

OWNER - CONTRACTOR AGREEMENT

Contract #R200401

Contractor: Daikin Applied Americas, Inc. Project No. R200401
1765 W. Oak Pkwy # 500
Address: Marietta, GA, Georgia 30062 Telephone: 770-514-5880
Contact: Joseph Williams Email: joseph.williams@adaikinapplied.com

THIS AGREEMENT is effective as of the 8 day of April, by and between Fulton County, a political subdivision of the State of Georgia (hereinafter called the "County"), and the above named CONTRACTOR in accordance with all provisions of this Construction Agreement ("Contract"), which consists of the following: Owner-Contractor Agreement, Owner's invitation for bid, instructions to bidders, bid form, performance bond, payment bond, acknowledgments, general conditions, special conditions, scope of work and specifications, plans, drawings, exhibits, addenda, Purchasing forms, Office of Contract Compliance Forms, Risk Management insurance provisions forms and written change orders.

The specific Exhibits of this Contract are as follows:

- Exhibit A: Master Agreement
- Exhibit B: General Conditions
- Exhibit C: Compensation
- Exhibit D: Scope of Work
- Exhibit E: Insurance Certificate
- Exhibit F: Purchasing Forms

WITNESSETH: That the said Contractor has agreed, and by these present does agree with the said County, for and in consideration of a Contract Price of One Million Two Hundred Forty-Two Thousand, Three Hundred-Forty Seven Dollars and Eighty Three Cents, (**\$242,347.83**) and other good and valuable consideration, and under the penalty expressed on Bonds hereto attached, to furnish all equipment, tools, materials, skill, and labor of every description necessary to carry out and complete in good, firm, and workmanlike manner, the Work specified, in strict conformity with the Drawings and the Specifications hereinafter set forth, which Drawings and Specifications together with the bid submittals made by the Contractor, General Conditions, Special Provisions, Detailed Specifications, Exhibits, and this Construction Agreement, shall all form essential parts of this Contract. The Work covered by this Contract includes all Work indicated on Plans and Specifications and listed in the Bid entitled:

Project Number: R200401

Cooperative Purchasing

The Contractor, providing services as an Independent Contractor, shall commence the Work with adequate force and equipment within 10 days from receipt of Notice to Proceed ("NTP") from the County, and shall complete the work within **10 months or completion of the installation/replacement as determined by Fulton County** from the Notice to Proceed or the date work begins, whichever comes first.. The Contractor shall remain responsible for performing, in accordance with the terms of the Contract, all work assigned prior to the expiration of the said calendar days allowed for completion of the work even if the work is not completed until after the

expiration of such days. The Contractor shall agree that in the performance of this Contract he will comply with all lawful agreements, if any, which the contractor has made with any association, union or other entity, with respect to wages, salaries and working conditions, so as to cause inconvenience, picketing or work stoppage.

As full compensation for the faithful performance of this Contract, the County shall pay the Contractor in accordance with the General Conditions and the prices stipulated in the Bid, hereto attached.

It is further mutually agreed between the parties hereto that if, at any time after the execution of this Agreement and the Surety Bonds hereto attached for its faithful performance, the County shall deem the surety or sureties upon such bonds to be unsatisfactory, or, if, for any reason, such bonds cease to be adequate to cover the performance of the Work, the Contractor shall, at his expense, within five days after receipt of notice from the County so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to the County. In such event no further payment to the Contractor shall be deemed to be due under this Agreement until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the County.

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. **[See General Conditions for similar provision]**

This Contract constitutes the full agreement between the parties, and the Contractor shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm or corporation without the previous consent of the County in writing. Subject to applicable provisions of law, this Contract shall be in full force and effect as a Contract, from the date on which a fully executed and approved counterpart hereof is delivered to the Contractor and shall remain and continue in full force and effect until after the expiration of any guarantee period and the Contractor and his sureties are finally released by the County.

This agreement was approved by the Fulton County Board of Commissioner on Wednesday, November 1, 2023; Item # 23-0771

[SIGNATURES NEXT PAGE]

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

DocuSigned by:

Robert L. Pitts

Robert L. Pitts, Chairman
Fulton County Board of Commissioners

CONTRACTOR:

DAIKIN APPLIED AMERICAS, INC

DocuSigned by:

Joseph L. Williams

Joseph L. Williams
District Sales Manager

ATTEST:

DocuSigned by:

Tonya R. Grier

Tonya R. Grier
Clerk to the Commission

(Affix County Seal)



APPROVED AS TO FORM:

DocuSigned by:

Patrick O'Connor

Office of the County Attorney

APPROVED AS TO CONTENT:

DocuSigned by:

Joseph Davis

Joseph Davis, Director
Real Estate and Asset Management

ATTEST:

Secretary/
Assistant Secretary

(Affix Corporate Seal)

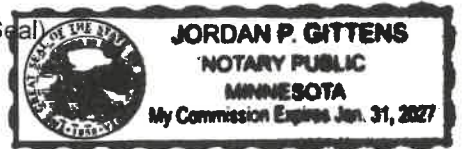
ATTEST:

Notary Public

County: Hennepin

Commission Expires: 01-31-2027

(Affix Notary Seal)



ITEM#: _____	RCS: _____	ITEM#: 23-0771	RM: 11/1/2023
RECESS MEETING		REGULAR MEETING	

END OF SECTION

EXHIBIT A
MASTER AGREEMENT



May 1, 2023

Mr. Michael Schwartz
duane.rothstein@daikinapplied.com
Chief Executive Officer
Daikin Applied Americas Inc.
13600 Industrial Park Boulevard
Minneapolis, MN 55441

Re: Renewal Award of Contract #R200401

Dear Mr. Schwartz:

Per official action taken by the Board of Directors of Region 4 Education Service Center on April 25, 2023, Region 4 ESC is pleased to announce that Daikin Applied Americas Inc. has been awarded an annual contract renewal for the following, based on the sealed proposal submitted to Region 4 on July 14, 2020, and subsequent performance thereafter:

Contract

HVAC Equipment, Installation, Services & Related Products

The contract will expire on September 30, 2024, completing the fourth year of a five-year term contract. The contract is available through OMNIA Partners, Public Sector. Your designated OMNIA Partners, Public Sector contact is Fred Flores, at (713) 554-0494 or fred.flores@omniapartners.com.

The partnership between Daikin Applied Americas Inc., Region 4 and OMNIA Partners, Public Sector can be of great help to participating agencies. Please provide copies of this letter to your sales representative(s) to assist in their daily course of business.

Sincerely,

DocuSigned by:

30EE15BFEF1C4C6...
Robert Zingelmann

Chief Financial Officer, Finance and Operations Services

Region 4 Education Service Center (ESC)

Contract #R200401

for

HVAC Equipment, Installation, Services & Related
Products

with

Daikin Applied Americas Inc.

Effective: October 1, 2020

The following documents comprise the executed contract between the Region 4 Education Service Center and Daikin Applied Americas Inc., effective October 1, 2020:

- I. Vendor Contract and Signature Form
- II. Supplier's Response to the RFP, incorporated by reference

APPENDIX A

CONTRACT

This Contract ("Contract") is made as of _____, 2020 by and between Daikin Applied Americas, Inc. ("Contractor") and Region 4 Education Service Center ("Region 4 ESC") for the purchase of HVAC Equipment, Installation, Service & Related Products ("the products and services").

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals Number R #20-04 for HVAC Equipment, Installation, Service & Related Products ("RFP"), to which Contractor provided a response ("Proposal"); and

WHEREAS, Region 4 ESC selected Contractor's Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies") may purchase products and services at prices indicated in the Contract upon the Public Agency's registration with OMNIA Partners.

- 1) Term of agreement. The term of the Contract is for a period of three (3) years unless terminated, canceled or extended as otherwise provided herein. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC's intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days' (365) notice to Region 4 ESC. Notwithstanding the expiration of the initial term or any subsequent term or all renewal options, Region 4 ESC and Contractor may mutually agree to extend the term of this Agreement. Contractor acknowledges and understands Region 4 ESC is under no obligation whatsoever to extend the term of this Agreement.
- 2) Scope: Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.

- 3) Form of Contract. The form of Contract shall be the RFP, the Offeror's proposal and Best and Final Offer(s).
- 4) Order of Precedence. In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:
 - i. This Contract
 - ii. Offeror's Best and Final Offer
 - iii. Offeror's proposal
 - iv. RFP and any addenda
- 5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.
- 6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.
- 7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.).
- 8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor.
- 9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.
- 10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.
- 11) TERMINATION OF CONTRACT
 - a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region 4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following:
 - i. Providing material that does not meet the specifications of the Contract;
 - ii. Providing work or material was not awarded under the Contract;
 - iii. Failing to adequately perform the services set forth in the Scope of Work and specifications;

- iv. Failing to complete required work or furnish required materials within a reasonable amount of time;
- v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
- vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have a reasonable period of time to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph and upon payment for work and materials already performed or furnished, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC. Reference to "specifications" herein shall be construed to mean "approved submittals" relating to equipment furnished by Contractor.

- b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor for Region 4 ESC will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.
- c) Delivery/Service Failures. Failure to deliver goods or services within a mutual agreed timeframe or failure to make repairs, replacements or corrections in accordance with the applicable warranty (as defined below) shall constitute grounds for the Contract to be terminated, subject to the provisions set forth in Section 11(a) providing for notice to Contractor and Contractor's reasonable opportunity to cure any alleged unmet performance obligation.
- d) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other

party receives the notice of cancellation. Any purchase order, service order or agreement to procure goods and services already accepted by Contractor prior to such termination shall continue through its fulfillment and payment, notwithstanding any termination of this Contract.

