substantial Completion payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of application for payment at Substantial Completion and except for the retainage sums due at final acceptance. Following the Construction Manager's issuance of the certificate of Substantial Completion and the Contractor's completion of the work pursuant to this agreement, the Contractor shall forward to the Construction Manager a written notice that the work is ready for final inspection and acceptance. If after inspection the Construction Manager certifies that the work is complete and issues written notification of such to the Contractor, the Contractor shall forward to the Construction Manager a final application for payment. The Construction Manager shall issue a certificate for payment, which shall approve final payment to the Contractor and shall establish the date of final completion.

In the event the Contractor timely disputes the amount of the final payment, the amount due the Contractor shall be deemed by the Contractor and the County to be an unliquidated sum and no interest shall accrue or be payable on the sum finally determined to be due to the Contractor for any period prior to final determination of such sum, whether such determination be by agreement of the Contractor and the County or by final judgment of the proper court in the event of litigation between the County and the Contractor. The Contractor specifically waives and renounces any and all rights it may have under O.C.G.A. §13-6-13 and agrees that in the event suit is brought by the Contractor against the County for any sum claimed by the Contractor under the Contract or for any extra or additional work, no interest shall be awarded on any sum found to be due from the County to the Contractor in the final judgment entered in such suit. All final judgments shall draw interest at the legal rate, as specified by law.

00700-85 DOCUMENTATION OF COMPLETION OF WORK

Neither the final payment nor the remaining retainage shall become due until the Contractor submits the following documents to the Construction Manager:

An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work have been paid or otherwise satisfied;

The surety's consent to final payment; and

Any other data reasonably required by the County or Construction Manager establishing payment or satisfaction of all such obligations, including releases, waivers of liens, and documents of satisfaction of debts.

In the event that a subcontractor refuses to furnish a release or waiver as required by the County or Construction Manager, the Contractor may furnish a bond satisfactory to the County to indemnify the County against such loss. In the event that any lien or indebtedness remains unsatisfied after all payments are made, the contractor shall refund to the County all moneys that the County may become compelled to pay in discharging such lien or other indebtedness, including all costs and reasonable attorney's fees.

00700-86 GOVERNING LAW

Each and every provision of this agreement shall be construed in accordance with and governed by Georgia law. The parties acknowledge that this contract is executed in Fulton County, Georgia and that the contract is to be performed in Fulton County, Georgia. Each party hereby consents to the Fulton Superior Court's sole jurisdiction over any dispute which arises as a result of the execution or performance of this agreement, and each party hereby waives any and all objections to venue in the Fulton Superior Court.

00700-87 CHANGES IN THE WORK

CHANGE ORDERS

A Change Order is a written order to the Contractor signed to show the approval and the authorization of the County, issued after execution of the Contract, authorizing a change in the Work and/or an adjustment in the Contract Sum or the Contract Time. Change Orders shall be written using forms designated by the County with Contractor providing supporting documentation as required by the Construction Manager. The Contract Sum and the Contract Time may be changed only by approved Change Order pursuant to Fulton County Code Section 102-420. The amount payable by the Change Order is payment in full for all direct and indirect costs incurred and related to the work under said Change Order, including but not limited to delays, imports, acceleration, disruption and extended overhead. A Change Order signed by the Contractor indicates the Contractor's agreement therewith, including the adjustment in either or both of the Contract Sum or the Contract Time.

The County, without invalidating the Contract, may order changes in the Work within the general scope of the Contract as defined herein. The time allowed for performance of the work and the contract price to be paid to the Contractor may be adjusted accordingly.

The cost or credit to the County resulting from a change in the Work shall be determined in one or more of the following ways:

By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

By unit prices stated in the Contract Documents or subsequently agreed upon;

By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

By the method provided in Subparagraph A4 below.

If none of the methods set forth in Subparagraphs 3a, 3b, or 3c above is agreed upon, the Contractor, provided a written order signed by the Construction Manager is received, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Construction Manager on basis of the reasonable expenditures and savings of those performing the Work attributable to the change. The cost of the change shall include only the items listed in Subparagraph 5a below, and in the case of either a decrease or an increase in the Contract Sum, an allowance for overhead and profit in accordance with the schedules set forth in Subparagraphs 5b and 6 below shall be applied to the cost or credit.

In such case, and also under Subparagraph 3a above, the Contractor shall keep and present, in such form as the Construction Manager may prescribe, an itemized accounting of all actual costs expended, together with appropriate supporting data for inclusion in a Change Order.

All hourly rate charges shall be submitted to the Construction Manager for prior review and approval. All hourly rate charges shall be properly supported as required by the Construction Manager with certified payrolls, or their acceptable equivalent. When authorized to proceed for a given change and actual expenditures have been made prior to execution of a Change Order for the entire change, such actual expenditures may be summarized monthly, and if approved, incorporated into a Change Order. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to that change.

In Subparagraphs 3 and 4 above, the items included in "Cost and "Overhead" shall be based on the following schedule:

Unless otherwise provided in the Contract Documents, "Cost" shall be limited to the following: cost of materials incorporated into the Work, including sales tax and cost of delivery; cost of direct labor (labor cost may include a pro rata share of foreman's account of the change) including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers' or workmen's compensation insurance; rental value of equipment and machinery; costs for preparing Shop Drawings.

Unless otherwise provided in the Contract Documents, "Overhead" shall include the following: bond and insurance premiums including increase and decreases from change in the Work, supervision, superintendence, construction parking, wages of timekeepers, watchmen and clerks, small tools, consumable supplies, expendables, incidentals, general office expense, the cost of additional reproduction for the Contractor's subcontractors beyond that agreed upon in the Contract Documents, construction parking, any additional costs of craft supervision by the Contractor's or subcontractors' superintendents, and overhead charges which would be customary and expended regardless of the change in the Work due to other overlapping activities which are included as part of the original Contract, and all other expenses not included in "Cost" above.