- 12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.
- 13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.
- 14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. First Destination and shall be included in all pricing offered unless otherwise clearly stated in writing or as otherwise indicated by Contractor or the applicable manufacturer.
- 15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC provided that before such return Region 4 ESC and contractor have mutually agreed on a timeframe within which contractor may cure the alleged defect or incorrect delivery and allow the contractor to effect such cure. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material.
- 16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice but in no event later than sixty (60) days from invoice date.
- 17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

CONTRACT

- 18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC. Notwithstanding the foregoing, Region 4 ESC's audit rights shall apply only to orders placed under the Contract. In no event will Contractor's liability for the cost of any audit exceed \$10,000.00.
- 19) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.
- 20) New Products/Services. New products and/or services that meet the Scope of Work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.
- 21) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.
- 22) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing. Contractor will provide the manufacturer's Limited Product Warranty as the exclusive warranty furnished for equipment, goods or materials furnished pursuant to the Contract. Services performed by Contractor (or its subcontractors) are guaranteed to meet industry standards for a period of one (1) year from completion of such services. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE WHICH ARE HEREBY SPECIFICALLY DISCLAIMED.
- 23) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.
- 24) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the

cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

- 25) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.
- 26) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law and standard practices to protect workers, general public and existing structures from injury or damage.
- 27) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.
- 28) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.
- 29) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract, provided, however, that any purchase order or agreement for the sales of materials, equipment or services accepted by contractor prior to such termination shall not be terminated or cancelled but instead negotiated to continue through their completion and payment with the public agencies.
- 30) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from bodily injury or damage to tangible property to the extent resulting from the negligent actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation

involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas.

- 31) Marketing. Upon prior written request to and written approval by Contractor, Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC. Any such permission for use provided by Contractor shall terminate upon notice by Contractor or termination of this Agreement.
- 32) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.
- 33) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.
- 34) LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED WITHIN THE CONTRACT, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, CONSEQUENTIAL, DELAY OR LIQUIDATED DAMAGES FOR ANY REASON WHETHER OR NOT FORESEEABLE, NOR SHALL EITHER PARTY SEEK OR APPLY FOR SUCH DAMAGES. "CONSEQUENTIAL DAMAGE" INCLUDES, WITHOUT LIMITATION, LOSS OF ANTICIPATED PROFITS; BUSINESS INTERRUPTION; LOSS OF USE, REVENUE, AND REPUTATION OR DATA. IN NO EVENT WILL EITHER PARTY'S LIABILITY HEREUNDER, WHETHER IN LAW, EQUITY, CONTRACT, INFRINGEMENT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EXCEED THE PRICE PAID OR PAYABLE FOR THE EQUIPMENT, GOODS OR SERVICES GIVING RISE TO THE CLAIM

OFFER AND CONTRACT SIGNATURE FORM

The undersigned hereby offers and, if awarded, agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing.

Company Name Daikin Applied Americas, Inc.

Address 13600 Industrial Park Boulevard

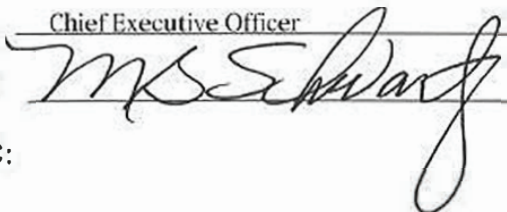
City/State/Zip Minneapolis, Minnesota 55441

Telephone No. 763 553 3550

Email Address duane.rothstein@daikinapplied.com

Printed Name Michael Schwartz

Title Chief Executive Officer

Authorized signature 

Accepted by Region 4 ESC:

Contract No. R200401

Initial Contract Term October 1, 2020 to September 30, 2023


Region 4 ESC Authorized Board Member

8/25/2020
Date

Margaret S. Bass
Print Name


Region 4 ESC Authorized Board Member

8/25/2020
Date

Linda Tinnerman
Print Name

EXHIBIT B
GENERAL CONDITIONS

SECTION 8 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.

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.

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.

Change Order - an alteration, addition, or deduction from the original scope of work as defined by the contract documents to address changes or unforeseen conditions necessary for project completion. A written order to the Contractor issued by the County pursuant to Fulton County Code Section 102-420 for changes in the work within the general scope of the contract documents, adjustment of the contract price, extension of the contract time, or reservation of determination of a time extension.

Construction Manager - shall mean the individual designated in writing, by the Real Estate and Asset Management Department as the Construction Manager.

Contractor - shall mean the party of the second part to the Contract Agreement or the authorized and legal representative of such party.

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.

Contract Price - The sum specified in the Agreement to be paid to the Contractor in consideration of the Work.

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.

Owner or County - shall mean Fulton County Government, party of the first part to the Contract Agreement, or its authorized and legal representatives.

Day - A calendar day of twenty-four hours lasting from midnight of one day to midnight the next day.

Director - Director of the Real Estate and Asset Management Department of Fulton County, Georgia or the designee thereof.

Final Completion - shall mean the completion of all work as required in accordance with the terms and conditions of the contract documents.

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.

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.

Products - shall mean materials or equipment permanently incorporated into the work.

Project Manual - The Contract Documents.

Provide - shall mean to furnish and install.

Substantial Completion - The date certified by the Construction Manager 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.

Work or Project - 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.

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 materialmen. 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 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. 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 Real Estate and Asset Management 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

A. 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

B. 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.

C. 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:

1. 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.
2. 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.

D. PROTECTION OF THE WORK

1. 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.
2. 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.

E. 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.

F. 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.

G. 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.

H. **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:
 - a. 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
 - b. 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 Construction Manager issues a written order requiring the Contractor to suspend, delay or interrupt all or any part of the work and 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 may 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 Contractor shall notify the Construction Manager in writing of one person 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 Contractor shall not remove its representative without first designating in writing a new representative. The Contractor's representative shall normally be present at or about the site of work while the work is in progress. When neither the Contractor nor its representative is present at the work site, the superintendent, foreman, or other of the Contractor' employee in charge of the work shall be an authorized representative of the Contractor.

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 five (5) percent of the estimated value of the work performed. At the substantial completion of the work or as otherwise provided in the contract documents, if the County's authorized contract representative determines that the work is reasonably satisfactory, the County will pay the retainage to the contractor within thirty (30) days of being invoiced and after any other documentation required by the contract documents is provided. If there are any remaining incomplete items at that time, an amount equal to two hundred (200) percent of the value of each item shall be withheld until such items are completed. The retainage of each subcontractor may be released separately as the subcontractor completes his or her work, at the discretion of the owner and with the approval of the contractor.

00700-75 PAYMENT OF SUBCONTRACTORS

The contractor shall, within ten days from the contractor's receipt of retainage from the owner, pass through payments to subcontractors and shall reduce each subcontractor's retainage by the same percentage amount as the contractor's retainage is reduced by the owner; provided, however, that the work of the subcontractor is proceeding satisfactorily and the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his or her work, including any warranty work as the contractor in his or her reasonable discretion may require, including, but not limited to, a payment and performance bond.

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:

- a. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work have been paid other otherwise satisfied;
- b. The surety's consent to final payment; and
- c. 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

A. CHANGE ORDERS

1. 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.
2. 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.
3. 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:
 - a. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
 - b. By unit prices stated in the Contract Documents or subsequently agreed upon;
 - c. By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
 - d. By the method provided in Subparagraph A4 below.
4. 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.
- a. 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.
 - b. 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.
5. In Subparagraphs 3 and 4 above, the items included in "Cost and Overhead" shall be based on the following schedule:
- a. 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.
 - b. 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.

- c. 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.
 6. 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:
 - a. For the Contractor, for any work performed by the Contractor's own forces, ten (10) percent of the cost.
 - b. For the Contractor, for any work performed by a Contractor's subcontractor, five (5) percent of the amount due the subcontractor.
 - c. 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.
 - d. For each subcontractor, for work performed by a sub-subcontractor, five (5) percent of the amount due to the sub-subcontractor.
 - e. Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 5 above unless modified otherwise.
 7. 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.
 8. No payment shall be made for any changes to the contract that are not included in a fully executed Change Order.
- B. CONCEALED, UNKNOWN AND DIFFERING CONDITIONS
 1. 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.

2. 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.
3. 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.
4. No claim by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.
5. 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".

C. REQUESTS FOR ADDITIONAL COST

1. 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.
2. 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.

D. 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.

E. 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.

R200401
Cooperative Purchasing

Section
General Conditions

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.

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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 C
COMPENSATION

The compensation for Auburn Senior Center, Adamsville Health Center and Neighborhood Union Health Center is Two Hundred Forty-Two Thousand, Three Hundred Forty-Seven Dollars and Eighty-Three Cents (\$242,347.83)

EXHIBIT D
SCOPE OF WORK

PROJECT QUOTE



Fulton County - Adamsville Health Center (2) Mini Split Installation

Fulton County Health Center
3700 Martin Luther King Jr Dr SW
Atlanta, GA 30331

Quote #: Q-14734

Prepared for:

Carlos Sutton
HVAC Trades Manager
FULTON COUNTY GENERAL SERVICE DEPT
Quote Document Date: 07/05/23

Prepared by:

Omar Singh
Account Executive
Phone: (770) 514-5880 Mobile: (678) 858-3635
E-mail: omar.singh@daikinapplied.com
Daikin Applied Americas, Inc.

Scope of Services

Daikin Applied Americas, Inc. is pleased to offer the following Project Quote for your consideration. Thank you for selecting Daikin Applied Service Group to care for your building's system. Our service personnel have the knowledge and experience to deliver the best support available. Daikin is pleased to offer this Quote for your consideration.

Daikin will provide labor and materials to perform the following.

- Schedule work with Carlos Sutton.
- Installation of (2) Daikin 1- Ton Mini Split AC. (Daikin installation standards)
- Mounting condensers and indoor units to customer specs/location.
- Pour new concrete pad for the (2) condenser units.
- Install (2) AC security cages around the condenser units.
- Installation includes Thermostats, Refrigerant Piping, and Condensate Pumps.
- Run refrigerant piping above the drop ceiling secured with piping straps to Indoor units.
- Provide and install new electrical breakers, conduit, control wire, and disconnect.
- Controls and supply wiring would be installed above the ceiling with approved strapping to secure.
- Perform vacuum and pressure testing to Daikin standards.
- Start system and run operational inspection, Factory Start-Up by Daikin Certified Technicians.
- Provide operation instructions to end-users.
- Check out with the site contact and provide a written report.