In the event that a change is issued by the County which would require the expenditure of substantial amounts of special supervision (beyond the foreman level) by the Contractor, the Contractor may, at the sole direction of the Construction Manager, be allowed to incorporate these charges into the agreement cost for the change.

In Subparagraphs 3 and 4 above, the allowance for overhead and profit combined, included in the total cost or credit to the County, shall be based on the following schedule:

For the Contractor, for any work performed by the Contractor's own forces, ten (10) percent of the cost.

For the Contractor, for any work performed by a Contractor's subcontractor, five (5) percent of the amount due the subcontractor.

For each subcontractor or sub-subcontractor involved, for any work performed by that subcontractor's or sub-subcontractor's own forces, ten (10) percent of the cost.

For each subcontractor, for work performed by a sub-subcontractor, five (5) percent of the amount due to the sub-subcontractor.

Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 5 above unless modified otherwise.

In order to facilitate checking of quotations for extras or credits, all proposals or bids, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor cost, materials and subcontracts. Labor and materials shall be itemized in the manner defined in Subparagraph 4 above. Where major cost items are subcontracts, they shall be itemized also. In no case shall a change be approved without such itemization.

No payment shall be made for any changes to the contract that are not included in a fully executed Change Order.

CONCEALED, UNKNOWN AND DIFFERING CONDITIONS

Should concealed conditions be encountered in the performance of the Work below the surface of the ground, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract Sum and Contract Time shall be equitably adjusted by Change Order upon request by either party made within twenty (20) days after the first observance of the conditions. No such request for equitable adjustment shall be valid unless the Contractor complies with this (20) days' notice and

Subparagraph C.1. below.

The Contractor shall promptly, and before such conditions are disturbed, notify the Construction Manager in writing of any claim of concealed, unknown or differing conditions pursuant to this paragraph. The Construction Manager shall authorize the Engineer to investigate the conditions, and if it is found that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment shall be recommended to the Construction Manager.

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above, prior to disturbing the condition.

No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

Any materially differing site condition as between what is shown on the Drawings and Specifications and actually found on site shall be immediately reported to the Construction Manager in writing prior to the commencement of Work at the site. Failure of the Contractor to notify the Construction Manager in writing of the differing site condition prior to performance of Work at the site shall constitute a waiver of any claim for additional monies. Any Change Order necessitated by the differing site condition shall be processed as provided under "Changes in the Contract".

REQUESTS FOR ADDITIONAL COST

If the Contractor wishes to request an increase in the Contract Sum, the Contractor shall give the Construction Manager written notice thereof within twenty (20) days after the occurrence of the event, or identification of the conditions, giving rise to such request. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with Article 00700-25 and Subparagraph A.4 above. No such request shall be valid unless so made within the twenty (20) days specified above. If the County and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the Construction Manager. Any change in the Contract Sum resulting from such claim shall be documented by Change Order.

If the Contractor claims that addition cost is involved because of, but not limited to (1) any written interpretation pursuant to General Condition 00700-17 of this Agreement, (2) any order by the County to stop the Work pursuant to Articles 00700-25 and 00700-37 of this Agreement where the Contractor was not at fault, or any such order by the Construction Manager as the County's agent, or (3) any written order for a minor change in the Work issued pursuant to Paragraph D below, the Contractor shall submit a request for an increase in the Contract Sum as provided in Subparagraph C.1 above. No such claim shall be valid unless the Contractor complies with Subparagraph C.1 above and approved by the County pursuant to Fulton County Code Section 102-420.

MINOR CHANGES IN THE WORK

The Construction Manager may order minor changes in the Work not involving an adjustment in the Contract Price, extension of the time allowed for performance of the work and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by a written Change Directive issued by the Construction Manager, and shall be binding on the County and the Contractor. The Contractor shall carry out such written orders promptly.

BONDS

If any change order results in an increase in the contract price, the contractor shall increase the penal sum of the performance and payment bonds to equal the increased price.

00700-88 DISAGREEMENT WITH ORDERS FOR CHANGE

Contractor's written acceptance of a Change Order or other order for changes shall constitute his final and binding agreement to the provisions thereof and a waiver of all claims in connection therewith, whether direct or consequential in nature. Should Contractor disagree with any order for changes, he

may submit a notice of potential claim to the Construction Manager, at such time as the order is set forth in the form of a Change Order. Disagreement with the provisions of an order for changes shall not relieve Contractor of his obligation under Article 00700-87 of this Agreement.

00700-89 NO WAIVER OF REMEDIES

Exercise by the County of any remedy is not exclusive of any other remedy available to County and shall not constitute a waiver of any such other remedies. Failure of the County to exercise any remedy, including breach of contract remedies, shall not preclude the County from exercising such remedies in similar circumstances in the future.

00700-90 LAND AND RIGHTS-OF-WAY

The owner will provide, as indicated in the Contract Documents and prior to Notice to Proceed, the lands upon which the work is to be done, right-of-way for access thereto, and such other lands which are designated for the use of the Contractor. The Contractor shall confine the Contractor's work and all associated activities to the easements and other areas designated for the Contractor's use. The Contractor shall comply with any limits on construction methods and practices which may be required by easement agreements. If, due to some unforeseen reason, the necessary easements are not obtained, the Contractor shall receive an equitable extension of contract time dependent upon the effect on the critical path of the project schedule or the County may terminate the Contract for its convenience.