Quote Clarifications, Exclusions, and Exceptions:

Clarifications:

1. This Quote takes precedence over any other written, verbal, or other statements of scope, schedule, and pricing.
2. Acceptance of a Notice to Proceed is not an acceptance of terms and conditions. Any Notice to Proceed will be based upon the terms and conditions contained in this Quote.
3. All working hours are estimated at regular or straight time rates. Accelerated or expedited project execution schedules and associated costs are subject to additional quotation.
4. Daikin Applied is not responsible for any delays or cost as a result of delays incurred due to limited or no access to roads, buildings or equipment required to complete the scope of work provided for in this Quote.
5. Sales taxes are not included within our pricing.
6. Costs associated with Owner directed programs or software required to fulfill project reporting, execution, safety management, and or Owner or Owner's Representative invoicing are not covered and will be invoiced in addition to the agreed Quote price.
7. Signage will not be provided or installed by Daikin Applied.
8. Staffing of onsite Safety or Security personnel during project execution or after working hours will not be provided and Daikin Applied understands this is the responsibility of the Owner or Owner's Representative.
9. Site drainage, pollution prevention plan and execution, temporary bathrooms, emergency eye-wash stations, barricades, ramps, splash-blocks, fire protection plans and systems required during construction, flagman, access controls features, trash repositories and pick services are not included. Daikin Applied understands the Owner or Owners Representative is responsible for these measures.
10. Daikin Applied understands temporary HVAC, temporary power, work site lighting, and temporary water required to perform the scope of work provided is the Owner or Owner's Representative responsibility.
11. Daikin Applied will only provide supervision for itself and its sub-contractors when we or they are on site.
12. Daikin Applied Material or Labor warranty is excluded on Owner or Owner's Representative provided equipment.

Exclusions:

1. Any labor, materials, or subcontracted service not specifically provided for in the description or scope of work.
2. Identification and remediation of existing code violations.
3. Authority Having Jurisdiction required changes are not included and will be quoted as additional work scope.
4. Painting, repair work to buildings, and/or equipment which is not specifically identified in the description or scope of work.
5. Costs associated with hazardous materials identification, removal, and/or abatement.
6. Temporary or portable HVAC equipment and connections to existing systems.
7. The creation of new Building Automation Systems graphics, monitoring, trending, analysis or any other software or labor required for implementation of these items.
8. Testing and balancing.
9. Commissioning plan development and execution.
10. Sound testing or acoustical treatments for any elements inside or external to the work site or equipment.
11. Seismic analysis and certification for all materials and equipment.
12. Permits, insurance coverages other than indicated in the attached Evidence of Insurance, and performance and payment bonds.
13. Professional services including Architectural, Mechanical, Electrical, Structural and other Engineering Disciplines.
14. Fire, Smoke and/or Security controls, equipment, repair, graphics, programming, replacement or upgrades.

Pricing and Payments

Feel free to contact me if you have any questions or concerns regarding the information contained in this Project Quote. If you would like us to proceed with the solution presented above, sign the acceptance line below (including PO# if applicable) and return a copy so that we can begin to mobilize our efforts to complete services as quickly as possible. We appreciate the opportunity to provide you with this solution and look forward to working with you on this and servicing your needs in the future.

Investment Amount and Billing Terms:

Investment required to implement the proposed solution

\$31,743.78

(Thirty-One Thousand, Seven Hundred Forty-Three dollars and Seventy-Eight cents)

**Price does not include applicable sales tax*

Pricing and acceptance are based upon the Terms and Conditions which are attached.

Billing/Payment Terms*: Billed in full upon completion

*All billings are due immediately upon Receipt

This Quote will be honored by Daikin Applied for 30 days from the date on the front of the Quote. After 30 days, Daikin Applied reserves the right to evaluate cost changes (both increases and decreases) from the Quote.

Contractor Agreement

This **CONTRACTOR AGREEMENT** ("**Agreement**"), effective as of _____ ("**Effective Date**"), is made and entered into by and between FULTON COUNTY GENERAL SERVICE DEPT (hereinafter "**Owner**") and Daikin Applied (hereinafter "**Contractor**").

WHEREAS, Contractor is in the business of providing equipment, labor and/or material, which may involve subcontracting a third party ("Subcontractors") to provide labor and material, to perform the scope of work described in **the Quote** No. Q-14734 Dated: 06/07/23 hereto ("**Work**"), and,

WHEREAS, Contractor has offered to perform the Work for Owner with respect to the property located at 3700 Martin Luther King Jr Dr SW Atlanta, GA 30331 (hereinafter "**Property**");

WHEREAS, Owner desires to retain Contractor to perform the Work;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements of the parties, it is agreed as follows:

1. **Work. Subject to credit approval**, Contractor agrees to furnish all labor, materials, tools, equipment, and samples necessary to complete the Work. Contractor acknowledges that in providing such Work, it shall at all times comply with all laws and regulations affecting, Contractor. Owner agrees that Contractor may retain one or more subcontractors ("**Subcontractors**") to perform the Work through a Subcontract Agreement.
2. **Term of Agreement**. Contractor will commence Work on the commencement date ("**Commencement Date**"). Owner will notify Contractor of the Commencement Date in writing by issuing a Notice to Proceed. The Notice to Proceed shall be issued at least fourteen (14) days before the Commencement Date. Upon substantially completing the Work, Contractor shall present a Certificate of Substantial Completion to Owner.
3. **Contract Price**. For full performance of the Work in conformance with this Agreement, Owner shall pay the Contractor the fixed sum specified in **the Quote** hereto ("**Contract Price**"), subject to adjustment per mutual agreement of the parties should the scope of Work change. The Contract Price does not include sales tax.
4. **Relationship of Parties**. Contractor is retained by Owner only for the purpose and to the extent set forth in this Contractor Agreement. Contractor's relationship with Owner shall, during the entire term of this Contractor Agreement, be that of an independent contractor. Contractor, and any employee, agent, servant, officer, director or shareholder of Contractor, shall not be deemed an agent, servant, or employee of Owner.
5. **Compliance with Laws**. Contractor and Owner agree that parties shall comply with all federal, state, and local laws and regulations applicable to its activities under this agreement, including without limitation to the hiring, safety, and taxation of its employees, as well as obtaining and maintenance of any applicable licenses and/or permits as required by all laws and regulations applicable to its activities under this Agreement.
6. **Insurance**. At all times while performing the Work, Contractor shall maintain, at its sole cost and expense, insurance as customary within the industry. If requested Contractor will present a copy of their certificate of insurance.
7. **Indemnification**. It is the parties' obligation to defend and indemnify upon prompt receipt of written notice to defend, indemnify, and hold harmless each other's officers, directors, employees, and agents, from and against those damages, liabilities, claims, and causes of action, for property damage, personal injury or death (including without limitation injury to or death of employees or any subcontractor thereof) (jointly referred to as "Claims"), directly caused by Contractor's negligence, gross negligence, or willful misconduct of the indemnifying party during the performance of the Work.
8. **Default**.
 1. A default occurs under the terms of this Agreement if: (a) Contractor substantially fails to perform any of its material obligations under this Agreement; (b) if Owner becomes insolvent, and/or; (c) if Owner fails to tender payment to Contractor under this Agreement for thirty (30) days after the date such payment is due (together "Event of Default").
 2. Upon the occurrence of an Event of Default, the non-breaching party shall provide written notice to the breaching party ("Notice of Default"). Upon receipt of the Notice of Default, the breaching party shall immediately correct the default. If the breaching party fails to correct the default for thirty (30) days after receipt of the Notice of Default, or fails to provide evidence that appropriate corrective action is in reasonable process, the non-breaching party may terminate this Agreement upon written notice ("Notice of Termination"). The parties shall have any legal remedies at their disposition, as allowed by local law.
9. **Termination**. Absent an uncured Event of Default, this Agreement may only be terminated only by the consent of the parties.

1. The termination shall be evidenced by: (a) execution of a single writing; (b) signed by Contractor and Owner; (c) that specifically identifies this Agreement, and (d) states that Owner and Contractor terminate this Agreement as of a specified date ("Termination Agreement").
 2. Prior to execution of the Termination Agreement, Contractor shall present Owner with an Application for Payment for actual Work rendered under this Agreement as of the date the parties intend to execute the Termination Agreement, and Owner shall pay Contractor the amount requested in the Application Payment contemporaneously with the parties execution of the Termination Agreement.
10. **LIMITATION OF LIABILITY: NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, DELAY, LIQUIDATED, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, REVENUE, PROFITS, GOODWILL, OR OTHER BUSINESS INTERRUPTION DAMAGES, THAT ARISE OUT OF OR RELATED IN ANY WAY TO THEIR PERFORMANCE OR LACK OF PERFORMANCE UNDER THIS AGREEMENT, WHETHER BASED ON STATUTE, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM OR THEORY OF RECOVERY OR LIABILITY WHATSOEVER, REGARDLESS OF WHETHER THESE DAMAGES COULD HAVE BEEN FORESEEN OR NOT.**
 11. **Warranty.** All equipment furnished hereunder is provided with the manufacturer's warranty as the exclusive warranty for such equipment. Contractor provides such warranty as a pass-through to Owner. The manufacturer's warranty for equipment manufactured by Daikin Applied and Daikin North America are attached hereto and incorporated herein by this reference. The Contractor agrees to perform Work in a manner which is in accordance with industry standards for the operation, appearance, and public perception established by those engaged in a business similar to that of Contractor. Subcontractor Agreements will contain warranties that Subcontractors will perform the Work in a similar manner. Valid for one year from completion of the Work.
 12. **Asbestos and Hazardous Materials.** In the event Contractor encounters asbestos, lead and/or other hazardous materials, Contractor will stop work and notify Owner, and shall have the right to suspend its work at no penalty to Contractor until such products or materials and the resultant hazards are removed. Completion of the work shall be extended to the extent caused by the suspension and the contract price equitably adjusted. Owner shall remediate any asbestos, lead or other hazardous materials at Owner's expense, and shall be responsible for all costs, expenses, damages, fines, penalties, claims and liabilities associated with or incurred in connection with any hazardous materials or substances, upon, beneath, about or inside Owner's equipment or property, shall bear title to, ownership of, and legal responsibility and liability for any and all such hazardous materials or substances, and shall be responsible for the removal, handling and disposal of all hazardous materials and substances in accordance with all applicable Governmental Regulations. Owner shall defend, indemnify, reimburse and hold harmless Contractor and its officers, directors, agents, and employees from and against any and all claims, damages, costs, expenses, liabilities, actions, suits, fines and penalties (including without limitation, attorneys' fees and expenses) suffered or incurred by any such indemnified parties, based upon, arising out of or in any way relating to exposure to, handling of, or disposal of any hazardous materials or substances, in connection with the services performed hereunder. Contractor reserves the right to engage others in a subcontractor status to perform the work hereunder.
 13. **Confidentiality.** Owner agrees to keep confidential and use its best efforts to cause any sales representative and employees to keep confidential all trade secrets, proprietary, and confidential information (hereinafter "Confidential Information") related to Daikin Applied and safeguard all Confidential Information from disclosure or use by any person directly or indirectly under Owner's control. Confidential Information does not include (i) information which is in the public domain other than through a breach of this clause and (ii) information which was received by Owner independently of Daikin Applied. Neither expiration nor termination of this Agreement for any reason shall release Owner from the obligations of this Section.
 14. **Notices.** Any information or notices required to be given under this Agreement shall be in writing and shall be delivered either by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (b) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (c) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received. All notices shall be addressed as follows:

If to Contractor:

Daikin Applied Americas Inc.
Attn: Legal Department
13600 Industrial Park Blvd
Plymouth, MN 55340

If to Owner:

FULTON COUNTY GENERAL SERVICE DEPT
Attn: Carlos Sutton

3700 Martin Luther King Jr Dr SW Atlanta, GA 30331

The foregoing addresses may be changed from time to time by notice to the other party in the manner hereinbefore provided for.