00700-91 COORDINATION WITH STATE DEPARTMENT OF TRANSPORTATION

No clearing or grading shall be completed by Contractor within the State Department of Transportation (DOT) area under construction. The Contractor must coordinate his construction scheduling with DOT. If the Contractor begins work before DOT's completion date, he must obtain the approval of DOT before starting work in the area. The state DOT has the right to stop the Contractor's work the DOT area. The Contractor shall receive no additional compensation or damages resulting from delay or work stoppage from DOT actions or scheduling. Contractor shall obtain DOT drawings of the DOT, project area for verification of road geometry, storm drains, etc. from Georgia Department of Transportation or Fulton County. The Contractor is responsible for obtaining any pertinent DOT revisions.

00700-92 OWNERSHIP OF DOCUMENTS AND WORK PRODUCT

Contractor's or sub-contractor's professional work product which has been prepared solely for the purpose of this Project, including, but not limited to, the engineering, design, construction documents, drawings, technical specifications, programs, graphical user interfaces, whether in hard copy or original electronic form, shall become the property of County when Contractor has been fully compensated as set forth in the Agreement and General Conditions. Contractor may keep copies of all work products for its records. Contractor and County recognize that any work product submitted in performance of this Agreement is intended only for the Project described in this Agreement. County's alteration of Contractor's work product or its use for any other purpose shall be at County's sole risk and liability. Contractor or sub-contractors shall share above mentioned professional work products to complete all project goals.

00700-93 USE OF CONTRACT DOCUMENTS

The County recognizes that in the event the Project does not advance to the completion of subsequent phases, if any, Contractor will not have had the opportunity to complete the engineering, design, or related construction documents. Therefore, if the County uses the partially completed engineering, design, or related construction documents, in whole or in part, the County shall proceed at its own risk and not look to the Contractor for any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of such documents. Pursuant to O.C.G.A. §43-15-22, to the extent the County utilizes the unfinished documents, then as between the County and the Contractor, the Contractor shall not be liable for any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use or alteration of such

documents. However, nothing herein shall be construed to be a waiver of the sovereign immunity of the County or any immunity available to any County official, officer, employee or agent.

I N D E X

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EXHIBIT A
FINAL AFFIDAVIT

TO FULTON COUNTY, GEORGIA

I, _____, hereby certify that all suppliers of materials, equipment and service, subcontractors, mechanic, and laborers employed by _____ or any of his subcontractors in connection with the design and/or construction of _____ at Fulton County have been paid and satisfied in full as of _____, 20____, and that there are no outstanding obligations or claims of any kind for the payment of which Fulton County on the above-named project might be liable, or subject to, in any lawful proceeding at law or in equity.

Signature

Title

Personally appeared before me this _____ day of _____, 20____.
_____, who under Oath deposes and says that he is
_____ of the firm of _____, that he has read the above
statement and that to the best of his knowledge and belief same is an exact true statement.

Notary Public

My Commission expires

END OF SECTION

EXHIBIT B
SPECIAL CONDITIONS

(not applicable)

EXHIBIT C

SCOPE OF WORK

SCOPE OF WORK

The Contractor shall be responsible for furnishing all materials, labor, tools, equipment and appurtenances necessary for the progressive design build services at 8100 Holcomb Bridge Rd, Alpharetta, GA 30022. Operating under NPDES Permit GA0038831, the plant treats wastewater from residential, commercial, and industrial users in north Fulton County. The Progressive Design Build Company (PDB) shall be solely responsible for performing all contract PDB Work. No conceptual design information or technical requirements contained in the Solicitation shall relieve the PDB Company of responsibility for designing and constructing the PDB Work to meet the contract requirements nor shall the inclusion of such information or requirements provide any recourse whatsoever against, or give rise to any liability of, the County, the County Board of Commissioners, County employees or agents, or consultants, or attorneys for the County.

Owner's Objectives

The Owner's objectives for delivery of the Project are as follows:

- **Quality:** Provide treatment facilities and equipment that will be sustainable and will reliably treat the required quantities of wastewater in full compliance with federal and state regulations and contractual standards for the water quality over the range of the influent water quality conditions.
- **Cost:** Minimize lifecycle cost.
- **Schedule:** Achieve the scheduled completion dates as established in the contract for design, construction and performance testing of the Project.
- **Risk:** Achieve an optimal balance of risk allocation between the Owner and the Progressive Design Builder.
- **Safety:** Implement an effective safety program incorporating best industry practices.

By selecting the progressive design build delivery method for the Project, the Owner is committed to working in close collaboration with the Progressive Design Builder during Phase One and Two to develop the Project's design to achieve the Project objectives and to obtain a mutually agreeable GMP for delivery of the Project. As set forth in Volume II the Owner has certain technical requirements and standards that will apply to the Project's design.

Also, The PDB shall meet, but not limit to, the requirements of the Progressive Design Build Guarantees provisions in accordance with Exhibit 6 of the Solicitation.

This project will require all management, engineering, design, procurement, construction, and start-up services necessary to complete the Project while maintaining complete effluent compliance. The following is a general list of services required of the PDB Company through each phase of this project:

- **Management and Coordination of all Preconstruction and Construction Work.**
- **Internal PDB Company Coordination of all team members, subconsultants and subcontractors.**
- **Permitting activities:** The PDB Company shall be responsible to apply for, pay for, and secure all permits, inspections, and review of the Project required by all authorities having jurisdiction, prior to and during construction. The PDB Company shall contact any authority having jurisdiction for application requirements, scheduling, cost, and a checklist of minimum requirements. For regulatory approvals, the PDB Company is to

produce any required study or document, complete for approval, including responding to review comments.