- 15. **No Waiver.** A party's failure or neglect to enforce any provision hereof shall in no way constitute a waiver of said party's rights under any other provision.
- 16. **Severability.** If any provision hereof is deemed to be invalid or unenforceable under applicable law, the remaining provisions of this Agreement shall continue to be enforceable.
- 17. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, except conflicts of law which may require the application of another jurisdiction's laws.
- 18. **Miscellaneous.**
 - 1. Force Majeure. Notwithstanding anything to the contrary contained in the Agreement, Daikin Applied shall have a reasonable opportunity to cure any alleged unmet performance obligations thereunder. Additionally, in the event either party is delayed in its performance due to causes outside its reasonable control, the time for such party's performance will be extended for a period of time reasonably necessary to overcome the delay.
 - 2. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties with respect to the Work and supersedes all prior negotiations, representations or agreements relating thereto either written or oral, except to the extent that they are expressly incorporated herein. No modifications or alterations shall be made to this Agreement unless in writing and agreed upon by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the Effective Date, the corporate parties by their officers duly authorized.

OWNER:

FULTON COUNTY GENERAL SERVICE DEPT
Carlos Sutton
3700 Martin Luther King Jr Dr SW
Atlanta, GA 30331

CONTRACTOR:

Daikin Applied Americas
13600 Industrial Park Boulevard
Plymouth, MN 55441

(Print Full Legal Name of Customer)

(Print Full Legal Name of Daikin Applied Representative)

(Signature)

(Signature)

(Title)

(Title)

Date:

Date:



PROJECT QUOTE



OMNIA[®]
P A R T N E R S

Fulton County Auburn Senior Center - 5 RTU Replacement - OMNIA

Auburn Neighborhood Senior Center
300 Edgewood Avenue Southeast
Atlanta, GA 30312

Quote #: Q-12053

Prepared for:

Dexter Dyer
Building Maintenance Manager
FULTON COUNTY GENERAL SERVICE
DEPT Quote Document Date: 07/05/23

Prepared by:

Omar Singh
Account Executive
Phone: (770) 514-5880 Mobile: (678) 858-3635
E-mail: omar.singh@daikinapplied.com
Daikin Applied Americas, Inc.

Scope of Services

Daikin Applied Americas, Inc. is pleased to offer the following Quote for your consideration. Thank you for selecting Daikin Applied Service Group to care for your building's system. Our service personnel have the knowledge and experience to deliver the best support available. Daikin is pleased to offer this Quote for your consideration.

Daikin Applied will provide all labor, materials, and supervision to perform the following scope of work:

1. The scheduling plan will be reviewed and discussed in the job kick-off meeting before the job starts.
2. Daikin Applied will ship Five (5) Daikin Rooftop Units to the rigging yard for storage and shipping to the site.
3. Provide crane, rigging, and lifting services to remove Five (5) existing Carrier units and place new units on the roof curb.
4. Perform lockout tag-out of natural gas service and electrical to RTU.
5. Provide labor to disconnect existing RTUs from the roof curb.
6. Provide labor to disconnect existing gas piping, fittings, and regulator for reuse.
7. Provide labor to disconnect existing electrical disconnect and connection supplying main power to each RTUs.
8. The customer is to provide access for the crane to set up in parking lot lifts to commence during regular working hours.
9. Provide necessary crane and rigging to remove Five (5) existing Carrier RTUs from the roof to the flatbed truck and remove them from the site for recycling.
10. Provide labor to dispose of existing units and refrigerant in EPA approved manner.
11. Provide and install Five (5) Daikin RTUs to match.
12. Attach new RTU to existing roof curbs.
13. Provide and install new condensate PVC drain piping out to existing PVC drains.
14. **Provide and Install the New Disconnect Switches (the old ones require replacement) and all necessary high voltage electrical wiring required to reconnect existing electrical to the new Daikin unit.**
15. Perform Daikin Factory startup.

Mechanical Equipment Installation.

Ten (5) Daikin packaged rooftop units, factory assembled and including the following features and accessories:

1. **(Qty. 1)** 3.0-ton rooftop unit
2. **(Qty. 2)** 5.0-ton rooftop units
3. **(Qty. 1)** 6.0-ton rooftop unit
4. **(Qty. 1)** 10.0-ton rooftop unit
5. 460V/60Hz/3Ph
6. Constant volume, single-speed control
7. Electromechanical temperature controls
8. Vertical supply/return
9. Factory run test before shipment
10. R-410A refrigerant
11. Single wall construction with foil-faced insulation and galvanized steel with powder coat finish exterior
12. Belt-driven supply fan; Dynamically trim balanced at the factory
13. *Direct driven – for 3-ton & 5-ton units*
14. Supply fan motor with thermal overload protection
15. Low-noise scroll compressors
16. Copper tube/aluminum fins evaporator and condenser coils
17. Single point power connection with power block and terminal board for low voltage control wiring.
18. Natural gas heater with aluminized steel heat exchanger
19. 2" filter rack with one set of throwaway filters

Warranty

1. **5-year** limited parts-only warranty.
2. **5-year** limited compressor parts-only warranty.
3. **20-year** limited heat exchanger parts-only warranty.
4. ***Does not include troubleshooting or labor.***

Clarifications and Exclusions

1. The work will be performed during regular working hours, including the crane picks via the medical center parking lot for staging/mobilization.
2. Assume the supply and return air ductwork is adequately supported beneath the unit without additional support.
3. This proposal assumes that the existing gas regulator is in proper working condition with appropriate sizing for reuse.
4. This proposal assumes the reuse of the existing curb and flashing without modification.
5. This proposal assumes the reuse of existing duct smoke detectors, fire dampers, and duct drops. Alterations, changes, or replacements are excluded.
6. Building load calculations were not performed in the selection of replacement units. It is assumed that the existing unit was sized appropriately for the space use and occupancy of the building.
7. Building electrical service upgrades are excluded.
8. Temporary heating and cooling are excluded.
9. Identification and removal of hazardous waste or asbestos abatement are not included.
10. Any work associated with the Fire and Life Safety system is not included.

Quote Clarifications, Exclusions, and Exceptions:

Clarifications:

1. This Quote takes precedence over any other written, verbal, or other statements of scope, schedule, and pricing.
2. Acceptance of a Notice to Proceed is not an acceptance of terms and conditions. Any Notice to Proceed will be based upon the terms and conditions contained in this Quote.
3. All working hours are estimated at regular or straight time rates. Accelerated or expedited project execution schedules and associated costs are subject to additional quotation.
4. Daikin Applied is not responsible for any delays or cost as a result of delays incurred due to limited or no access to roads, buildings or equipment required to complete the scope of work provided for in this Quote.
5. Sales taxes are not included within our pricing.
6. Costs associated with Owner directed programs or software required to fulfill project reporting, execution, safety management, and or Owner or Owner's Representative invoicing are not covered and will be invoiced in addition to the agreed Quote price.
7. Signage will not be provided or installed by Daikin Applied.
8. Staffing of onsite Safety or Security personnel during project execution or after working hours will not be provided and Daikin Applied understands this is the responsibility of the Owner or Owner's Representative.
9. Site drainage, pollution prevention plan and execution, temporary bathrooms, emergency eye-wash stations, barricades, ramps, splash-blocks, fire protection plans and systems required during construction, flagman, access controls features, trash repositories and pick services are not included. Daikin Applied understands the Owner or Owners Representative is responsible for these measures.
10. Daikin Applied understands temporary HVAC, temporary power, work site lighting, and temporary water required to perform the scope of work provided is the Owner or Owner's Representative responsibility.
11. Daikin Applied will only provide supervision for itself and its sub-contractors when we or they are on site.
12. Daikin Applied Material or Labor warranty is excluded on Owner or Owner's Representative provided equipment.

Exclusions:

1. Any labor, materials, or subcontracted service not specifically provided for in the description or scope of work.
2. Identification and remediation of existing code violations.
3. Authority Having Jurisdiction required changes are not included and will be quoted as additional work scope.
4. Painting, repair work to buildings, and/or equipment which is not specifically identified in the description or scope of work.
5. Costs associated with hazardous materials identification, removal, and/or abatement.
6. Temporary or portable HVAC equipment and connections to existing systems.
7. The creation of new Building Automation Systems graphics, monitoring, trending, analysis or any other software or labor required for implementation of these items.
8. Testing and balancing.
9. Commissioning plan development and execution.
10. Sound testing or acoustical treatments for any elements inside or external to the work site or equipment.
11. Seismic analysis and certification for all materials and equipment.
12. Permits, insurance coverages other than indicated in the attached Evidence of Insurance, and performance and payment bonds.
13. Professional services including Architectural, Mechanical, Electrical, Structural and other Engineering Disciplines.
14. Fire, Smoke and/or Security controls, equipment, repair, graphics, programming, replacement or upgrades.