- Close Coordination with the Owner, which include preparation and participating in meetings, design coordination, and resolving issues.
- Implementation of preconstruction and construction phases Quality Assurance and Quality Control Program which will include but not limited to: validation of design criteria, adequacy of drawings and specifications, and coordination across design disciplines and trades.
- Project schedule and progress reports, which will include but not limited to: project narrative and summary, budgeted values and actual costs, schedule updates, etc.
- Lead and coordinate public outreach, if necessary.

Phase 1A services generally consist of evaluations to determine the most beneficial approach to increase the plant treatment capacity to 20 mgd average monthly flow. While Phase 1A includes the evaluation of which systems need to be modified to expand the whole plant to 20 mgd max month flow, the priority of this project will be to upgrade the membrane system. The work to upgrade the membrane system is independent of the work to expand the treatment capacity of the rest of the plant. Phase 1B services will generally consist of engineering and design development, as well as preparation in close collaboration with the Owner, of a proposed price and schedule. The proposed price and schedule include the Project's design, developed to 80% completion, permitting activities, a GMP, Project schedule, and supporting documentation. Phase Two services generally encompass completing the Project's design and construction services.

Phase 1A Services:

- Conduct project development meetings
- Develop a Project execution plan and Project schedule.
- Perform investigations and analyses of existing plant and systems.
- Evaluate what updates, if any, are required to the plant's existing mass balance, hydraulic model, and BioWin model. Develop a plan for those updates.
- Prepare an evaluation, in collaboration with the owner, of membrane system options. A decision will be also be made if the membrane system will be procured by the County or the selected PDB Company.
- Evaluate other plant systems necessary to be modified or replaced
- Develop and provide analysis and recommendations, such as Technical Memorandums, for proposed systems.
- Develop an opinion of probable construction cost, including lifecycle costs, for the alternatives being evaluated.
- Identify any required regulatory approvals, such as the design development report (DDR), waste load allocation (WLA), and also resources and timeline for needed approvals. It is anticipated that a phased NPDES permit may be required, with an initial phase of 15 mgd and a second phase of 20 mgd.
- Develop a scope of work and propose a fee for Phase 1B.

Phase 1B Services:

- Update the Project execution plan and Project schedule
- Conduct design progress meetings
- Develop the engineering design and prepare and submit design progress review packages.
- Develop plans for construction and start up
- Produce detailed equipment lists.
- Prepare & submit for approval all documents required to meet local, state, regulatory, federal and any other jurisdictional requirements not completed in Phase 1A.

- Prepare detailed cost estimates, in a form acceptable to the Owner, as the design and design alternatives are advanced. These will include equipment and material costs, labor rates and hours, contingencies, bids, quotes, and other detailed pricing information.
- Submit and negotiate a GMP to complete Phase Two services.
- The primary deliverable of this phase will be an 80% design, and Guaranteed Maximum Price.

Phase Two (Phase 2) Services:

- Complete the final design.
- Procure equipment and subcontractors. All work shall be broken down into various acquisition packages and procured by obtaining multiple bids with input from the Owner on equipment and systems. Bids, quotes, and qualifications are to be shared with the County. Cost will not be the only determining factor in selection of these packages but among the factors that will be considered will be quality, performance, and expected reliability. Progressive Design Build contractor may bid on any of the packages.
- Secure permits.
- Construct the Project.
- Conduct startup, commissioning, and performance testing.
- Provide training.
- Provide warranty coverage

Key Outcome

The following provides a brief narrative of the Key outcomes of the Progressive Design Build project, specifically for Phase 1A.

- A. Selection of the membrane system and upgrades.
- B. Determine which plant systems require modifications to expand the plant to 20 MGD Max Monthly Flow. Max week, and peak flows will be confirmed during Phase 1A.
- C. Anticipated improvements to other systems to be evaluated include, but are not limited to:
 - i. Provide a dedicated plant water pump station;
 - ii. Replace the mixing systems upstream of the membrane system;
 - iii. Upgrade or replacement of the UV system;
 - iv. Electrical system in the dewatering building.
 - v. Plant SCADA system improvements.

Please review Solicitation for complete scope of work.

EXHIBIT D

PROJECT DELIVERABLE

PROJECT DELIVERABLES

THE DELIVERABLES SHALL CONSIST OF THE FOLLOWING:

Contractor shall provide the specific deliverables for this Progressive Design Build project to achieve the expansion project’s goals and objectives, to be determined throughout the various phases of the projects. The ultimate deliverable shall be an upgraded plant meeting all warranty and performance guarantees established during Phase 1B of the project.

PROJECT SCHEDULE

Anticipated timeline is subject to change

Mileston		Timeline
A.	BOC Approval & NTP for Phase 1A	2025
B.	BOC Approval & NTP for Phase 1B	A + 180 consecutive days
C.	Completion of 80% Design & GMP Submittal	B + 12 months
D.	BOC Approval & NTP for Phase 2	C + 1 month
E.	Final Completion	D + 20 months

EXHIBIT E

BID FORM/COMPENSATION

COMPENSATION

The County agrees to compensate the Contractor as follows:

County agrees to compensate Contractor for all services performed under this Agreement in an amount not to exceed \$794,000.00, (Seven Hundred Ninety-Four Thousand Dollars and No Cents), which is full payment for a complete scope of work. The detailed costs are provided on the next pages:

Cost Proposal Form



Cost Proposal

Section 1

Introduction

In Section 2, you will find completed Cost Proposal Forms and our Hourly Rate Schedule. Costs for Phase 1A assume a 5-month duration with the assumption that membrane selection would involve a thorough comparison of options and a formal solicitation process. If the County would prefer to reduce the evaluation effort and forgo the assumed procurement approach, the scope and the schedule for this phase could be reduced.