OMNIA Pricing and Payments

Feel free to contact me if you have any questions or concerns regarding the information contained in this Project Quote. If you would like us to proceed with the solution presented above, sign the acceptance line below (including PO# if applicable) and return a copy so that we can begin to mobilize our efforts to complete services as quickly as possible. We appreciate the opportunity to provide you with this solution and look forward to working with you on this and servicing your needs in the future.

Investment Amount and Billing Terms:

Investment required to implement the proposed solution

\$85,890.00 (Eighty-Five Thousand, Eight Hundred Ninety dollars and Zero cents)

**Price does not include applicable sales tax*

Quote, inclusive of the pricing, is provided in accordance with Region 4 ESC Contract # R200401, available via OMNIA Partners, including the terms and conditions contained therein

(<https://public.omniapartners.com/suppliers/daikin-applied/contract-documentation#c38611>) shall govern this Quote and the corresponding scope of work as described herein which are hereby incorporated by this reference. Pricing and acceptance are subject to Daikin Applied's final credit approval.

Billing/Payment Terms*: Billed in full upon completion

*All billings are due immediately upon Receipt

This Quote will be honored by Daikin Applied for 30 days from the date on the front of the Quote. After 30 days, Daikin Applied reserves the right to evaluate cost changes (both increases and decreases) from the Quote.

Contractor Agreement

This **CONTRACTOR AGREEMENT** ("**Agreement**"), effective as of _____ ("**Effective Date**"), is made and entered into by and between FULTON COUNTY GENERAL SERVICE DEPT (hereinafter "**Owner**") and Daikin Applied (hereinafter "**Contractor**").

WHEREAS, Contractor is in the business of providing equipment, labor and/or material, which may involve subcontracting a third party ("Subcontractors") to provide labor and material, to perform the scope of work described in **the Quote** No. Q-12053 Dated: 03/22/23 hereto ("**Work**"), and,
 WHEREAS, Contractor has offered to perform the Work for Owner with respect to the property located at 300 Edgewood Avenue Southeast Atlanta, GA 30312 (hereinafter "**Property**");
 WHEREAS, Owner desires to retain Contractor to perform the Work;
 NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements of the parties, it is agreed as follows:

1. **Work. Subject to credit approval**, Contractor agrees to furnish all labor, materials, tools, equipment, and samples necessary to complete the Work. Contractor acknowledges that in providing such Work, it shall at all times comply with all laws and regulations affecting, Contractor. Owner agrees that Contractor may retain one or more subcontractors ("**Subcontractors**") to perform the Work through a Subcontract Agreement.
2. **Term of Agreement**. Contractor will commence Work on the commencement date ("**Commencement Date**"). Owner will notify Contractor of the Commencement Date in writing by issuing a Notice to Proceed. The Notice to Proceed shall be issued at least fourteen (14) days before the Commencement Date. Upon substantially completing the Work, Contractor shall present a Certificate of Substantial Completion to Owner.
3. **Contract Price**. For full performance of the Work in conformance with this Agreement, Owner shall pay the Contractor the fixed sum specified in **the Quote** hereto ("**Contract Price**"), subject to adjustment per mutual agreement of the parties should the scope of Work change. The Contract Price does not include sales tax.
4. **Relationship of Parties**. Contractor is retained by Owner only for the purpose and to the extent set forth in this Contractor Agreement. Contractor's relationship with Owner shall, during the entire term of this Contractor Agreement, be that of an independent contractor. Contractor, and any employee, agent, servant, officer, director or shareholder of Contractor, shall not be deemed an agent, servant, or employee of Owner.
5. **Compliance with Laws**. Contractor and Owner agree that parties shall comply with all federal, state, and local laws and regulations applicable to its activities under this agreement, including without limitation to the hiring, safety, and taxation of its employees, as well as obtaining and maintenance of any applicable licenses and/or permits as required by all laws and regulations applicable to its activities under this Agreement.
6. **Insurance**. At all times while performing the Work, Contractor shall maintain, at its sole cost and expense, insurance as customary within the industry. If requested Contractor will present a copy of their certificate of insurance.
7. **Indemnification**. It is the parties' obligation to defend and indemnify upon prompt receipt of written notice to defend, indemnify, and hold harmless each other's officers, directors, employees, and agents, from and against those damages, liabilities, claims, and causes of action, for property damage, personal injury or death (including without limitation injury to or death of employees or any subcontractor thereof) (jointly referred to as "Claims"), directly caused by Contractor's negligence, gross negligence, or willful misconduct of the indemnifying party during the performance of the Work.
8. **Default**.
 1. A default occurs under the terms of this Agreement if: (a) Contractor substantially fails to perform any of its material obligations under this Agreement; (b) if Owner becomes insolvent, and/or; (c) if Owner fails to tender payment to Contractor under this Agreement for thirty (30) days after the date such payment is due (together "Event of Default").
 2. Upon the occurrence of an Event of Default, the non-breaching party shall provide written notice to the breaching party ("Notice of Default"). Upon receipt of the Notice of Default, the breaching party shall immediately correct the default. If the breaching party fails to correct the default for thirty (30) days after receipt of the Notice of Default, or fails to provide evidence that appropriate corrective action is in reasonable process, the non-breaching party may terminate this Agreement upon written notice ("Notice of Termination"). The parties shall have any legal remedies at their disposition, as allowed by local law.
9. **Termination**. Absent an uncured Event of Default, this Agreement may only be terminated only by the consent of the parties.

1. The termination shall be evidenced by: (a) execution of a single writing; (b) signed by Contractor and Owner; (c) that specifically identifies this Agreement, and (d) states that Owner and Contractor terminate this Agreement as of a specified date ("Termination Agreement").
 2. Prior to execution of the Termination Agreement, Contractor shall present Owner with an Application for Payment for actual Work rendered under this Agreement as of the date the parties intend to execute the Termination Agreement, and Owner shall pay Contractor the amount requested in the Application Payment contemporaneously with the parties execution of the Termination Agreement.
10. **LIMITATION OF LIABILITY: NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, DELAY, LIQUIDATED, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, REVENUE, PROFITS, GOODWILL, OR OTHER BUSINESS INTERRUPTION DAMAGES, THAT ARISE OUT OF OR RELATED IN ANY WAY TO THEIR PERFORMANCE OR LACK OF PERFORMANCE UNDER THIS AGREEMENT, WHETHER BASED ON STATUTE, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM OR THEORY OF RECOVERY OR LIABILITY WHATSOEVER, REGARDLESS OF WHETHER THESE DAMAGES COULD HAVE BEEN FORESEEN OR NOT.**
 11. **Warranty.** All equipment furnished hereunder is provided with the manufacturer's warranty as the exclusive warranty for such equipment. Contractor provides such warranty as a pass-through to Owner. The manufacturer's warranty for equipment manufactured by Daikin Applied and Daikin North America are attached hereto and incorporated herein by this reference. The Contractor agrees to perform Work in a manner which is in accordance with industry standards for the operation, appearance, and public perception established by those engaged in a business similar to that of Contractor. Subcontractor Agreements will contain warranties that Subcontractors will perform the Work in a similar manner. Valid for one year from completion of the Work.
 12. **Asbestos and Hazardous Materials.** In the event Contractor encounters asbestos, lead and/or other hazardous materials, Contractor will stop work and notify Owner, and shall have the right to suspend its work at no penalty to Contractor until such products or materials and the resultant hazards are removed. Completion of the work shall be extended to the extent caused by the suspension and the contract price equitably adjusted. Owner shall remediate any asbestos, lead or other hazardous materials at Owner's expense, and shall be responsible for all costs, expenses, damages, fines, penalties, claims and liabilities associated with or incurred in connection with any hazardous materials or substances, upon, beneath, about or inside Owner's equipment or property, shall bear title to, ownership of, and legal responsibility and liability for any and all such hazardous materials or substances, and shall be responsible for the removal, handling and disposal of all hazardous materials and substances in accordance with all applicable Governmental Regulations. Owner shall defend, indemnify, reimburse and hold harmless Contractor and its officers, directors, agents, and employees from and against any and all claims, damages, costs, expenses, liabilities, actions, suits, fines and penalties (including without limitation, attorneys' fees and expenses) suffered or incurred by any such indemnified parties, based upon, arising out of or in any way relating to exposure to, handling of, or disposal of any hazardous materials or substances, in connection with the services performed hereunder. Contractor reserves the right to engage others in a subcontractor status to perform the work hereunder.
 13. **Confidentiality.** Owner agrees to keep confidential and use its best efforts to cause any sales representative and employees to keep confidential all trade secrets, proprietary, and confidential information (hereinafter "Confidential Information") related to Daikin Applied and safeguard all Confidential Information from disclosure or use by any person directly or indirectly under Owner's control. Confidential Information does not include (i) information which is in the public domain other than through a breach of this clause and (ii) information which was received by Owner independently of Daikin Applied. Neither expiration nor termination of this Agreement for any reason shall release Owner from the obligations of this Section.
 14. **Notices.** Any information or notices required to be given under this Agreement shall be in writing and shall be delivered either by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (b) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (c) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received. All notices shall be addressed as follows:

If to Contractor:

Daikin Applied Americas Inc.
Attn: Legal Department
13600 Industrial Park Blvd
Plymouth, MN 55340

If to Owner:

FULTON COUNTY GENERAL SERVICE DEPT
Attn: Dexter Dyer

300 Edgewood Avenue Southeast Atlanta, GA 30312

The foregoing addresses may be changed from time to time by notice to the other party in the manner hereinbefore provided for.

- 15. **No Waiver.** A party's failure or neglect to enforce any provision hereof shall in no way constitute a waiver of said party's rights under any other provision.
- 16. **Severability.** If any provision hereof is deemed to be invalid or unenforceable under applicable law, the remaining provisions of this Agreement shall continue to be enforceable.
- 17. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, except conflicts of law which may require the application of another jurisdiction's laws.
- 18. **Miscellaneous.**
 - 1. Force Majeure. Notwithstanding anything to the contrary contained in the Agreement, Daikin Applied shall have a reasonable opportunity to cure any alleged unmet performance obligations thereunder. Additionally, in the event either party is delayed in its performance due to causes outside its reasonable control, the time for such party's performance will be extended for a period of time reasonably necessary to overcome the delay.
 - 2. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties with respect to the Work and supersedes all prior negotiations, representations or agreements relating thereto either written or oral, except to the extent that they are expressly incorporated herein. No modifications or alterations shall be made to this Agreement unless in writing and agreed upon by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the Effective Date, the corporate parties by their officers duly authorized.

OWNER:

FULTON COUNTY GENERAL SERVICE DEPT
Dexter Dyer
300 Edgewood Avenue Southeast
Atlanta, GA 30312

CONTRACTOR:

Daikin Applied Americas
13600 Industrial Park Boulevard
Plymouth, MN 55441

(Print Full Legal Name of Customer)

(Print Full Legal Name of Daikin Applied Representative)

(Signature)

(Signature)

(Title)

(Title)

Date:

Date:



PROJECT QUOTE



OMNIA[®]
P A R T N E R S

Fulton County Neighborhood Union Health Center - 10 RTU Replacement - OMNIA

Fulton County - Neighborhood Union Health Center
186 Sunset Avenue Northwest
Atlanta, GA 30314

Quote #: Q-12043

Prepared for:

Dexter Dyer
Building Maintenance Manager
FULTON COUNTY GENERAL SERVICE
DEPT Quote Document Date: 07/05/23

Prepared by:

Omar Singh
Account Executive
Phone: (770) 514-5880 Mobile: (678) 858-3635
E-mail: omar.singh@daikinapplied.com
Daikin Applied Americas, Inc.

Scope of Services

Daikin Applied Americas, Inc. is pleased to offer the following Quote for your consideration. Thank you for selecting Daikin Applied Service Group to care for your building's system. Our service personnel have the knowledge and experience to deliver the best support available. Daikin is pleased to offer this Quote for your consideration.

Daikin Applied will provide all labor, materials, and supervision to perform the following scope of work:

1. The scheduling plan will be reviewed and discussed in the job kick-off meeting before the job starts.
2. Daikin Applied will ship (10) Daikin Rooftop Units to the rigging yard for storage and ship to the site.
3. Provide crane, rigging, and lifting services to remove Ten (10) existing Carrier units and place new units on the roof curb.
4. Perform lockout tag-out of natural gas service and electrical to RTU.
5. Provide labor to disconnect existing RTUs from the roof curb.
6. Provide labor to disconnect existing gas piping, fittings, and regulator for reuse.
7. Provide labor to disconnect existing electrical disconnect and connection supplying main power to each RTUs.
8. The customer is to provide access for the crane to set up in parking lot lifts to commence during regular working hours.
9. Provide necessary crane and rigging to remove Ten (10) existing Carrier RTUs from roof to flatbed truck and removal from site for recycling.
10. Provide labor to dispose of existing units and refrigerant in EPA approved manner.
11. Provide and install Ten (10) Daikin RTUs to match.
12. Attach new RTU to existing roof curbs.
13. Provide and install new condensate PVC drain piping out to existing PVC drains.
14. Provide and install the necessary high voltage electrical required to reconnect existing electrical to the new Daikin unit
15. Perform Daikin Factory startup.

Mechanical Equipment Installation.

Ten (10) Daikin packaged rooftop units, factory assembled and including the following features and accessories:

1. **(Qty. 1)** 3.0-ton rooftop unit
2. **(Qty. 2)** 4.0-ton rooftop units
3. **(Qty. 6)** 5.0-ton rooftop units
4. **(Qty. 1)** 7.5-ton rooftop unit
5. 208-230V/60Hz/3Ph.
6. Constant volume, single-speed control.
7. Electromechanical temperature controls.
8. Vertical supply/return.
9. Factory run test before shipment.
10. R-410A refrigerant.
11. Single wall construction with foil-faced insulation and galvanized steel with powder coat finish exterior.
12. Belt-driven supply fan; Dynamically trim balanced at the factory.
13. Direct driven – for 3-ton & 5-ton units.
14. Supply fan motor with thermal overload protection.
15. Low noise scroll compressors.
16. Copper tube/aluminum fins evaporator and condenser coils.
17. Single point power connection with power block and terminal board for low voltage control wiring.
18. Natural gas heater with aluminized steel heat exchanger.
19. 2" filter rack with one set of throwaway filters.

Warranty

1. **5-year** limited parts-only warranty.
2. **5-year** limited compressor parts-only warranty.
3. **20-year** limited heat exchanger parts only warranty.
4. **Does not include troubleshooting or labor.**

Clarifications and Exclusions

1. All work is to be performed during regular working hours, including the crane pick via the medical center parking lot for staging/mobilization.
2. Assume the supply and return air ductwork is adequately supported beneath the unit without additional support.
3. This proposal assumes that the existing gas regulator is in proper working condition with appropriate sizing for reuse.
4. This proposal assumes the reuse of the existing curb and flashing without modification.
5. This proposal assumes the reuse of existing duct smoke detectors, fire dampers, and duct drops. Alterations, changes, or replacements are excluded.
6. Building load calculations were not performed in the selection of replacement units. It is assumed that the existing unit was sized appropriately for the space use and occupancy of the building.
7. Building electrical service upgrades are excluded.
8. Temporary heating and cooling are excluded.
9. Identification and removal of hazardous waste or asbestos abatement are not included.
10. Any work associated with the Fire and Life Safety system is not included.

Quote Clarifications, Exclusions, and Exceptions:

Clarifications:

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7. Signage will not be provided or installed by Daikin Applied.
8. Staffing of onsite Safety or Security personnel during project execution or after working hours will not be provided and Daikin Applied understands this is the responsibility of the Owner or Owner's Representative.
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Exclusions:

1. Any labor, materials, or subcontracted service not specifically provided for in the description or scope of work.
2. Identification and remediation of existing code violations.
3. Authority Having Jurisdiction required changes are not included and will be quoted as additional work scope.
4. Painting, repair work to buildings, and/or equipment which is not specifically identified in the description or scope of work.
5. Costs associated with hazardous materials identification, removal, and/or abatement.
6. Temporary or portable HVAC equipment and connections to existing systems.
7. The creation of new Building Automation Systems graphics, monitoring, trending, analysis or any other software or labor required for implementation of these items.
8. Testing and balancing.
9. Commissioning plan development and execution.
10. Sound testing or acoustical treatments for any elements inside or external to the work site or equipment.
11. Seismic analysis and certification for all materials and equipment.
12. Permits, insurance coverages other than indicated in the attached Evidence of Insurance, and performance and payment bonds.
13. Professional services including Architectural, Mechanical, Electrical, Structural and other Engineering Disciplines.
14. Fire, Smoke and/or Security controls, equipment, repair, graphics, programming, replacement or upgrades.

OMNIA Pricing and Payments

Feel free to contact me if you have any questions or concerns regarding the information contained in this Project Quote. If you would like us to proceed with the solution presented above, sign the acceptance line below (including PO# if applicable) and return a copy so that we can begin to mobilize our efforts to complete services as quickly as possible. We appreciate the opportunity to provide you with this solution and look forward to working with you on this and servicing your needs in the future.

Investment Amount and Billing Terms:

Investment required to implement the proposed solution

\$124,714.05 (One Hundred Twenty-Four Thousand, Seven Hundred Fourteen dollars and Five cents)

**Price does not include applicable sales tax*

Quote, inclusive of the pricing, is provided in accordance with Region 4 ESC Contract # R200401, available via OMNIA Partners, including the terms and conditions contained therein

(<https://public.omniapartners.com/suppliers/daikin-applied/contract-documentation#c38611>) shall govern this Quote and the corresponding scope of work as described herein which are hereby incorporated by this reference. Pricing and acceptance are subject to Daikin Applied's final credit approval.

Billing/Payment Terms*: Billed in full upon completion

*All billings are due immediately upon Receipt

This Quote will be honored by Daikin Applied for 30 days from the date on the front of the Quote. After 30 days, Daikin Applied reserves the right to evaluate cost changes (both increases and decreases) from the Quote.

Contractor Agreement

This **CONTRACTOR AGREEMENT** ("**Agreement**"), effective as of _____ ("**Effective Date**"), is made and entered into by and between FULTON COUNTY GENERAL SERVICE DEPT (hereinafter "**Owner**") and Daikin Applied (hereinafter "**Contractor**").

WHEREAS, Contractor is in the business of providing equipment, labor and/or material, which may involve subcontracting a third party ("Subcontractors") to provide labor and material, to perform the scope of work described in **the Quote** No. Q-12043 Dated: 03/22/23 hereto ("**Work**"), and,

WHEREAS, Contractor has offered to perform the Work for Owner with respect to the property located at 186 Sunset Avenue Northwest Atlanta, GA 30314 (hereinafter "**Property**");

WHEREAS, Owner desires to retain Contractor to perform the Work;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements of the parties, it is agreed as follows:

1. **Work. Subject to credit approval**, Contractor agrees to furnish all labor, materials, tools, equipment, and samples necessary to complete the Work. Contractor acknowledges that in providing such Work, it shall at all times comply with all laws and regulations affecting, Contractor. Owner agrees that Contractor may retain one or more subcontractors ("**Subcontractors**") to perform the Work through a Subcontract Agreement.
2. **Term of Agreement**. Contractor will commence Work on the commencement date ("**Commencement Date**"). Owner will notify Contractor of the Commencement Date in writing by issuing a Notice to Proceed. The Notice to Proceed shall be issued at least fourteen (14) days before the Commencement Date. Upon substantially completing the Work, Contractor shall present a Certificate of Substantial Completion to Owner.
3. **Contract Price**. For full performance of the Work in conformance with this Agreement, Owner shall pay the Contractor the fixed sum specified in **the Quote** hereto ("**Contract Price**"), subject to adjustment per mutual agreement of the parties should the scope of Work change. The Contract Price does not include sales tax.
4. **Relationship of Parties**. Contractor is retained by Owner only for the purpose and to the extent set forth in this Contractor Agreement. Contractor's relationship with Owner shall, during the entire term of this Contractor Agreement, be that of an independent contractor. Contractor, and any employee, agent, servant, officer, director or shareholder of Contractor, shall not be deemed an agent, servant, or employee of Owner.
5. **Compliance with Laws**. Contractor and Owner agree that parties shall comply with all federal, state, and local laws and regulations applicable to its activities under this agreement, including without limitation to the hiring, safety, and taxation of its employees, as well as obtaining and maintenance of any applicable licenses and/or permits as required by all laws and regulations applicable to its activities under this Agreement.
6. **Insurance**. At all times while performing the Work, Contractor shall maintain, at its sole cost and expense, insurance as customary within the industry. If requested Contractor will present a copy of their certificate of insurance.
7. **Indemnification**. It is the parties' obligation to defend and indemnify upon prompt receipt of written notice to defend, indemnify, and hold harmless each other's officers, directors, employees, and agents, from and against those damages, liabilities, claims, and causes of action, for property damage, personal injury or death (including without limitation injury to or death of employees or any subcontractor thereof) (jointly referred to as "Claims"), directly caused by Contractor's negligence, gross negligence, or willful misconduct of the indemnifying party during the performance of the Work.
8. **Default**.
 1. A default occurs under the terms of this Agreement if: (a) Contractor substantially fails to perform any of its material obligations under this Agreement; (b) if Owner becomes insolvent, and/or; (c) if Owner fails to tender payment to Contractor under this Agreement for thirty (30) days after the date such payment is due (together "Event of Default").
 2. Upon the occurrence of an Event of Default, the non-breaching party shall provide written notice to the breaching party ("Notice of Default"). Upon receipt of the Notice of Default, the breaching party shall immediately correct the default. If the breaching party fails to correct the default for thirty (30) days after receipt of the Notice of Default, or fails to provide evidence that appropriate corrective action is in reasonable process, the non-breaching party may terminate this Agreement upon written notice ("Notice of Termination"). The parties shall have any legal remedies at their disposition, as allowed by local law.
9. **Termination**. Absent an uncured Event of Default, this Agreement may only be terminated only by the consent of the parties.

1. The termination shall be evidenced by: (a) execution of a single writing; (b) signed by Contractor and Owner; (c) that specifically identifies this Agreement, and (d) states that Owner and Contractor terminate this Agreement as of a specified date ("Termination Agreement").
 2. Prior to execution of the Termination Agreement, Contractor shall present Owner with an Application for Payment for actual Work rendered under this Agreement as of the date the parties intend to execute the Termination Agreement, and Owner shall pay Contractor the amount requested in the Application Payment contemporaneously with the parties execution of the Termination Agreement.
10. **LIMITATION OF LIABILITY: NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, DELAY, LIQUIDATED, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, REVENUE, PROFITS, GOODWILL, OR OTHER BUSINESS INTERRUPTION DAMAGES, THAT ARISE OUT OF OR RELATED IN ANY WAY TO THEIR PERFORMANCE OR LACK OF PERFORMANCE UNDER THIS AGREEMENT, WHETHER BASED ON STATUTE, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM OR THEORY OF RECOVERY OR LIABILITY WHATSOEVER, REGARDLESS OF WHETHER THESE DAMAGES COULD HAVE BEEN FORESEEN OR NOT.**
 11. **Warranty.** All equipment furnished hereunder is provided with the manufacturer's warranty as the exclusive warranty for such equipment. Contractor provides such warranty as a pass-through to Owner. The manufacturer's warranty for equipment manufactured by Daikin Applied and Daikin North America are attached hereto and incorporated herein by this reference. The Contractor agrees to perform Work in a manner which is in accordance with industry standards for the operation, appearance, and public perception established by those engaged in a business similar to that of Contractor. Subcontractor Agreements will contain warranties that Subcontractors will perform the Work in a similar manner. Valid for one year from completion of the Work.
 12. **Asbestos and Hazardous Materials.** In the event Contractor encounters asbestos, lead and/or other hazardous materials, Contractor will stop work and notify Owner, and shall have the right to suspend its work at no penalty to Contractor until such products or materials and the resultant hazards are removed. Completion of the work shall be extended to the extent caused by the suspension and the contract price equitably adjusted. Owner shall remediate any asbestos, lead or other hazardous materials at Owner's expense, and shall be responsible for all costs, expenses, damages, fines, penalties, claims and liabilities associated with or incurred in connection with any hazardous materials or substances, upon, beneath, about or inside Owner's equipment or property, shall bear title to, ownership of, and legal responsibility and liability for any and all such hazardous materials or substances, and shall be responsible for the removal, handling and disposal of all hazardous materials and substances in accordance with all applicable Governmental Regulations. Owner shall defend, indemnify, reimburse and hold harmless Contractor and its officers, directors, agents, and employees from and against any and all claims, damages, costs, expenses, liabilities, actions, suits, fines and penalties (including without limitation, attorneys' fees and expenses) suffered or incurred by any such indemnified parties, based upon, arising out of or in any way relating to exposure to, handling of, or disposal of any hazardous materials or substances, in connection with the services performed hereunder. Contractor reserves the right to engage others in a subcontractor status to perform the work hereunder.
 13. **Confidentiality.** Owner agrees to keep confidential and use its best efforts to cause any sales representative and employees to keep confidential all trade secrets, proprietary, and confidential information (hereinafter "Confidential Information") related to Daikin Applied and safeguard all Confidential Information from disclosure or use by any person directly or indirectly under Owner's control. Confidential Information does not include (i) information which is in the public domain other than through a breach of this clause and (ii) information which was received by Owner independently of Daikin Applied. Neither expiration nor termination of this Agreement for any reason shall release Owner from the obligations of this Section.
 14. **Notices.** Any information or notices required to be given under this Agreement shall be in writing and shall be delivered either by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (b) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (c) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received. All notices shall be addressed as follows:

If to Contractor:

Daikin Applied Americas Inc.
Attn: Legal Department
13600 Industrial Park Blvd
Plymouth, MN 55340

If to Owner:

FULTON COUNTY GENERAL SERVICE DEPT
Attn: Dexter Dyer

186 Sunset Avenue Northwest Atlanta, GA 30314

The foregoing addresses may be changed from time to time by notice to the other party in the manner hereinbefore provided for.

- 15. **No Waiver.** A party's failure or neglect to enforce any provision hereof shall in no way constitute a waiver of said party's rights under any other provision.
- 16. **Severability.** If any provision hereof is deemed to be invalid or unenforceable under applicable law, the remaining provisions of this Agreement shall continue to be enforceable.
- 17. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, except conflicts of law which may require the application of another jurisdiction's laws.
- 18. **Miscellaneous.**
 - 1. Force Majeure. Notwithstanding anything to the contrary contained in the Agreement, Daikin Applied shall have a reasonable opportunity to cure any alleged unmet performance obligations thereunder. Additionally, in the event either party is delayed in its performance due to causes outside its reasonable control, the time for such party's performance will be extended for a period of time reasonably necessary to overcome the delay.
 - 2. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties with respect to the Work and supersedes all prior negotiations, representations or agreements relating thereto either written or oral, except to the extent that they are expressly incorporated herein. No modifications or alterations shall be made to this Agreement unless in writing and agreed upon by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement on the Effective Date, the corporate parties by their officers duly authorized.

OWNER:

FULTON COUNTY GENERAL SERVICE DEPT
Dexter Dyer
186 Sunset Avenue Northwest
Atlanta, GA 30314

CONTRACTOR:

Daikin Applied Americas
13600 Industrial Park Boulevard
Plymouth, MN 55441

(Print Full Legal Name of Customer)

(Print Full Legal Name of Daikin Applied Representative)

(Signature)

(Signature)

(Title)

(Title)

Date:

Date:



EXHIBIT E
INSURANCE CERTIFICATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/03/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA LLC. 400 West Market Street, Suite 700 Louisville, KY 40202 Attn: Louisville.certrequest@marsh.com CN101863513-DAA-GAWU-23-24 2759 Reich SO	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black;">CONTACT NAME: GeeAnn Missi</td> <td style="border-bottom: 1px solid black;">FAX (A/C, No): 212-948-0804</td> </tr> <tr> <td style="border-bottom: 1px solid black;">PHONE (A/C, No, Ext): 866-966-4664</td> <td style="border-bottom: 1px solid black;">E-MAIL ADDRESS: Louisville.CertRequest@marsh.com</td> </tr> <tr> <td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER A : Mitsui Sumitomo Insurance USA Inc</td> <td style="border-bottom: 1px solid black;">22551</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER B : Sentry Casualty Company</td> <td style="border-bottom: 1px solid black;">28460</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER C : Sentry Insurance Company</td> <td style="border-bottom: 1px solid black;">24988</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER D :</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER E :</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER F :</td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>	CONTACT NAME: GeeAnn Missi	FAX (A/C, No): 212-948-0804	PHONE (A/C, No, Ext): 866-966-4664	E-MAIL ADDRESS: Louisville.CertRequest@marsh.com	INSURER(S) AFFORDING COVERAGE		INSURER A : Mitsui Sumitomo Insurance USA Inc	22551	INSURER B : Sentry Casualty Company	28460	INSURER C : Sentry Insurance Company	24988	INSURER D :		INSURER E :		INSURER F :	
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COVERAGES CERTIFICATE NUMBER: CLE-006419911-18 **REVISION NUMBER:** 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	GL 2122557 (subject to self-insured retentions for various perils covered)	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> OTHER:	X	X	BVR8406442 (AOS) BVM8803074 (MA)	04/01/2023	04/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	X	X	UMB5700287	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	90-20216-002 (Daikin Ded.) 90-20216-003 (Daikin Retro)	04/01/2023 04/01/2023	04/01/2024 04/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Replacement/Refurbishment of Air Handling Units 19RFP020819K - MH
 Fulton County Government, its officials, officers and employees is/are included as additional insured (except workers compensation) where required by written contract and allowed by law. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and where required by written contract. Waiver of subrogation is applicable where required by written contract and allowed by law. Umbrella coverage is follow form, per policy terms and conditions.

CERTIFICATE HOLDER Fulton County Government Attn: Purchasing Department 130 Peachtree Street SW, Suite 1168 Atlanta, GA 30303	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <p style="text-align: right;"><i>Marsh USA Inc.</i></p>
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EXHIBIT F
PURCHASING FORMS

**FORM A: GEORGIA SECURITY AND IMMIGRATION CONTRACTOR AFFIDAVIT
AND AGREEMENT**

Instructions:

Contractors must attest to compliance with the requirements of O.C.G.A 13-10-91 and the Georgia Department of Labor Rule 300-10-01-.02 by executing the Contractor Affidavit provided.