The Hourly Billing Rates offered are market competitive for the caliber of staff that we are proposing for engagement on this project. They are current rates for 2025, and we ask for consideration for a mutually agreeable yearly adjustment (CPI, National Average Wage Index, etc). We commit to delivering this project efficiently with a top-performing team, leveraging our local expertise, MBR knowledge, and historical familiarity with the facility to ensure the best value for Fulton County.

The PDB Company's fee for Phase 1B includes design and GMP development services. Our fees for this and Phase 2 Design are based on our extensive experience with similar projects, both nationally and locally. However, the design effort will depend on the scope chosen in Phase 1A and the membrane system supplier selected and how the equipment is procured. With our local team's in-depth knowledge of JCEC and Fulton County's project execution methods, we can deliver efficient and cost-effective design completion. Our design fees are fair and reasonable, aligned with the project's success expectations.

The Contractor's Fee for Phase 2 is based on nationwide and local market conditions, project-specific risks, and the County's expectations for high-quality, responsive service with a focus on safety. The fee depends on the project's scope, scale, schedule, and whether Fulton County purchases the Membranes directly. It includes profit and general administrative costs (G&A), covering support costs not directly related to project expenses such as executive compensation, accounting, finance, HR, corporate safety, IT, legal, risk management, payroll, accounts payable, and tax departments.

We consider the following to be Project Costs, and not included in Contractor's Fee:

- Wages, burden, benefits of project staff at site
- Wages, burden, and benefits of design, estimating, supervisory and administration on or off site
- Direct Cost of Work, including labor, materials, and equipment, etc.
- Site office rent, utilities, fuel, and supplies
- Small tools and safety supplies
- Payment and Performance Bonds
- Sales and use tax
- Insurances, including General Liability, Builders Risk, Workers Compensation, etc.
- Contingency for correcting defective, damaged, or nonconforming work
- Permits, royalties, licenses, tests and inspections
- Project-specific dispute resolution
- Materials transportation, testing, storage and handling
- Debris and waste removal
- Allowances and contingencies

Section 2

Completed Cost Proposal Forms

Phase 1A lump sum fee (base scope of services): \$794,000

	<\$15M	<\$15-20M	>\$20M
Phase 1B Progressive Design Build Company Fee as a Percentage of Opinion of Probable Construction Cost	7.8%	7.7%	7.6%
Phase 2 Final Design Fee as a Percentage of GMP	1.5%	1.5%	1.5%
Phase 2 Contractors Fee Including General and Administrative Costs and Profit, as a Percentage of GMP	12.5%	12.0%	11.0%

Staff Category	Hourly Rate (\$/Hour)
Engineering Intern	\$46.67
Biller	\$77.78
Project Assistant	\$103.70
Designer 1	\$103.70
Field Inspector	\$114.07
Designer 2	\$124.44
Engineer 2	\$134.41
Designer 3	\$134.81
Staff Engineer	\$160.74
O&M Specialist	\$160.74
Assistant Project Manager	\$185.74
Estimator	\$185.74
Preconstruction Manager	\$185.74
Designer 4	\$197.03
Principal Engineer	\$207.40
Construction Manager	\$210.70
Superintendent	\$210.70
Supervising Engineer	\$228.14
Senior O&M Specialist	\$290.36
Managing Engineer	\$290.36
Project Manager	\$305.92

EXHIBIT F
BONDS
(BID, PAYMENT & PERFORMANCE)

BID BOND

**STATE OF GEORGIA
COUNTY OF FULTON**

KNOW ALL MEN BY THESE PRESENTS, THAT WE _____

Ruby-Collins/Brown and Caldwell Joint Venture, 990 Hammond Drive, Suite 500, Atlanta, GA 30328

hereinafter called the PRINCIPAL, and _____

United States Fire Insurance Company, 305 Madison Avenue, Morristown, NJ 07960

hereinafter call the SURETY, a corporation chartered and existing under the laws of the State of Delaware and duly authorized to transact Surety business in the State of Georgia, are held and firmly bound unto the Fulton County Government (COUNTY), in the penal sum of Five Percent of Amount Bid Dollars and Cents (\$ 5%

_____) good and lawful money of the United States of America, to be paid upon demand of the COUNTY, to which payment well and truly to be made we bind ourselves, our heirs, executors, and administrators and assigns, jointly and severally and firmly by these presents.

WHEREAS the PRINCIPAL has submitted to the COUNTY, for RFP# 24RFP0808K-DB, Johns Creek Environmental Campus Membrane System Replacement, A Bid;

WHEREAS the PRINCIPAL desires to file this Bond in accordance with law:

NOW THEREFORE: The conditions of this obligation are such that if the Bid be accepted, the PRINCIPAL shall within ten (10) calendar days after receipt of written notification from the COUNTY of the award of the Contract execute the Contract in accordance with the Bid and upon the terms, conditions and prices set forth therein, in the form and manner required by the COUNTY, and execute sufficient and satisfactory Performance and Payments Bonds payable to the COUNTY, each in the amount of one hundred percent (100%) of the total contract price, in form and with security satisfactory to said COUNTY, then this obligation to be void; otherwise, to be and remain in full force and virtue in law; and the SURETY shall upon failure of the PRINCIPAL to comply with any or all of the foregoing requirements within the time specified above immediately pay to the COUNTY, upon demand the amount hereof in good and lawful money of the United States of America, not as a penalty, but as liquidated damages.

In the event suit is brought upon this Bond by the COUNTY and judgment is recovered, the SURETY shall pay all costs incurred by the COUNTY in such suit, including attorney's fees to be fixed by the Court.

Enclosed is a Bid Bond in the approved form, in the amount of Five Percent of Amount Bid

 Dollars

(\$ 5%) being in the amount of five percent (5%) of the Contract Sum. The money payable on this bond shall be paid to the COUNTY, for the failure of the Bidder to execute a Contract within ten (10) days after receipt of the Contract and at the same time furnish a Payment Bond and Performance Bond.

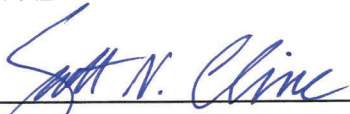
(SIGNATURES ON NEXT PAGE)

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be duly signed and sealed this 15 day of January, 2025

ATTEST:

Ruby-Collins/Brown and Caldwell Joint Venture

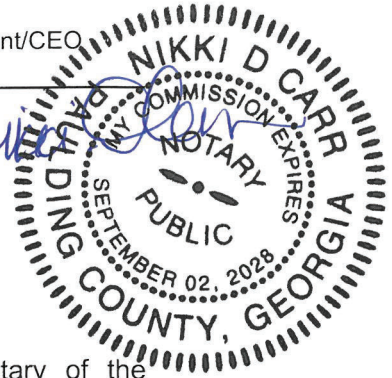
PRINCIPAL



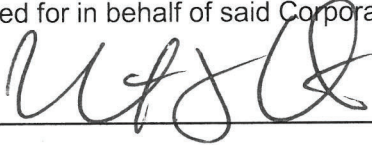
Scott N. Cline, President/CEO
BY of Majority Partner



CERTIFICATE AS TO CORPORATE PRINCIPAL



I, Robert L. Cates, certify that I am the Secretary of the Corporation named as principal in the within bond; that Scott N. Cline, who signed the said bond of said corporation; that I know this signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed and attested for in behalf of said Corporation by authority of its governing body.

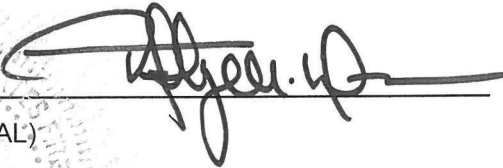


SECRETARY and CFO of Majority Partner

(CORPORATE SEAL)

United States Fire Insurance Company

SURETY



BY Jeffrey M. Wilson, Attorney-in-Fact

END OF SECTION

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

50915

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Jeffrey M. Wilson, Richard H. Mitchell, William M. Smith, Robert R. Freel, Anna K. Childress, Mark W. Edwards, II, Alisa B. Ferris,
Robert Read Davis, R.E. Daniels, Shelby E. Daniels. Joshua T. Jones

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties: **Unlimited**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 17th day of May, 2024.

UNITED STATES FIRE INSURANCE COMPANY



Matthew E. Lubin, President

State of New Jersey }
County of Morris }

On this 17th day of May, 2024, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.



Melissa H. D'Alessio (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 15 day of January 20 25

UNITED STATES FIRE INSURANCE COMPANY



Michael C. Fay, Senior Vice President



STATE OF GEORGIA
OFFICE OF INSURANCE AND SAFETY FIRE COMMISSIONER
CERTIFICATE OF AUTHORITY

WHEREAS, **UNITED STATES FIRE INSURANCE COMPANY**, ORGANIZED UNDER THE LAWS AND REGULATIONS OF THE STATE OF DELAWARE (DE), HAVING COMPLIED WITH THE REQUIREMENTS OF THE LAWS AND REGULATIONS OF THIS STATE AS ARE APPLICABLE TO SUCH ORGANIZATION, IT IS HEREBY LICENSED TO TRANSACT THE BUSINESS OF INSURANCE IN THE STATE OF GEORGIA ACCORDING TO THE LAWS THEREOF, WITH RESPECT TO THE FOLLOWING CLASSES AND/OR LINES OF INSURANCE:

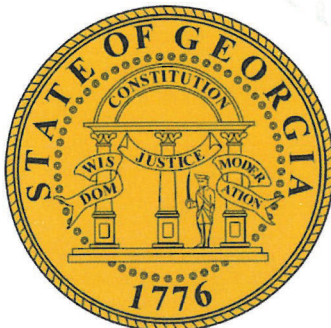
CASUALTY (INCLUDING WORKERS COMPENSATION); MARINE AND TRANSPORTATION; PROPERTY; SURETY

NOTHING CONTAINED IN THIS LICENSE AUTHORIZES THE LICENSEE TO ENGAGE IN OR WRITE ANY CLASSES OR KINDS OF INSURANCE IN THIS STATE FOR WHICH THE LICENSEE IS NOT AUTHORIZED IN ITS STATE OF DOMICILE.

PURSUANT TO O.C.G.A. SECTION 33-3-16(a), THIS CERTIFICATE OF AUTHORITY IS EFFECTIVE AT **12:00 AM JULY 1, 2024**, AND EXPIRES AT **11:59 P.M. ON JUNE 30, 2025**, UNLESS SUSPENDED OR REVOKED IN THE MANNER PROVIDED BY LAW.

GIVEN UNDER MY HAND AND SEAL OF OFFICE
THIS DAY, JUNE 20, 2024

JOHN F. KING
COMMISSIONER OF INSURANCE



A handwritten signature in black ink, appearing to read "John F. King".

LICENSE NUMBER: 20001531
NAIC NUMBER: 21113

PAYMENT BOND

"County:" means Fulton County Government; a political subdivision of the State of Georgia (hereinafter called the "Owner").