23-R200401
HVAC Equipment InstallationSection 6
Purchasing Forms & Instructions

STATE OF GEORGIA

COUNTY OF FULTON

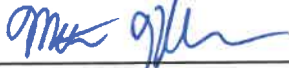
**FORM A: GEORGIA SECURITY AND IMMIGRATION CONTRACTOR AFFIDAVIT
AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services¹ under a contract with **[insert name of prime contractor]** Daikin Applied Americas Inc. d/b/a Daikin Applied on behalf of **Fulton County Government** has registered with and is participating in a federal work authorization program*,² in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services to this contract with **Fulton County Government**, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the **Fulton County Government** at the time the subcontractor(s) is retained to perform such service.

149243

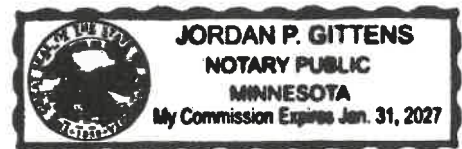
EEV/Basic Pilot Program* User Identification Number

BY: Authorized Officer of Agent
(Insert Contractor Name)Assistant Secretary

Title of Authorized Officer or Agent of Contractor

Matthew Herbranson

Printed Name of Authorized Officer or Agent

Sworn to and subscribed before me this 8th day of November, 2023.Notary Public: County: HennepinCommission Expires: 01-31-2027

¹O.C.G.A. § 13-10-90(4), as amended by Senate Bill 160, provides that "physical performance of services" means any performance of labor or services for a public employer (e.g., Fulton County) using a bidding process (e.g., ITB, RFQ, RFP, etc.) or contract wherein the labor or services exceed \$2,499.99, except for those individuals licensed pursuant to title 26 or Title 43 or by the State Bar of Georgia and is in good standing when such contract is for service to be rendered by such individual.

²[Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603].


**FORM C2: CONTRACTOR'S GEORGIA GENERAL CONTRACTOR'S LICENSE
CERTIFICATION**

Contractor's Name: Daikin Applied Americas Inc. d/b/a Daikin Applied

General Contractor's License Number: GAREGCN007270

Expiration Date of License: 11/30/2023

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: 

Date: 11/08/2023

(ATTACH COPY OF LICENSE)

LITIGATION DISCLOSURE:

Failure to fully and truthfully disclose the information required, may result in the disqualification of your bid or proposal from consideration or termination of the Contract, once awarded.

1. Please state whether any of the following events have occurred in the last five (5) years with respect to said Offeror. If any answer is yes, explain fully the following:

- (a) whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Offeror, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Offeror;

Circle One: YES NO

- (b) whether Offeror was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Offeror from engaging in any type of business practice, or otherwise eliminating any type of business practice; and

Circle One: YES NO

- (c) whether said Offeror's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said Offeror, which directly arose from activities conducted by the business unit or corporate division of said Offeror which submitted a bid or proposal for the subject project. If so please explain.

Circle One: YES NO

2. Have you or any member of your firm or team to be assigned to this engagement ever been indicted or convicted of a criminal offense within the last five (5) years?

Circle One: YES NO

3. Have you or any member of your firm or team been terminated (for cause or otherwise) from any work being performed for Fulton County or any other Federal, State or Local Government?

Circle One: YES NO

4. Have you or any member of your firm or team been involved in any claim or litigation adverse to Fulton County or any other federal, state or local government, or private entity during the last three (3) years?

Circle One: YES NO

5. Has any offeror, member of offeror's team, or officer of any of them (with respect to any matter involving the business practices or activities of his or her employer), been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?

Circle One:

YES

NO

If you have answered "YES" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Offeror's most recent filings with the Securities and Exchange Commission ("SEC") may be provided if they are responsive to certain items within the questionnaire.) However, for purposes of clarity, Offeror should correlate its responses with the exhibits by identifying the exhibit and its relevant text.

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by Fulton County. Such disclosure must be submitted at the time of the bid or proposal submission and included as a part of the bid/proposal submitted for this project. Disclosure is required for Offerors, joint venture partners and first-tier subcontractors.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by Fulton County can result in the bid/proposal declared as non-responsive. This document must be completed and included as a part of the bid/proposal package along with other required documents.

[SIGNATURES ON NEXT PAGE]

Under penalty of perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this 8th day of November, 2023


Daikin Applied Americas Inc. d/b/a Daikin Applied 11/08/2023
(Legal Name of Proponent) (Date)


(Signature of Authorized Representative) (Date)

Assistant Secretary
(Title)

Sworn to and subscribed before me,

This 8th day of November, 2023

 
(Notary Public) (Seal)



Commission Expires 01-31-2027
(Date)



A pocket-sized license card is below. Above is an enlarged copy of your pocket card.

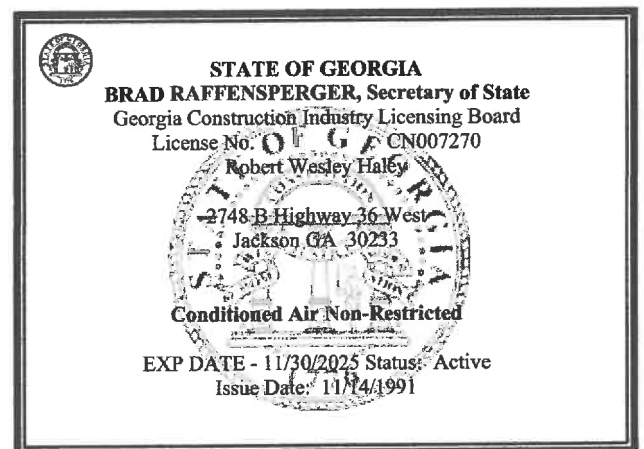
Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.

Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – www.sos.ga.gov/plb.

Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing
237 Coliseum Drive
Macon GA 31217
Phone: (404) 424-9966
www.sos.ga.gov/plb

Robert Wesley Haley
2748 Highway 36 West
Jackson GA 30233





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/03/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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INSURED Daikin Applied Americas Inc. 13600 Industrial Park Boulevard Minneapolis, MN 55441																					

COVERAGES CERTIFICATE NUMBER: CLE-006419911-18 **REVISION NUMBER:** 5

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	GL 2122557 (subject to self-insured retentions for various perils covered)	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
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A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	X	X	UMB5700287	04/01/2023	04/01/2024	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			90-20216-002 (Daikin Ded.) 90-20216-003 (Daikin Retro)	04/01/2023 04/01/2023	04/01/2024 04/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Re: Replacement/Refurbishment of Air Handling Units 19RFP020819K - MH
 Fulton County Government, its officials, officers and employees is/are included as additional insured (except workers compensation) where required by written contract and allowed by law. This insurance is primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and where required by written contract. Waiver of subrogation is applicable where required by written contract and allowed by law. Umbrella coverage is follow form, per policy terms and conditions.

CERTIFICATE HOLDER Fulton County Government Attn: Purchasing Department 130 Peachtree Street SW, Suite 1168 Atlanta, GA 30303	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <div style="text-align: right;"><i>Marsh USA Inc.</i></div>
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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/03/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA LLC. 400 West Market Street, Suite 700 Louisville, KY 40202 Attn: Louisville.certrequest@marsh.com CN101863513-DAA-GAWU-23-24 2759 Reich SO	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black;">CONTACT NAME: GeeAnn Missi</td> <td style="border-bottom: 1px solid black;">FAX (A/C, No): 212-948-0804</td> </tr> <tr> <td style="border-bottom: 1px solid black;">PHONE (A/C, No, Ext): 866-966-4664</td> <td style="border-bottom: 1px solid black;">E-MAIL ADDRESS: Louisville.CertRequest@marsh.com</td> </tr> <tr> <td colspan="2" style="text-align: center;">INSURER(S) AFFORDING COVERAGE</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER A : Mitsui Sumitomo Insurance USA Inc</td> <td style="border-bottom: 1px solid black; text-align: right;">22551</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER B : Sentry Casualty Company</td> <td style="border-bottom: 1px solid black; text-align: right;">28460</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER C : Sentry Insurance Company</td> <td style="border-bottom: 1px solid black; text-align: right;">24988</td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER D :</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER E :</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">INSURER F :</td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>	CONTACT NAME: GeeAnn Missi	FAX (A/C, No): 212-948-0804	PHONE (A/C, No, Ext): 866-966-4664	E-MAIL ADDRESS: Louisville.CertRequest@marsh.com	INSURER(S) AFFORDING COVERAGE		INSURER A : Mitsui Sumitomo Insurance USA Inc	22551	INSURER B : Sentry Casualty Company	28460	INSURER C : Sentry Insurance Company	24988	INSURER D :		INSURER E :		INSURER F :	
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COVERAGES CERTIFICATE NUMBER: CLE-006419911-18 **REVISION NUMBER:** 5

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																					
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	X	X	GL 2122557 (subject to self-insured retentions for various perils covered)	04/01/2023	04/01/2024	<table style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$</td><td style="text-align: right;">10,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td style="text-align: right;">\$</td><td style="text-align: right;">1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$</td><td style="text-align: right;">2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$</td><td style="text-align: right;">2,000,000</td></tr> <tr><td></td><td style="text-align: right;">\$</td><td></td></tr> </table>	EACH OCCURRENCE	\$	1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	1,000,000	MED EXP (Any one person)	\$	10,000	PERSONAL & ADV INJURY	\$	1,000,000	GENERAL AGGREGATE	\$	2,000,000	PRODUCTS - COMP/OP AGG	\$	2,000,000		\$	
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A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> OTHER:	X	X	BVR8406442 (AOS) BVM8803074 (MA)	04/01/2023	04/01/2024	<table style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$</td><td style="text-align: right;">2,000,000</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td><td></td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td><td></td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td><td></td></tr> <tr><td></td><td style="text-align: right;">\$</td><td></td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$	2,000,000	BODILY INJURY (Per person)	\$		BODILY INJURY (Per accident)	\$		PROPERTY DAMAGE (Per accident)	\$			\$							
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