"Project:" means #24RFP0808K-DB; The Progressive Design/Build for Johns Creek Environmental Campus Membrane System Replacement

<p>"Principal:" (Legal Name and Business Address), (hereinafter called the</p>	<p>[Insert Name of Contractor "Principal"] <u>Ruby-Collins/Brown & Caldwell Joint Venture</u> 900 Hammond Drive, Suite 500 <u>Atlanta, GA 30328</u></p>
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Type of Organization ("X" one):

	Individual
	Partnership
X	Joint Venture
	Corporation

<p>"Surety:" (Name and Business Address)</p>	<p><u>United States Fire Insurance Company & Liberty Mutual Insurance Company</u> 305 Madison Avenue, Morristown, NJ 07960 175 Berkeley Street, Boston, MA 02116 <u>duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.</u></p>
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"Contract:" Agreement between Principal and Owner, dated 17th day of April, 2025, regarding performance of Work relative to the Project.

Seven hundred ninety-four thousand dollars & 00/100

"Penal Sum:" [100% of contract amount] (\$794,000.00)

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the Owner in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal and the Owner entered into a certain written Contract identified above, which is incorporated herein by reference in its entirety (hereinafter called the "Contract"), for construction-type services for the Project identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall promptly make payment of all persons working on or supplying labor or materials or equipment for the performance of said work, this obligation shall be void; otherwise of full force and effect.

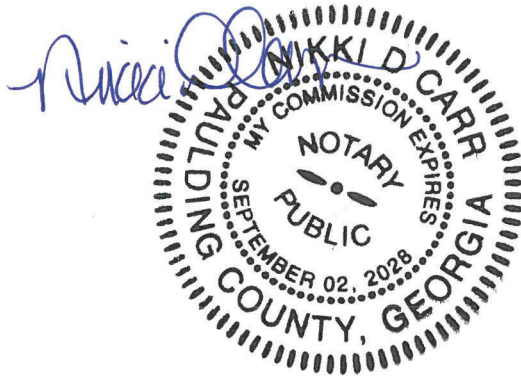
1. A "Claimant" shall be defined herein as any subcontractor, person, party, partnership, corporation or the entity furnishing labor, services or materials used, or reasonably required for use, in the performance of the Contract,

without regard to whether such labor, services or materials were sold, leased or rented, and without regard to whether such Claimant is or is not in privity of contract with the Principal or any subcontractor performing work on the Project, including, but not limited to, the following labor, services, or materials: water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. In the event a Claimant files a lien against the property of the Owner, and the Principal fails or refuses to satisfy or remove it promptly, the Surety shall satisfy or remove the lien promptly upon written notice from the Owner, either by bond or as otherwise provided in the Contract.
3. The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in the payment terms, and any other amendments in or about the Contract and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and amendments.
4. The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment or modifications to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full payment of any Claimant under the Contract, as amended or modified, provided only that the Surety shall not be liable for more than the penal sum of the Bond, as specified in the first paragraph hereof.
5. This Bond is made for the use and benefit of all persons, firms, and corporations who or which may furnish any materials or perform any labor for or on account of the construction-type services to be performed or supplied under the Contract, and any amendments thereto, and they and each of them may sue hereon.
6. No action may be maintained on this Bond after one (1) year from the date the last services, labor, or materials were provided under the Contract by the Claimant prosecuting said action.
7. This Bond is intended to comply with O.C.G.A. Section 13-10-1, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the Owner beyond that contemplated by O.C.G.A. Section 13-10-1 and 36-91-1, *et seq.*, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF, the Principal and Surety have hereunto affixed their corporate seals and caused this obligations to be signed by their duly authorized representatives this 17th day of April, 2025.

PRINCIPAL: Ruby-Collins/Brown & Caldwell Joint Venture



[Signature]
President/Vice President (Sign)

Scott N. Cline, President/CEO of Managing JV Member
President/Vice President (Type or Print)

Attested to by:

[Signature]
Secretary/Assistant Secretary (Seal)
Robert L. Cates, Corporate Secretary/CFO
of Managing JV Member

SURETY: United States Fire Insurance Company & Liberty Mutual Insurance Company

By: [Signature]
Attorney-in-Fact (Sign)

Jeffrey M. Wilson, Attorney-in-Fact
Attorney-in-Fact (Type or Print)

[Signature]
Secretary/Assistant Secretary (Seal) Lane Ward

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

50915

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Jeffrey M. Wilson, Richard H. Mitchell, William M. Smith, Robert R. Freel, Anna K. Childress, Mark W. Edwards, II, Alisa B. Ferris,
Robert Read Davis, R.E. Daniels, Shelby E. Daniels. Joshua T. Jones

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties: **Unlimited**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 24th day of March, 2025.

UNITED STATES FIRE INSURANCE COMPANY



Matthew E. Lubin
Matthew E. Lubin, President

State of New Jersey }
County of Morris }

On this 24th day of March, 2025, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.



Ethan Schwartz
Ethan Schwartz (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the _____ day of _____, 2025.

UNITED STATES FIRE INSURANCE COMPANY



Michael C. Fay
Michael C. Fay, Senior Vice President



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8205020-016032**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Alisa B. Ferris; Anna Childress; Jeffrey M. Wilson; Mark W. Edwards II; Richard H. Mitchell; Robert R. Freel; Sam Audia; William M. Smith

all of the city of Birmingham state of AL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 11th day of March, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 11th day of March, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this _____ day of _____, _____.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

PERFORMANCE BOND

"County:" means Fulton County Government; a political subdivision of the State of Georgia (hereinafter called the "Owner").

"Project:" means #24RFP0808K-DB; The Progressive Design/Build for Johns Creek Environmental Campus Membrane System Replacement

"Principal:" (Legal Name and Business Address), [Insert Name of Contractor
(hereinafter called the

"Principal"]

Ruby-Collins/Brown & Caldwell Joint Venture
900 Hammond Drive, Suite 500
Atlanta, GA 30328

Type of Organization ("X" one):
 _____ Individual
 _____ Partnership
 X Joint Venture
 _____ Corporation

"Surety:" (Name and Business Address)

United States Fire Insurance Company &
Liberty Mutual Insurance Company
305 Madison Avenue, Morristown, NJ 07960
175 Berkeley Street, Boston, MA 02116
duly authorized by the Commissioner
of Insurance of the State of Georgia to
transact surety business in the State
of Georgia.

"Contract:" Agreement between Principal and Owner, dated 17th day of April, 2025, regarding performance of Work relative to the Project.

Seven hundred ninety-four thousand dollars & 00/100

"Penal Sum:" [100% of contract amount] (\$794,000.00).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the Owner in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our executors, administrators, successors and assigns, jointly and severally.

WHEREAS, the Principal and the Owner entered into a certain written Contract identified above, which is incorporated herein by reference in its entirety (hereinafter called the "Contract"), for construction-type services for the Project identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Contract, including any and all duly authorized modifications of such Contract, within the original term of such Contract and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or

guarantee may extend for a period of time of one year beyond completion of said Contract, this obligation shall be void; otherwise, of full force and effect.

Whenever the Principal shall be, and declared by the Owner to be, in default under the Construction-Type Contract, the Surety shall promptly remedy the default as follows:

1. Complete the Contract in accordance with its terms and conditions; or, at the sole option of the Owner,
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the Surety and the Owner of the lowest responsible bidder, arrange for a contract between such bidder and Owner and make available as the work progresses (even though there should be a default or succession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the penal sum set forth in the first paragraph hereof, as may be adjusted, and the Surety shall make available and pay to the Owner the funds required by this Paragraph prior to the payment of the Owner of the balance of the contract price, or any portion thereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the Owner to the Contractor under the Contract, and any amendments thereto, less the amount paid by the Owner to the Contractor; or, at the sole option of the Owner,
3. Allow Owner to complete the work and reimburse the Owner for all reasonable costs incurred in completing the work.

In addition to performing as required in the above paragraphs, the Surety shall indemnify and hold harmless the Owner from any and all losses, liability and damages, claims, judgments, liens, costs and fees of every description, including reasonable attorney's fees, litigation costs and expert witness fees, which the Owner may incur, sustain or suffer by reason of the failure or default on the part of the Principal in the performance of any or all of the terms, provisions, and requirements of the Contract, including any and all amendments and modifications thereto, or incurred by the Owner in making good any such failure of performance on the part of the Principal.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Owner to the Surety.

The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Contract, and agrees that the obligations undertaken by this Bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alterations, extensions of time, change in payment terms, and amendments.

The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment to the Contract, so as to bind the Principal and the Surety to the full and faithful performance of

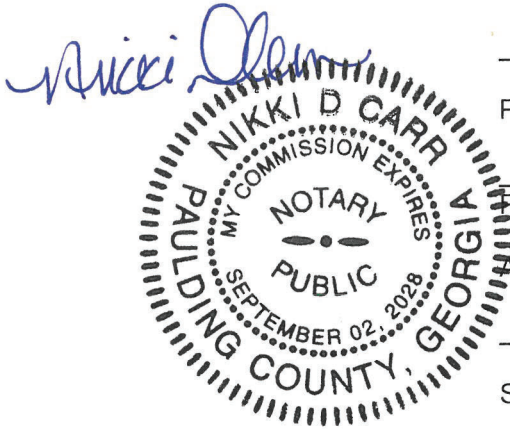
the Contract as so amended or modified, and so as to increase the penal sum to the adjusted Contract Price of the Contract.

No right of action shall accrue on this Bond to or for the use of any person, entity or corporation other than the Owner and any other obligee named herein, or their executors, administrators, successors or assigns.

This Bond is intended to comply with O.C.G.A. Section 36-91-1 et seq., and shall be interpreted so; as to comply with; the minimum requirements thereof. However, in the event the express language of this Bond extends protection to; the Owner beyond that contemplated by O.C.G.A. Section 36-91-1 et seq. and O.C.G.A. Section 13-10-1, as amended, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the Owner, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this 17th day of April, 2025.

PRINCIPAL: Ruby-Collins/Brown & Caldwell Joint Venture



[Signature]
President/Vice President (Sign)

Scott N. Cline, President/CEO of Managing JV Member
President/Vice President (Type or Print)

Attested to by:

[Signature]
Secretary/~~Assistant Secretary~~ (Seal)
Robert L. Cates, Corporate Secretary/CFO
of Managing JV Member

SURETY: United States Fire Insurance Company & Liberty Mutual Insurance Company

By: [Signature]
Attorney-in-Fact (Sign)

Jeffrey M. Wilson, Attorney-in-Fact
Attorney-in-Fact (Type or Print)

END OF SECTION

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

50915

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

Jeffrey M. Wilson, Richard H. Mitchell, William M. Smith, Robert R. Freel, Anna K. Childress, Mark W. Edwards, II, Alisa B. Ferris,
Robert Read Davis, R.E. Daniels, Shelby E. Daniels. Joshua T. Jones

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties: **Unlimited**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 24th day of March, 2025.

UNITED STATES FIRE INSURANCE COMPANY



Matthew E. Lubin, President

State of New Jersey }
County of Morris }

On this 24th day of March, 2025, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.



Ethan Schwartz

Ethan Schwartz (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the _____ day of _____, 20____

UNITED STATES FIRE INSURANCE COMPANY



Michael C. Fay

Michael C. Fay, Senior Vice President



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8205020-016032**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Alisa B. Ferris; Anna Childress; Jeffrey M. Wilson; Mark W. Edwards II; Richard H. Mitchell; Robert R. Freel; Sam Audia; William M. Smith

all of the city of Birmingham state of AL each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 11th day of March, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 11th day of March, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this _____ day of _____, 2021.



By: Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary