

**GUARANTEED FIXED PRICE****CONTRACT BETWEEN OWNER AND GENERAL CONTRACTOR**

This GUARANTEED FIXED PRICE CONTRACT BETWEEN OWNER AND GENERAL CONTRACTOR is made and entered into by the **CITY OF POWDER SPRINGS**, a Georgia municipal corporation (hereinafter "the Owner") and **MACALLAN CONSTRUCTION LLC, A GEORGIA LIMITED LIABILITY COMPANY** (hereinafter "Contractor"). This Contract is executed under seal and shall be effective on the date executed by the last party to execute it.

This Contract in the amount of Three Million Eight Hundred Sixty-Five Thousand Nine Hundred Fifty and no/100 Dollars (\$3,865,950.00) is for the construction of Phase I of a total project identified as the **City of Powder Springs Municipal Complex located at 4483 Pineview Drive** (hereinafter "the Project"). A description of the Project is attached hereto as **Exhibit "A"** and is incorporated into this Contract by express reference. The Parties anticipate a future amendment to this Contract for Phase II of the total project for the completion of the renovation of the existing facility to house City Hall, and Community and Economic Development and Municipal Court Services facilities. Phase I and Phase II comprising the total project is anticipated to have a price not to exceed Twelve Million Five Hundred Sixty-Two Thousand Seven Hundred Thirty and No/Dollars (\$12,562,730.00).

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Owner and the General Contractor agree:

1.

**DEFINITIONS**

Wherever used in this Contract or in the Contract Documents, the following terms shall have the meaning indicated which shall be applicable to both the singular and plural thereof:

- (A) **Addenda:** Written or graphic instruments issued prior to the execution of the Contract which modify or interpret the Request for Proposal or the Contract Documents by additions, deletions, clarifications or corrections.
- (B) **Change Order:** Written order to the General Contractor executed by the Owner and Project Manager after execution of this Contract, directing a change in the work and may include a change in the Contract Price or the time for the General Contractor's performance, or any combination thereof. Change Order shall be provided in the format set forth in Exhibit "D" titled Request of Change Order, Contingency Draw or Allowance attached hereto.
- (C) **Concealed or Unknown Conditions:** Those conditions unforeseen by the parties, or which could not: (i) be reasonably foreseen by the General Contractor, or (ii) identified through testing, sampling or selective demolition, including, but not limited to, existing soil and subsurface conditions, the condition of any existing structures specifically including the structural elements of such structure, fluctuations in commodity and/or material prices, the removal or dismissal of a subcontractor for failure or inability to perform the work required, changes in regulatory requirements or industry standards not in existence at the time of design, or other such matters. Provided however, the term "Concealed or Unknown Conditions" shall not include, for the purposes of Paragraph 8(A), (i) any existing condition which could have been reasonably determined through testing, sampling or selective demolition which the General Contractor recommended or requested and the Owner elected not to perform, or (ii) the existence, removal or remediation of any hazardous materials (such being defined as hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives).
- (D) **Contract Documents:** This Guaranteed Fixed Price Contract between Owner and General Contractor, Schedule of Work, Payment Bond, Performance Bond, Drawings, Specifications, Contract Exhibits and Addenda as such may be prepared by the General Contractor and approved by the Owner.
- (E) **Drawings:** The part of the Contract documents which show largely through graphical presentation the characteristics and scope of the Work to be performed and which have been prepared by or for the General Contractor and approved by the Owner.
- (F) **Final Completion:** That point at which, upon certification in writing by the Project Manager, the Project is complete in full accordance with this Contract, including the Drawings herein, and the General Contractor has performed all of its obligations to the Owner under this Contract, subject only to those items included in the Final Punch List.



- (G) **Final Punch List:** A list of those items, as determined by the Project Manager upon final inspection, which require repair, completion or correction, but are of such a nature as to not to interfere with the Owner's occupancy and normal use of the Project.
- (H) **Preliminary Design:** The drawings and specifications and/or other graphic or written materials, submitted by the General Contractor pursuant to the Preliminary Design Phase which show or describe the character and scope of, or relate to, the Work to be performed or furnished by the General Contractor and which have been prepared by the General Contractor for Owner.
- (I) **Schedule of Values:** A breakdown of the costs of work for the project by line item to be used by the Owner and Project Manager to determine the reasonableness of the General Contractor's Guaranteed Fixed Price. The General Contractor shall have the right to amend the Schedule of Values from time to time provided such does not increase the Guaranteed Fix Price set forth herein. The Schedule of Values shall be provided in the format set forth in **Exhibit "C"** attached hereto.
- (J) **Shop Drawings:** All drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the General Contractor, a Subcontractor, manufacturer, Supplier or distributor, which illustrate how specific portions of the work shall be fabricated or installed.
- (K) **Specifications:** A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- (L) **Subcontractor:** An individual, firm or corporation having a direct contract with a General Contractor or with any other Subcontractor for the performance of a part of the work of the Project.
- (M) **Substantial Completion:** That point at which, as certified in writing by the General Contractor and Project Manager, the Project or a separate and discrete portion thereof is at a level of completion in strict compliance with this Contract, including the Drawings herein, such that the Owner or its designee can enjoy beneficial use or occupancy and can use or operate it in all respects, for its intended purpose. Partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion. All warranties and other guarantees pass to the Owner at the point of Substantial Completion.
- (N) **Suppliers:** Any person, supplier or organization who furnishes materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the Project site.
- (O) **Work:** The entire construction or the various separately identifiable parts thereof required to be performed or furnished under the Contract Documents. Work includes and is the result of performing or furnishing Design Professional Services and Construction services required by the Contract Documents.



2.

**SCHEDULE**

- (A) When General Contractor delivers the executed Contract to Owner, General Contractor shall also deliver to Owner such Bonds as General Contractor may be required to furnish in accordance with paragraph 22.
- (B) *General Contractor's Review of Contract Documents:* Before undertaking each part of the Work, General Contractor shall carefully study and compare those Contract Documents prepared by Owner and check and verify pertinent figures therein and all applicable field measurements. General Contractor shall promptly report in writing to Owner any conflict, error, ambiguity, or discrepancy which General Contractor may discover and shall obtain a written interpretation or clarification from Owner before proceeding with any Work affected thereby; however, General Contractor shall not be liable to Owner for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless General Contractor knew or reasonably should have known thereof.
- (C) *Evidence of Insurance:* Before any Work at the Site is started, General Contractor and Owner shall each deliver to the other, certificates of insurance as required by paragraph 21 which General Contractor and Owner respectively are required to purchase and maintain in accordance with Article 21.

3.

**REPRESENTATIONS AND WARRANTIES OF THE GENERAL CONTRACTOR**

In order to induce the Owner to execute this Contract and recognizing that the Owner is relying thereon, the General Contractor, by executing this Contract, makes the following express representations to the Owner:

- (A) The General Contractor is fully qualified to act as the General Contractor for the Project and has, and shall maintain, any and all licenses, permits or other authorizations necessary to act as the General Contractor for, and to construct, the Project;
- (B) By the completion of the Preliminary Design Phase (Phase I) as provided for in Paragraph 6, the General Contractor will have become familiar with the Project site and will have performed such tests, including destructive testing, as necessary, to determine relevant conditions, and that the General Contractor will at that time be aware of local conditions under which the work on the Project is to be performed and will have adjusted his price, including a contingency amount, to account for any local conditions which might affect the cost of such work,



- (C) The General Contractor has received, reviewed and carefully examined all of the documents which make up the Contract Documents, including, but not limited to, the plans and specifications, and represents that the documents appear to be complete, accurate, consistent, coordinated and sufficient for construction and the cost of work herein.

#### 4.

### INTENT AND INTERPRETATION

With respect to the intent and interpretation of this Contract, the Owner and the General Contractor agree as follows:

- (A) The Contract Documents, together with the General Contractor's and Surety's performance and payment bonds for the Project constitute the entire and exclusive agreement between the parties with reference to the Project, and said Contract supersedes any and all prior discussions, communications, representations, understandings, negotiations, or agreements. This Contract also supersedes any price documents;
- (B) Anything that may be required, implied or inferred by the documents, which make up this Contract, or any one or more of them, shall be provided by the General Contractor for the Contract Price;
- (C) Nothing contained in this Contract shall create, nor be interpreted to, create privity or any other relationship whatsoever between the Owner and any person except the General Contractor;
- (D) When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage;
- (E) The words "include", "includes", or "including", as used in this Contract, shall be deemed to be followed by the phrase, "without limitation";
- (F) The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of this Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of this Contract;
- (G) The General Contractor shall have a continuing duty to read, examine, review, compare and contrast each of the documents which make up this Contract, shop drawings, and other submittals and shall give written notice to the Owner and Project Manager of any conflict, ambiguity, error or omission which the General Contractor may find with respect to these documents before proceeding with the affected work. The express or implied approval by the Owner or the Project Manager of any shop drawings or other submittals shall not relieve the General Contractor of the continuing duties imposed hereby, nor shall any such approval be evidence of the General Contractor's compliance with this Contract.

- (H) In the event of any conflict, discrepancy, or inconsistency among any of the documents that make up this Contract, the following shall control:
- (1) As between figures given on plans and scaled measurements, the figures shall govern;
  - (2) As between large-scale plans and small-scale plans, the large-scale plans shall govern;
  - (3) As between plans and specifications, the requirements of the specifications shall govern;
  - (4) As between this document and the plans or specifications, this document shall govern, provided however this document shall not extend or expand the scope of work beyond that contemplated by the Drawings, unless agreed to by both parties.

5.

**OWNERSHIP OF THE DOCUMENTS THAT MAKE UP THE CONTRACT**

The documents that make up this Contract, and each of them, as well as any other documents furnished by the Owner, shall remain the property of the Owner. The General Contractor shall have the right to keep one (1) copy of the Contract upon execution; provided, however, that in no event shall the General Contractor use, or permit to be used, any portion or all of such Contract on other projects without the Owner's prior written authorization.

6.

**GENERAL CONTRACTOR'S PERFORMANCE**

- (A) *Standard of Care.* The standard of care for the General Contractor performed or furnished under this Agreement will be the care and skill ordinarily used by members of the commercial construction profession practicing under similar conditions at the same time and locality.
- (B) *Construction Phase.* The General Contractor shall:
- i. Provide technical criteria and written descriptions required for obtaining approvals of all appropriate reviewing agencies and governmental authorities of the final design of the Project, and assist Owner in consultations with such authorities;
  - ii. Subject to budget constraints and the Owner's approval, initiate construction activities deemed necessary to meet construction schedule requirements, including, but not limited to, interior fit-up, structural modifications, utility modifications, procurement of long-lead items (i.e., mechanical and electrical major components, controls, special construction components, etc.), and any other construction activities as determined by the General Contractor, Project Manager, and Owner.



- iii. Upon completion and acceptance by Owner and appropriate reviewing agencies and governmental authorities, furnish to Owner a formal proposal for approval a **Guaranteed Fixed Price** as provided in this contract document.
- (C) General Contractor shall provide competent, suitably qualified personnel to perform the Work as required by the Contract Documents. General Contractor shall at all times maintain good discipline and order at the Site.
- (D) Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Construction at the Site shall be performed during regular working hours, and General Contractor will not permit overtime work or the performance of Construction on Saturday, Sunday or any legal holiday without Owner's written consent, which will not be unreasonably withheld.
- (E) Unless otherwise specified in the Contract Documents, General Contractor shall furnish or cause to be furnished and assume full responsibility for materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the Work.
- (F) All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Contract Documents shall expressly run to the benefit of Owner. If reasonably required by Owner, General Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise provided in the Contract Documents.
- (G) General Contractor shall adhere to the progress schedule established in accordance with the Owner's schedule requirements as established as it may be adjusted from time to time as provided below:
  - i. General Contractor shall submit to Owner for acceptance proposed adjustments in the progress schedule that will not change the General Contractor's Time for Performance (or Milestones). Such adjustments will conform generally to the progress schedule then in effect.
  - ii. Proposed adjustments in the progress schedule that will change the General Contractor's Time for Performance (or Milestones) shall be submitted in accordance with the requirements of paragraph 7(C). Such adjustments may only be made by a Change Order.
- (H) General Contractor shall give all notices required by and comply with all laws or regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable laws and regulations, Owner shall not be responsible for monitoring General Contractor's compliance with any laws or regulations.



- (I) If General Contractor performs any Work knowing or having reason to know that it is contrary to laws or regulations, General Contractor shall bear all costs arising therefrom.
- (J) General Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by General Contractor in accordance with the laws or regulations of the place of the Project which are applicable during the performance of the Work.
- (K) Limitation on Use of Site and Other Areas.
- i. General Contractor shall confine construction equipment, the storage of materials and equipment, and the operations of construction workers to the Site and other areas permitted by laws or regulations and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. General Contractor shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work.
  - ii. Should any claim be made by any such owner or occupant because of the performance of Work, General Contractor shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
- (L) *Removal of Debris.* During the performance of the Construction, General Contractor shall keep the premises free from accumulations of waste materials, rubbish, and other debris resulting from the Construction. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws or Regulations.
- (M) *Cleaning.* Prior to Substantial Completion, General Contractor shall clean the Site and make it ready for utilization by Owner. At completion of Construction, General Contractor shall remove all tools, appliances, construction equipment, temporary construction and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- (N) *Loading Structures.* General Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall General Contractor subject any part of the Construction or adjacent property to stresses or pressures that will endanger it.
- (O) In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, General Contractor is obligated to act to prevent threatened damage, injury or loss. General Contractor shall give Owner prompt written notice if General Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If a change in the Contract Documents is required because of the action taken by General Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.



- (P) General Contractor shall continue the Work and adhere to the progress schedule during all disputes or disagreements with Owner so long as General Contractor is continuing to receive timely payments from Owner for any portion of the Work not in dispute. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as General Contractor and Owner may otherwise agree in writing.
- (Q) General Contractor shall:
- i. Provide assistance in connection with the start-up, testing, refining and adjusting of any equipment or system.
  - ii. Assist Owner in training staff to operate and maintain the Work and how to implement systems for control of the operation, maintenance, and required record keeping for the Work.
- (R) General Contractor warrants and guarantees to Owner that all Construction will be in accordance with the Contract Documents and will not be defective. General Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
- i. Abuse, modification or improper maintenance or operation by persons other than General Contractor, Subcontractors, or Suppliers or any other individual for whom General Contractor is responsible; or
  - ii. Normal wear and tear under normal usage.
- (S) General Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of General Contractor's obligation to perform the Work in accordance with the Contract Documents:
- i. Observations by Owner;
  - ii. The making of any progress or final payment;
  - iii. The issuance of a certificate of Substantial Completion;
  - iv. Use or occupancy of the Work or any part thereof by Owner;
  - v. Any acceptance by Owner or any failure to do so;
  - vi. Any review and approval of a Submittal;
  - vii. Any inspection, test or approval by others; or
  - viii. Any correction of defective Construction by Owner.

## 7.

### TIME FOR GENERAL CONTRACTOR'S PERFORMANCE

- (A) The General Contractor shall commence the performance of this Contract on issuance of Notice to Proceed and shall diligently continue its performance to and until Final Completion of the Project. The General Contractor shall accomplish Substantial Completion of the Project on or before August 30, 2024, following the Notice to Proceed.

- (B) The General Contractor shall pay the Owner the sum of Two Hundred Fifty and no/100 Dollars (\$250.00) per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the date set forth herein for Substantial Completion. Any sums due and payable hereunder by the General Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at the time of executing this Contract. When the Owner reasonably believes that Substantial Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the General Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the General Contractor overcomes the delay in achieving Substantial Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the General Contractor those funds withheld, but no longer applicable, as liquidated damages. Provided however, the Owner shall not be entitled to a claim for any consequential damages in addition to the liquidated damages specified above.
- (C) The General Contractor shall give notice to the Owner and Project Manager of any decisions, selections or determinations required to be made by the Owner or Project Manager, including a reasonable date by which such decision, selection or determination must be communicated to the General Contractor to avoid any delay in schedule. Notice shall be deemed given by the General Contractor in satisfaction of the above requirement if such is given in writing to each of the above parties. Should the Owner or Project Manager fail to provide such decision, selection or determination within the date so specified the General Contractor shall be entitled to an extension of the date set forth in subsection (A) above by an amount of time equal to the number of days between the date specified and the actual date such is communicated to the General Contractor.
- (D) All limitations of time set forth herein are material and are of the essence of this Contract.



8.

**GUARANTEED FIXED PRICE AND CONTRACT PAYMENTS**

- (A) The Owner shall pay, and the General Contractor agrees to accept that Guaranteed Fixed Price, as determined by the Schedule of Values attached hereto not to exceed **Three Million Eight Hundred Sixty-Five Thousand Nine Hundred Fifty and no/100 Dollars (\$3,865,950.00)**, as full and complete payment for the General Contractor's timely performance of its obligations hereunder, as defined by the Contract Documents, (the "Guaranteed Fixed Price"). The price set forth in this Subparagraph 8(A) shall constitute the Contract Price, which shall not be modified except by Change Order as provided in this Contract. Provided however, it is understood and agreed that said Guaranteed Fixed Price includes a construction contingency allowance (the 'Contingency Allowance') in the sum of **Sixty-Six Thousand Two Hundred Eighty-Six Dollars (\$ 66,286.00)** which may be expended by the General Contractor with notice to the Owner for those items as set forth in Paragraph 14(C) below. The General Contractor shall however, report to the Project Manager and Owner, upon the form provided for in **Exhibit "D,"** each and every draw upon such contingency and the basis therefore and such contingency may be drawn upon only for direct labor and materials for the Project and may not be applied to or used for general conditions, overhead or profit of the General Contractor. The Contingency Allowance shall constitute full and complete payment to the General Contractor for any and all Concealed and Unknown Conditions typically found in construction of the type and nature included in the scope of this contract and the Guaranteed Fixed Price shall not be amended, changed or increased as a result of such conditions. Notwithstanding, the above, the General Contractor shall be permitted to apply such Contingency for general conditions for any Contingency applied to additional work that also requires an increase in Contract Time. Any and all balances in the Contingency Allowance at the date of final payment under the terms of this agreement shall be divided **Sixty (60 %)** percent to the Owner and **Forty (40 %)** percent to the General Contractor. The General Contractor's portion, if any, shall be paid within thirty (30) days of Final Completion."
- (B) For all portions of the Contract, the General Contractor has prepared and presented to the Owner, or the Owner's representatives, the General Contractor's Schedule of Values apportioning the Contract Price among the different elements of the Project for purposes of periodic and final payment. Should the Guaranteed Fixed Price, as set forth above, include any allowances in addition to the Contingency Allowance such shall be clearly stated on the Schedule of Values and shall be expended in the same manner as the Contingency Allowance set forth above. The General Contractor's Schedule of Values is attached hereto as **Exhibit "C"**. The General Contractor's Schedule of Values will be utilized for the General Contractor's Payment Requests but shall only be so utilized after the Project Manager has acknowledged it in writing.
- (C) For the purposes to expedite mobilization, certain deposits have been approved to be paid prior to the mobilization of the project. Those deposits include as follows:
- (1) \$150,000 deposit payment to Metromont on February 17, 2023, charged to pre-cast concrete;
  - (2) \$325,000 additional deposit for pre-cast concrete to be paid to Macallan Construction LLC, by CITY OF POWDER SPRINGS on or before March 31, 2023;



- (3) \$250,000 deposit for structural steel framing to be paid to Macallan Construction LLC, by CITY OF POWDER SPRINGS on or before March 31, 2023; and
- (4) \$100,000 deposit for earthwork to be paid to Macallan Construction LLC, by CITY OF POWDER SPRINGS on or before March 31, 2023.

D. The Owner shall pay the Contract Price to the General Contractor in accordance with the procedures set forth in this Paragraph 8. On or before the first day of each month after commencement of performance, but no more frequently than once monthly, the General Contractor may submit a Payment Request for the period ending the last day of the previous month. Said Payment Request shall be in such format as attached hereto as **Exhibit "E."** Therein, the General Contractor may request payment for ninety percent (90%) of that part of the Contract Price allocable to Contract requirements properly provided, labor, materials and equipment properly incorporated in the Project, and materials or equipment necessary for the Project and properly stored at the Project site (or elsewhere if offsite storage is approved in writing by the Owner), less the total amount of previous payments received from the Owner. Any payment on account of stored materials or equipment will be subject to the General Contractor providing written proof that the Owner has title to such materials or equipment and that they are fully insured against loss or damage. Each such Payment Request shall be signed by the General Contractor and shall constitute the General Contractor's representation that the quantity of work has reached the level for which payment is requested, that the work has been properly installed or performed in strict compliance with this Contract, complies with all design guidelines and drawings, and that the General Contractor knows of no reason why payment should not be made as requested. Thereafter the Project Manager shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work is as represented in the payment Request and is as required by this Contract. The Project Manager shall approve in writing the amount, which, in the opinion of the Project Manager, is properly owing to the General Contractor no later than ten (10) days following receipt of a Payment Request. Provided however, approval by the Project Manager of any Payment Request shall not relieve the General Contractor of the requirements to comply with the standard of care set forth in paragraph 6 above. The Owner shall make payment to the General Contractor within ten (10) days following the Project Manager's written approval of each Payment Request. The amount of each such payment shall be the amount approved for payment by the Project Manager less such amounts, if any, otherwise owing by the General Contractor to the Owner or which the Owner shall have the right to withhold as authorized by this Contract. The Project Manager's approval of the General Contractor's Payment requests shall not preclude the Owner from the exercise of any of its rights asset forth in Subparagraph 8(F) herein below. The submission by the General Contractor of a Payment request also constitutes an affirmative representation and warranty that all work for which the Owner has previously paid is free and clear of any lien, claim, or other encumbrance of any person whatsoever. As a condition precedent to payment, the General Contractor shall, if required by the Owner, also furnish to the Owner properly executed waivers of lien, in the form attached hereto as **Exhibit "F"**. Furthermore, the General Contractor warrants and represents that, upon payment of the payment Request submitted, title to all work included in such payment shall be vested in the Owner, however, risk of loss shall remain with the General Contractor until ***Substantial Completion***.



- (E) When payment is received from the Owner, the General Contractor shall immediately pay all subcontractors, materialmen, laborers and suppliers the amounts they are due for the work covered by such payment. In the event the Owner becomes informed that the General Contractor has not properly paid a subcontractor, materialman, laborer, or supplier as provided herein, the Owner shall have the right, after written notice to General Contractor, but not the duty, to issue future checks and payment to the General Contractor of amounts otherwise due hereunder naming the General Contractor and any such subcontractor, materialman, laborer, or supplier as joint payees. Such joint check procedure, if employed by the Owner, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the Owner to repeat the procedure in the future.
- (F) Neither payment to the General Contractor, utilization of the Project for any purpose by the Owner, nor any other act or omission by the Owner shall be interpreted or construed as an acceptance of any work of the General Contractor not strictly in compliance with this Contract.
- (G) The Owner shall have the right to refuse to make payment and, if necessary, may demand the return of a portion or the entire amount previously paid to the General Contractor due to:
- (1) The quality of a portion, or all, of the General Contractor's work not being in accordance with the requirements of this Contract;
  - (2) The quantity of the General Contractor's work not being as represented in the General Contractor's Payment Request, or otherwise;
  - (3) The General Contractor's rate of progress being such that, in the Owner's opinion, substantial or Final Completion, or both, may be inexcusably delayed, and that such amounts as then retained by the Owner are insufficient to cover any damages caused thereby;
  - (4) The General Contractor's failure to use Contract funds, previously paid the General Contractor by the Owner, to properly pay General Contractor's Project-related obligations including, but not limited to, subcontractors, laborers and material and equipment suppliers;
  - (5) Claims made, or reasonably likely to be made, against the Owner or its property, unless security, acceptable to the Owner, is provided by the Contract to cover the amount of any such claim;
  - (6) Loss caused by the General Contractor;
  - (7) The General Contractor's failure or refusal to perform any of its obligations to the Owner after notice of such and a reasonable time to perform.

In the event that the Owner makes written demand upon the General Contractor for amounts previously paid by the Owner as contemplated in this Subparagraph 8(F), the General Contractor shall promptly comply with such demand.

- (H) If within ten (10) days from the date payment to the General Contractor is due as measured from the date such payment is approved by the Project Manager, the Owner, without cause or basis hereunder, fails to pay the General Contractor any amounts then due and payable to the General Contractor, the General Contractor shall have the right to cease work until receipt of proper payment after first providing three (3) days' written notice of its intent to cease work to the Owner.
- (I) When Substantial Completion has been achieved, but not less than thirty (30) days prior to the final date for completion as set forth herein, the General Contractor shall notify the Owner and Project Manager in writing and shall furnish to the Project Manager a listing of those matters yet to be finished. The Project Manager will thereupon conduct an inspection to confirm that the work is in fact substantially complete. The Project Manager will so notify the Owner and General Contractor in writing and will therein set forth the date of Substantial Completion. If the Project Manager, through its inspection, fails to find that the General Contractor's work is substantially complete, and is required to repeat all, or any portion, of its Substantial Completion inspection, the General Contractor shall bear the cost of such repeat inspections(s) which cost may be deducted by the Owner from any payment then or thereafter due to the General Contractor. Guarantees and equipment warranties required by this Contract shall commence on the date of Substantial Completion. Upon Substantial Completion, the Owner shall pay the General Contractor an amount sufficient to increase total payments to the General Contractor to one hundred percent (100%) of the Contract Price; provided, however, said payment to the General Contractor by the Owner shall be reduced by (a) any amounts attributable to the Owner for unused contingency; (b) any amounts attributable to liquidated damages and (c) by an amount equal to two hundred percent (200%) of the value of each remaining incomplete item as determined by the Owner, correcting and bringing into conformance all defective and nonconforming work, and handling any outstanding or threatened claims. The Owner shall pay any payment due to the General Contractor under this provision within thirty (30) days after confirmation by the Project Manager of substantial completion.



- (J) When the Project is finally complete and the General Contractor is ready for a final inspection, it shall notify the Owner and the Project Manager thereof in writing. Thereupon, the Project Manager will perform a final inspection of the Project. If the Project Manager confirms that the Project is complete in full accordance with this Contract and that the General Contractor has performed all of its obligations to the Owner hereunder and the Project Manager will issue a Certificate of Final Completion, subject only to those items included in the Final Punch List, with final Approval for Payment to the Owner certifying to the Owner that the Project is complete and the General Contractor is entitled to the remainder of the unpaid Contract Price, less any amount the Owner is entitled to withhold pursuant to this Contract. If the Project Manager is unable to issue its final Approval for payment and is required to repeat its final inspection of the Project, the General Contractor shall bear the cost of such repeat inspection(s), which costs may be deducted by the Owner from the General Contractor's final payment.
- (K) If the General Contractor fails to achieve Final Completion within sixty (60) days of the date of Substantial Completion, subject to force majeure, the General Contractor, in addition to such sums as may be due pursuant to Subparagraph 7(B) above, shall pay the Owner an additional sum of Two Hundred Fifty and no/100 Dollars (\$250.00) per day for each and every calendar day of unexcused delay in achieving Final Completion beyond the date set forth herein for Final Completion of the work. Any sums due and payable hereunder by the General Contractor shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by the Owner, estimated at or before the time of executing this Contract. When the Owner reasonably believes that Final Completion will be inexcusably delayed, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the General Contractor an amount then believed by the Owner to be adequate to recover liquidated damages applicable to such delays. If and when the General Contractor overcomes the delay in achieving Final Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the General Contractor those funds withheld, but no longer applicable, as liquidated damages.
- (L) Prior to being entitled to receive final payment and as a condition precedent thereto, the General Contractor shall furnish the Owner, in the form and manner required by the Project Manager, with a copy to the Project Manager:
- (1) A General Contractor's Affidavit, Release and Lien Waiver in the form attached hereto as **Exhibit "F"**;
  - (2) If required by the Owner, separate releases of lien or lien waivers from each subcontractor, in the form attached hereto as **Exhibit "G"**;
  - (3) If applicable, consent(s) of surety to final payment;
  - (4) All product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of the General Contractor, or expressly required herein, as a part of or prior to Project closeout;

- (M) The Owner shall, subject to its rights set forth in Subparagraph 8(F) above, make final payment of all sums due the General Contractor within ten (10) days of the Project Manager's execution of a final Approval for Payment.
- (N) The acceptance by the General Contractor of final payment shall be and shall operate as a release to the Owner of all claims and all liability to the General Contractor for all things done or furnished in connection with, relating to, or arising out of the Work, except those previously made in writing and still unsettled. Any payment, however, final or otherwise, shall not release the General Contractor or his Sureties from any obligations under the Contract Documents or the Performance Bond and Payment Bond; provided, however, that the making of final payment by the Owner shall constitute a waiver of all claims by the Owner except those expressly reserved in writing by the Owner at the time of final payment and those arising from (1) unsettled liens or other claims, (2) defective, deficient, or nonconforming Work, (3) failure of the Work to comply with the requirements of this Contract. or (4) breach of warranty.

## 9.

### INFORMATION AND MATERIAL SUPPLIED BY THE OWNER

- (A) The Owner shall furnish to the General Contractor, prior to the execution of this Contract, any and all written and tangible material in its possession concerning conditions of the structure at the site of the project. Such written and tangible material is furnished to the General Contractor only in order to make complete disclosure of such material as being in the possession of the Owner and for no other purpose. By furnishing such material, the Owner does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefore. The Owner shall also furnish, if appropriate, the legal description of the Project site, and any required survey.
- (B) The Owner shall obtain and provide all required authorizations, approvals, easements, and the like, including the building permit or other permits or fees required of the General Contractor by this Contract.
- (C) The Owner will provide the General Contractor two (2) copies of the complete Contract, and the General Contractor shall provide the Owner with three (3) sets of Contract Documents.



**10.**

**CEASE AND DESIST ORDER**

In the event the General Contractor fails or refuses to perform the work as required herein, after notice and a reasonable time to perform, the Owner may instruct the General Contractor to cease and desist from performing further work in whole or in part. Upon receipt of such instruction, the General Contractor shall immediately cease and desist as instructed by the Owner and shall not proceed further until the cause for the Owner's instructions has been corrected, no longer exists, or the Owner instructs that the work may resume. In the event the Owner issues such instructions to cease and desist, and in the further event that the General Contractor fails and refuses within seven (7) days of receipt of same to provide adequate assurance to the Owner that the cause of such instruction will be eliminated or corrected, then the Owner shall have the right, but not the obligation, to carry out the work with its own forces, or with the forces of another Contractor, and the General Contractor shall be fully responsible and liable for the costs of performing such work by the Owner. The rights set forth herein are in addition to, and without prejudice to, any other rights or remedies the Owner may have against the General Contractor.

**11.**

**DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE GENERAL CONTRACTOR**

In addition to any and all other duties, obligations and responsibilities of the General Contractor set forth in this Contract, the General Contractor shall have and perform the following duties, obligations and responsibilities to the Owner:

- (A) The General Contractor is again reminded of its continuing duties set forth in Subparagraph 4(G), which are by reference hereby incorporated in this Subparagraph 11(A). The General Contractor shall not perform work without adequate plans and specifications, or, as appropriate, approved shop drawings, or other submittals. If the General Contractor performs work knowing or believing it involves an error, inconsistency or omission in the Contract without first providing written notice to the Project Manager and Owner, the General Contractor shall be responsible for such work and pay the cost of correcting same;
- (B) All work shall strictly conform to the requirements of this Contract;
- (C) The work shall be strictly supervised, the General Contractor bearing full responsibility for any and all acts or omissions of those engaged in the work on behalf of the General Contractor;

(D) The General Contractor hereby warrants that all labor furnished under this Contract shall be competent to perform the tasks undertaken, that the product of such labor shall yield only first-class results, that all materials and equipment provided shall be new and of high quality, that the completed work will be complete, of high quality, without defects, and that all work strictly complies with the requirements of this Contract. Any work not strictly complying with the requirements of this Subparagraph shall constitute a breach of the General Contractor's warranty;

(E) The General Contractor shall obtain and pay for all required permits, fees and licenses customarily obtained by the General Contractor and not specific to this contract or scope of work, except such permits, fees and licenses issued or collected by the Owner pursuant to section 9(B) above. The General Contractor shall comply with all legal requirements applicable to the Work.

(F) The General Contractor shall employ and maintain at the Project site only competent supervisory personnel. Key supervisory personnel will be as follows:

<b>NAME</b>	<b>FUNCTION</b>
Nathan Harbison	Construction Project Executive
Robert Parmer	Construction Project Manager
Tad Glasscock	Construction Superintendent
Oscar Herrera	Architect Project Manager

So long as the individuals named above remain actively employed or retained by the General Contractor, they shall perform the functions indicated next to their names unless the Owner agrees to the contrary in writing. In the event one or more individuals not listed above subsequently assumes one or more of those functions listed above, the General Contractor shall be bound by the provisions of this Subparagraph 11(F) as though such individuals had been listed above. The General Contractor will provide timely Notice to the Project Manager of Key Personnel or position shown above;

(G) The General Contractor, prior to commencing the work, shall provide to the Owner and the Project Manager, and comply with, the General Contractor's schedule for completing the work. Such schedule shall be in a form acceptable to the Owner. The General Contractor's schedule shall be updated no less frequently than monthly (unless the parties otherwise agree in writing) and shall be updated to reflect conditions encountered from time to time and shall apply to the total Project. Each such revision shall be furnished to the Owner and the Project Manager. Strict compliance with the requirements of this Subparagraph 11(G) shall be a condition precedent to payment to the General Contractor, and failure by the General Contractor to strictly comply with said requirements shall constitute a material breach of this Contract;



- (H) The General Contractor shall keep an updated copy of the Plans and Specifications at the Project site or local office of the General Contractor. Additionally, the General Contractor shall keep a copy of approved shop drawings and other submittals. All of these items shall be available to the Owner and the Project Manager at all regular business hours. Upon Final Completion of the work, all of these items shall be finally updated and provided to the Owner and shall become the property of the Owner;
- (I) Shop drawings and other submittals from the General Contractor do not constitute a part of the contract. The General Contractor shall not do any work requiring shop drawings or other submittals unless the Design Manager and Project Manager shall have approved such in writing. All work requiring approved shop drawings or other submittals shall be done in strict compliance with such approved documents. However, approval by the Design Manager, Project Manager, or the Owner shall not be evidence that work installed pursuant thereto conforms to the requirements of this Contract. The Owner and the Project Manager shall have no duty to review partial submittals or incomplete submittals. The General Contractor shall have the duty to carefully review, inspect and examine any and all submittals before submission of same to the Project Manager;
- (J) The General Contractor shall maintain the Project site in a reasonably clean condition during performance of the work. Upon Final Completion, the General Contractor shall thoroughly clean the Project site of all debris, trash and excess materials or equipment;
- (K) The General Contractor shall, at all times, maintain the Project site in a safe manner.
- (L) At all times relevant to this Contract, the General Contractor shall permit the Owner and the Project Manager to enter upon the Project site and to review or inspect the work without formality or other procedure, conditioned upon each such party complying with any and all reasonable safety requirements imposed by the General Contractor for the safe and secure performance of the work.

## 12.

### INDEMNITY

The General Contractor shall indemnify, enter and defend, and hold the Owner and Project Manager harmless from any and all claims, liability, damages, loss, cost and expense of every type whatsoever including, without limitation, attorneys' fees and expenses, in connection with the General Contractor's performance of this Contract, including claims, liability, damage, loss, cost or expense due to sickness, personal injury, disease or death, or to loss or destruction of tangible property, including loss of use resulting therefrom, to the extent caused by the General Contractor, or anyone for whose acts the General Contractor may be liable, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by the Owner, except such loss as is the direct result of the Owner's negligence. Provided that to the fullest extent permitted by law or regulation, Owner shall indemnify and hold harmless the General Contractor from and against all claims, costs, losses and damages arising out of or resulting from any claim brought by any subsequent owner or occupant for environmental health concerns or negative health impact against said General Contractor; provided however, the Owner shall not indemnify or hold harmless any party from or against claims, costs, losses and damages (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration or other dispute resolution costs) arising out of or resulting from any claim brought by any such owner or occupant for environmental health concerns or negative health impact occasioned by or resulting from said party's negligence or failure to comply with industry standards or regulations with respect to the handling or treatment of materials considered be hazardous.



13.

**THE PROJECT MANAGER**

The Project Manager for this Project is **Public-Private Partnership Project Management, Inc. (4PM)** (the "Project Manager"). In the event the Owner should find it necessary or convenient to replace the Project Manager, the Owner shall retain a replacement Project Manager and the role of the replacement Project Manager shall be the same as the role of the Project Manager specified below. Unless otherwise directed by the Owner in writing, the Project Manager will perform those duties and discharge those responsibilities allocated to the Project Manager in this Contract. The duties, obligations and responsibilities of the Project Manager shall include, but are not limited to, the following:

- (A) Unless otherwise directed by the Owner in writing, the Project Manager shall act as the Owner's agent from the effective date of this Contract until final payment has been made, to the extent expressly set forth in this Contract;
- (B) Unless otherwise directed by the Owner in writing, the Owner and the General Contractor shall communicate with each other in the first instance through the Project Manager;
- (C) The Project Manager shall review all proposed Change Orders;
- (D) The Project Manager shall be authorized to refuse to accept work which is defective or otherwise fails to comply with the requirements of this Contract. If the Project Manager deem it appropriate, the Project Manager shall be authorized to call for extra inspections or testing of the work for compliance with requirements of this Contract;
- (E) The Project Manager shall review the General Contractor's Payment Requests and shall approve in writing those amounts which, in the opinion of the Project Manager, are properly owing to the General Contractor as provided in this Contract;
- (F) The Project Manager shall, upon written request from the General Contractor, perform those inspections required in Paragraph 8 hereinabove;



- (G) The Project Manager shall be authorized to require the General Contractor to make changes which do not involve a change in the Contract Price or in the time for the General Contractor's performance of this Contract consistent with the intent of this Contract and provisions of Paragraph 16, provided such changes are in written order from the Project Manager and are binding on both the General Contractor and the Owner;
- (H) **PROJECT TEAM** – The Project Manager utilizes a web-based platform for project management called “PROJECT TEAM” ([www.projectteam.com](http://www.projectteam.com)). All parties involved in the project will be asked to provide the names and email addresses of the members of the organization that will need access to Project Team. All drawings, specifications, requests for information, potential change orders, or charges against contingency, change orders, invoices, pay applications, etc. shall be submitted and processed through Project Team. The Project Manager will assist any party to the project in familiarizing them with the platform and its utilization.
- (I) THE DUTIES, OBLIGATIONS AND RESPONSIBILITIES OF THE GENERAL CONTRACTOR UNDER THIS CONTRACT SHALL IN NO MANNER WHATSOEVER BE CHANGED, ALTERED, DISCHARGED, RELEASED, OR SATISFIED BY ANY DUTY, OBLIGATION OR RESPONSIBILITY OF THE PROJECT MANAGER. THE GENERAL CONTRACTOR IS NOT A THIRD-PARTY BENEFICIARY OF ANY CONTRACT BY AND BETWEEN THE OWNER AND THE PROJECT MANAGER. IT IS EXPRESSLY ACKNOWLEDGED AND AGREED THAT THE DUTIES OF THE GENERAL CONTRACTOR TO THE OWNER ARE INDEPENDENT OF, AND ARE NOT DIMINISHED BY, ANY DUTIES OF THE PROJECT MANAGER TO THE OWNER.

## 14.

### CLAIMS BY THE GENERAL CONTRACTOR

Claims by the General Contractor against the Owner, other than those claims by the General Contractor arising from the failure of the Owner to make payments pursuant to a Payment Request, as provided for in Paragraph 8 herein, shall be subject to the following terms and conditions:

- (A) All General Contractor claims against the Owner shall be initiated by a written claim submitted to the Project Manager. Such claim shall be received by the Owner and the Project Manager no later than ten (10) calendar days after the event, or the first appearance of the circumstances causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim;
- (B) The General Contractor and the Owner shall continue their performance hereunder regardless of the existence of any claims submitted by the General Contractor;



- (C) In the event the General Contractor discovers previously concealed and unknown conditions which could not have been discovered by reasonable inspection, the General Contractor shall notify the Owner and the Project Manager within ten (10) calendar days after the first appearance of the circumstances. As a condition precedent to the General Contractor's draw upon the contingency allowance due to concealed and unknown conditions, the General Contractor must give the Owner and the Project Manager written notice of, on the form provided in **Exhibit "D,"** and an opportunity to observe, such condition prior to disturbing it. The failure by the General Contractor to give the written notice as provided by this Subparagraph 14(C) shall constitute a waiver by the General Contractor of any rights arising out of or relating to such concealed and unknown condition. Furthermore, any draw upon any other allowance set forth in the Schedule of Values shall likewise be accompanied by written notice of such on the form provided in **Exhibit "D,"** ten (10) calendar days prior to such draw for review by the Project Manager.
- (E) In the event the General Contractor seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of the Owner therefore, the General Contractor shall strictly comply with the requirements of Subparagraph 14(A) above and such claim shall be made by the General Contractor before proceeding to execute any additional or changed work. Failure of the condition precedent to occur shall constitute a waiver by the General Contractor of any claim for additional compensation;
- (E) In connection with any claim by the General Contractor against the Owner for compensation in excess of the Contract Price, other than Change Orders properly submitted pursuant to the provisions of Paragraph 16, any liability of the Owner for the General Contractor's cost shall be strictly limited to direct cost incurred by the General Contractor and shall in no event include indirect cost or consequential damages of the General Contractor. The Owner shall not be liable to the General Contractor for claims of third-parties including subcontractors, unless and until liability of the General Contractor has been established therefor in a court of competent jurisdiction.
- (F) In the event the General Contractor should be delayed in performing any task which at the time of the delay is then critical, or which during the delay becomes critical, as the sole result of any act or omission by the Owner or someone acting in the Owner's behalf, or by Owner-authorized Change Orders, unusually bad weather not reasonably anticipatable, fire or other Acts of God, the date for achieving Substantial Completion, or, as applicable, Final Completion, shall be appropriately adjusted by the Owner upon the written claim of the General Contractor to the Owner and the Project Manager. A task is critical within the meaning of this Subparagraph 14(F) if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. Any claim for an extension of time by the General Contractor shall strictly comply with the requirements of Subparagraph 14(A) above. If the General Contractor fails to make such claim as required in this Subparagraph 14(F), any claim for an extension of time shall be waived.



**15.**

**SUBCONTRACTORS**

Upon the establishment of a final Schedule of Values and prior to the initiation of construction activities, the General Contractor shall identify to the Owner and Project Manager, in writing, those parties intended as subcontractors on the Project. The Owner shall, in writing within ten (10) days of such notice, state any objections the Owner may have to one or more of such subcontractors. The General Contractor shall not enter into a subcontract with an intended subcontractors with reference to whom the Owner objects. All subcontracts shall afford the General Contractor rights against the subcontractors which correspond to those rights afforded to the Owner against the General Contractor herein, including those rights of Contract termination as set forth herein below. Provided, however, should the owner object to any subcontractor reasonably capable of performing the work, the General Contractor shall be entitled to a Change Order based upon the additional cost of any subsequent subcontractor over that of the original subcontractor or any additional time required for the performance of the work resulting from such change.

**16.**

**CHANGE ORDERS AND DRAWS ON ALLOWANCES**

One or more changes to the work within the general scope of this Contract, may be ordered by Change Order. The General Contractor shall proceed with any such changes, and same shall be accomplished in strict accordance with the following terms and conditions:

- (A) Change Order may be requested by the General Contractor or initiated by the Owner. Provided however, a Change Order may be initiated by the General Contractor only for changes in the design, changes in the specifications, or changes in the scope of work by the Owner. Changes to the design, specifications or scope of work necessitated by previously concealed and unknown conditions which could not have been discovered by reasonable inspection, as set forth in Paragraph 14(C), shall be handled by draws upon the contingency allowance as provided for therein and not by Change Order. In addition, any draws upon any other allowance set forth in the Schedule of Values shall be handled as provided in Paragraph 14(C) and not by Change Order. The Project Manager shall review all proposed Change Orders and indicate the need therefor and any change in price or duration of the Agreement. No Change Order shall be effective unless approved by the Owner and the General Contractor; provided that if the total change order does not exceed two thousand five hundred (\$2,500.00) dollars, the Project Manager may approve the Change Order on behalf of the Owner. The General Contractor and either the Owner or the Project Manager must sign or initial all Change Orders in order to effect a change in the Contract's terms.
- (B) The execution of a Change Order by the General Contractor shall constitute conclusive evidence of the General Contractor's agreement to the ordered changes in the work, this Contract as thus amended, the Contract Price and the time for performance by the General Contractor. The General Contractor, by executing the Change Order, waives and forever releases any claim against the Owner for additional time or compensation for matters relating to or arising out of or resulting from the work included within or affected by the executed Change Order;



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

**17.**

**DISCOVERING AND CORRECTING DEFECTIVE OR INCOMPLETE WORK**

- (A) In the event that the General Contractor covers, conceals or obscures its work in violation of this Contract or in violation of a directive from the Owner or the Project Manager, such work shall be uncovered and displayed for the Owner's or Project Manager's inspection upon request, and shall be reworked at no cost in time or money to the Owner.
- (B) If any of the work is covered, concealed or obscured in a manner not covered by Subparagraph 17(A) above, it shall, if directed by the Project Manager, be uncovered and displayed for the Project Manager's inspection. If the uncovered work conforms strictly to this Contract, the costs incurred by the General Contractor to uncover and subsequently, replace such work shall be borne by the Owner. Otherwise, such costs shall be borne by the General Contractor;
- (C) The General Contractor shall, at no cost in time or money to the Owner, correct work rejected in writing with requisite specificity by the Project Manager as defective or failing to conform to this Contract. Additionally, the General Contractor shall reimburse the Owner for all testing, inspections and other expenses incurred as a result thereof;
- (D) In addition to its warranty obligations set forth elsewhere herein, the General Contractor shall be specifically obligated to correct any and all defective or nonconforming work for a period of twelve (12) months following Final Completion upon written direction from the Owner;
- (E) The Owner may, but shall in no event be required to, choose to accept defective or nonconforming work. In such event, the Contract Price shall be reduced by the greater of (1) the reasonable and verifiable costs of removing and correcting the defective or nonconforming work at market rates by a reputable contractor, and (2) the difference between the fair market value of the Project as constructed and the fair market value of the Project had it not been constructed in such a manner as to include defective or nonconforming work. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the Owner for the acceptance of defective or nonconforming work, the General Contractor shall, upon written demand from the Owner, pay the Owner such remaining compensation for accepting defective or nonconforming work.

**18.**

**TERMINATION BY THE GENERAL CONTRACTOR**



If the Owner fails to perform its material obligations to the General Contractor after written notice and a reasonable period to perform, the General Contractor may terminate performance under this Contract by written notice to the Owner and the Project Manager, given not less than ten (10) days prior to its intent to terminate hereunder. In such event, the General Contractor shall be entitled to recover from the Owner as though the Owner had terminated the General Contractor's performance under this Contract for convenience pursuant to Subparagraph 20(A) hereunder.

## **19.**

### **OWNER'S RIGHT TO SUSPEND GENERAL CONTRACTOR'S PERFORMANCE**

- (A) The Owner shall have the right at any time to direct the General Contractor to suspend its performance, or any designated part thereof, for any reason whatsoever, or without reason, for a cumulative period of up to thirty (30) calendar days. If the Owner directs any such suspension, the General Contractor shall immediately comply with same.
- (B) In the event the Owner directs a suspension of performance under this Paragraph 19, through no fault of the General Contractor, the Owner shall pay the General Contractor as full compensation for such suspension the General Contractor's reasonable costs, actually incurred and paid of:
  - (1) demobilization and remobilization, including such costs paid to subcontractors;
  - (2) preserving and protecting work in place;
  - (3) storage of materials or equipment purchased for the Project, including insurance thereon;
  - (4) performing in a later, or during a longer, timeframe than that contemplated by this Contract.

## **20.**

### **TERMINATION BY THE OWNER**

The Owner may terminate this Contract in accordance with the following terms and conditions:

- (A) The Owner may, for any reason whatsoever, terminate performance under this Contract by the General Contractor for convenience. The Owner shall give written notice of such termination to the General Contractor specifying when termination becomes effective. The General Contractor shall incur no further obligations in connection with the work and the General Contractor shall stop work when such termination becomes effective. The General Contractor shall also terminate outstanding orders and subcontracts. The General Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders. The Owner may direct the General Contractor to assign the General Contractor's right, title and interest under termination orders or subcontracts to the Owner or its designee. The General Contractor shall transfer title and deliver to the Owner such completed or partially completed work and materials, equipment, parts, fixtures, information and Contract rights as the General Contractor has. When terminated for convenience, the General Contractor shall be compensated as follows:
  - (1) The General Contractor shall be entitled to payment based on the following:



- (a) Contract prices for labor, materials, equipment and other services accepted under this Contract;
  - (b) Reasonable costs incurred in preparing to perform and in performing the terminated portion of the work, and in terminating the General Contractor's performance;
  - (c) Reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Subparagraph 20(A) of this Paragraph;
  - (d) An amount equal to ten (10%) per cent of the unpaid balance of the Guaranteed Fixed Price set forth in Paragraph 8 (A) as reasonable profits; provided however, that if it appears that the General Contractor would have not profited or would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss, if any.
- (2) These costs shall not include amounts paid in accordance with other provisions hereof. The total sum to be paid the General Contractor under this Subparagraph 20(A) shall not exceed the total Contract Price, as properly adjusted, reduced by the amount of payments otherwise made, and shall in no event include duplication of payment.

(B) If the General Contractor does not perform the work, or any part thereof, in a timely manner, after notice and a reasonable time to perform, supply adequate labor, supervisory personnel or proper equipment or materials, or if it fails to timely discharge its obligations for labor, equipment and materials, or proceeds to disobey applicable law, or otherwise commits a violation of a material provision of this Contract, then the Owner, in addition to any other rights it may have against the General Contractor or others, may, after five (5) days written notice, terminate the performance of the General Contractor and assume possession of the Project site and of all materials and equipment of the site and may complete the work. In such case, the General Contractor shall not be paid further until the work is complete. After Final Completion has been achieved, if any portion of the Contract Price, as it may be modified hereunder, remains after the cost to the Owner of completing the work, including all costs and expenses of every nature incurred, has been deducted by the Owner, such remainder shall be paid to the General Contractor. Otherwise, the General Contractor shall pay and make whole the Owner for such cost. This obligation for payment shall survive the termination of the Contract. In the event the employment of the General Contractor is terminated by the Owner for cause pursuant to this Subparagraph 20(B) and it is subsequently determined by a Court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a Termination for Convenience under Subparagraph 20(A) and the provisions of Subparagraph 20(A) shall apply.

## 21.

### INSURANCE

#### (A) GENERAL CONTRACTOR'S LIABILITY INSURANCE

- (1) The General Contractor shall purchase and maintain in a company or companies authorized to do business in the State of Georgia, having a rating with A. M. Best & Co. of A-VII or better and acceptable to Owner, such insurance acceptable to Owner as will protect the General Contractor from claims set forth below which may arise out of or result from operations under the Contract by the General Contractor or by a contractor of the General Contractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts



they may be liable:

- .1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit laws and acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the General Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of persons other than the General Contractor's employees;
- .4 claims for damages covered by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the General Contractor or (2) by another person;
- .5 claims for damages, other than to the Work at the site, because of injury to or destruction of tangible property, including loss of use;
- .6 claims for damages for bodily injury or death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle;
- .7 claims for damages because of professional errors and omissions; and
- .8 claims for contractually assumed liability under this agreement.

(2) The insurance required by the above Subparagraph (1) shall be written for not less than limits of liability specified as follows or required by law, whichever are greater:

1. Worker's Compensation
  - (a) State: Statutory
  - (b) Applicable Federal: Statutory
  - (c) Employer's Liability: \$100,000.00
2. Comprehensive General Liabilities (including Premises-Operations; Independent Contractors' Protective; Products and Completed Operations; Broad Form Property Damage and Elevator Liability):

Bodily Injury:	\$5,000,000.00 Each Occurrence
	\$5,000,000.00 Annual Aggregate
Property Damage:	\$5,000,000.00 Each Occurrence
	\$5,000,000.00 Annual Aggregate

Products and Completed Operations to be maintained for one year after final payment.

Property Damage Liability Insurance including XCU coverage.

3. Contractual Liabilities:

Bodily Injury:	\$ 1,000,000.00 Each Occurrence
	\$ 5,000,000.00 Annual Aggregate
Property Damage:	\$ 1,000,000.00 Each Occurrence
	\$ 5,000,000.00 Annual Aggregate
4. Personal Injury: 

\$ 1,000,000.00 Each Occurrence
\$ 5,000,000.00 Annual Aggregate
5. Comprehensive Automobile Liability:

	Bodily Injury:	\$1,000,000.00 Each Person \$1,000,000.00 Each Occurrence
	Property Damage:	\$1,000,000.00 Each Occurrence \$5,000,000.00 Annual Aggregate
6.	Professional Errors and Omissions:	\$1,000,000.00 Each Occurrence \$2,000,000.00 Annual Aggregate
7.	Builders Risk:	Full amount of cost proposal minus the amount of Design and Construction Management Services.
8.	Umbrella Policy:	\$5,000,000.00 combined single limit

To remain in force through the one (1) year warranty period.

(3) The General Contractor's liability insurance shall include contractual liability insurance applicable to the General Contractor's obligations.

(4) Certificates of Insurance, and copies of policies and endorsements, acceptable to the Owner, shall be delivered to the Owner prior to commencement of design and construction, as provided below. If any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted along with the application for final payment. The form of the certificate shall be AIA Document G705.

(5) The General Contractor's general liability and automobile insurance shall be endorsed to include the Owner, its officers, officials, employees, volunteers and agents as additional insureds as respects liability arising out of activities covered by or on behalf of the General Contractor, products and completed operations of the General Contractor, premises owned, occupied or used by the General Contractor, or automobiles owned, leased, hired or borrowed by the General Contractor. The coverage shall contain no special limitation on the scope of protection afforded to Owner, its officers, officials, employees, volunteers and agents. Nothing in this paragraph shall be construed to require the General Contractor to provide liability coverage to the owner for claims asserted against Owner for its sole negligence. Such policies shall provide that any failure to comply with the reporting provisions, of the policies, shall not affect coverage provided to the Owner, its officers, officials, employees, volunteers or agents. The General Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(6) The General Contractor shall include all contractors and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein with the exception of professional liability insurance stated below.

(7) The General Contractor's Architect, Engineers, Testing Consultants and any other party engaged by the General Contractor to provide services shall carry professional liability insurance in the amount of \$2,500,000.00 single limit per occurrence. Certificates shall be provided including a description of services covered by the insured party on the Project.

(8) Any deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner either: The insurer shall reduce or eliminate such deductibles or -self-insured- retentions as respects the Owner, its officers, officials and employees; or the General Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.



(B) PROPERTY INSURANCE

- (1) The General Contractor shall purchase and maintain in a company lawfully authorized to do business in the State of Georgia property insurance in the amount of the Project - Phase I contract sum of (\$3,865,950.00) with said insurance amount to be increased upon the Parties execution of subsequent modifications and/or amendments anticipated to be in a total not to exceed amount of \$12,562,730.00 for Phase I and Phase II of the total project. Such property insurance shall be maintained unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance until Certificate of Final Completion and final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered whichever is earlier. This insurance shall include interest of the Owner, the General Contractor, Subcontractors, and Subs-Subcontractors in the Work.
- (2) The type of policy shall be a Builder's Risk in the amount of the contract sum as well as subsequent modifications and/or amendments and shall be on an all-risk policy form. The Builder's Risk policy shall cover work performed under the Contract, and materials, equipment, expedited deliveries or other items to be incorporated therein, while the same are located at the construction site, stored off-site, or at the place of manufacture. The policy shall cover not less than losses due to fire, flood, explosion, hail, lightning, weather, vandalism, malicious mischief, wind, collapse, riot aircraft, smoke or other cataclysmic events, until the date of final acceptance of the work. The making of progress payments to General Contractor shall not be construed as relieving General Contractor or his subcontractors or the insurance company or companies providing the coverage described herein of responsibility for loss or direct physical loss, damage or destruction occurring prior to final acceptance.
- (3) The form of policy for this coverage shall be Completed Value.
- (4) If the Owner is damaged by the failure of the General Contractor to maintain such insurance, then the General Contractor shall bear all costs properly attributable thereto.

The General Contractor shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with performance of the Work hereunder by the General Contractor, his agents, representatives, employees, or subcontractors. The cost of such insurance shall be included in the General Contractor's bid.

(C) VERIFICATION OF COVERAGE;

- (1) The General Contractor shall furnish the Owner with five original certificates of insurance, each with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The name of the Insured on the Certificate must exactly match the name on the Agreement/Contract and on the General Contractor's corporate seal. Each certificate must have an original signature in blue ink or a stamped signature in blue ink. Photocopies are not acceptable. The Certificates must include the City of Powder Springs Project Name and Project Number.

- (2) The Certificate Holder must be shown as:

City of Powder Spring  
Attention: City Manager  
PO Box 46  
Powder Springs, GA 30127



- (3) The certificates and endorsements naming additional insureds and indicating required waivers are to be submitted with the executed Agreement/Contract and Performance and Payment Bonds, and shall be approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies at any time.
- (4) The endorsements on the certificates must read as follows:
1. The certificate for All Coverage shall include the following Cancellation endorsement, worded exactly as follows: **“Should any coverage be suspended, voided, cancelled or, reduced in coverage or in limits, thirty (30) days prior written notice delivered by certified mail, return receipt requested, will be given to the Certificate Holder.”;**
  2. The certificate for General Liability and Automobile coverage shall include the following endorsement, worded exactly as follows: **“Owner, its officers, officials, employees and volunteers are covered as additional insureds as respects liability arising out of actions performed by or on behalf of the General Contractor; products and completed operations of the General Contractor; or automobiles owned, leased, hired or borrowed by the General Contractor.”**
  3. The certificate for Worker’s Compensation and Employers’ Liability coverage shall include the following endorsement, worded exactly as follows: **“The insurer agrees to waive all rights of subrogation with respect to Worker’s Compensation and Employers’ Liability coverage against the Owner, its officers, officials, employees, and volunteers for losses arising from work performed by the General Contractor for the Owner.”**

## 22.

### SURETY BONDS

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

The Company issuing such bonds must be listed in the latest issue of U. S. Treasury Circular 570, registered, and duly authorized to do business in the State of Georgia. The bond must be signed (or countersigned) by a local agent, each in an amount that is at least equal to one-hundred percent (100%) of the **Guaranteed Fixed Price** (as may be adjusted by the parties), as security for the faithful performance of this Agreement and as security for the payment of all persons performing labor or furnishing material in connection with the Agreement. Any increase in the Guaranteed Fixed Price shall require a rider to the bonds increasing the amounts accordingly. The surety shall be acceptable to the Owner and the bonds shall be executed on the forms attached hereto as **Exhibit “H”** and **Exhibit “I”**. In case of default on the part of the General Contractor, all expenses incident to ascertaining and collecting losses on the bond, including engineering and legal fees shall lie against the bond. The General Contractor shall provide to Owner a one-year guarantee covering workmanship and materials of the Project. The performance bond shall remain in force for one year from the date of Project acceptance by the Owner. The cost of these bonds shall be paid by the General Contractor.

## 23.



## PROJECT RECORDS

All documents relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the General Contractor, or any subcontractor of the General Contractor, shall be reasonably made available to the Owner or the Project Manager for inspection and copying upon written request by the Owner. Furthermore, said documents shall be made available, upon request by the Owner, to any state, federal or other regulatory authority and any such authority may review, inspect and copy such records. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project, its design, and its construction. Said records do not include those documents reflecting the cost of construction to the General Contractor, except for those records related to any Change Order, Contingency Draw or Allowance Draw, as provided for herein. The General Contractor shall maintain and protect these documents for no less than four (4) years after Final Completion of the Project, or for any longer period of time as may be required by law or good construction practice.

24.

## APPLICABLE LAW

The law is hereby agreed to be the law of the State of Georgia and any action brought to clarify or enforce this Agreement shall be brought in a court of competent jurisdiction located in Cobb County, Georgia.

25.

## SUCCESSORS AND ASSIGNS

Each Party binds itself, its successors, assigns, executors, administrators or other representatives to the other party hereto and to successors, assigns, executors, administrators or other representatives of such other party in connection with all terms and conditions of this Contract. The General Contractor shall not assign this Contract without prior written consent of the Owner.

26.

## IMMIGRATION COMPLIANCE

The Owner and General Contractor agree that compliance with the requirements of O.C.G.A. §13-10-91 and Rule 300-10-1-02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

The General Contractor represents that it employs:

☐ 500 or more employees;  
☐ 100 or more employees; or  
☒ Fewer than 100 employees

(General Contractor must initial appropriate category).

The General Contractor further agrees that its compliance with the requirements of O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02 is attested to on the executed General Contractor Affidavit and Agreement attached hereto as **Exhibit "K"**. If employing or contracting with any subcontractor(s) in connection with this Agreement, General



Contractor further agrees:

- (1) To secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor(s); and
- (2) To secure from the subcontractor(s) an affidavit attesting to the subcontractor's compliance with O.C.G.A. Sec. 13-10-91 and DOL Rule 300-10-1-.02; such affidavit being in the form attached hereto and referenced as **Exhibit B-1**; and
- (3) To submit such subcontractor affidavit(s) to the County when the subcontractor(s) is retained, but in any event, prior to the commencement of work by the subcontractor(s).

The failure of General Contractor to supply the affidavit of compliance at the time of execution of this Agreement and/or the failure of Design-Builder to continue to satisfy the obligations of O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02 as set forth in this Agreement during the term of the Agreement shall constitute a material breach of the contract. Upon notice of such breach, General Contractor shall be entitled to cure the breach within ten (10) days, upon providing satisfactory evidence of compliance with the terms of this Agreement and State law. Should the breach not be cured, the Owner shall be entitled to all available remedies, including termination of the contract and damages.

27.

#### **COMPLIANCE WITH O.C.G.A. § 36-60-13**

Owner and General Contractor agree that this Agreement is subject to the terms of O.C.G.A. § 36-60-13. In accordance with such provision, this Agreement is for a term of one year and shall terminate absolutely and without further obligation on the part of Owner at the close (December 31) of the calendar year in which it was executed and at the close (December 31) of each succeeding calendar year for which it may be renewed, unless earlier terminated as provided in this Agreement, or renewed as provided herein. This Agreement will automatically renew at 12:01 January 1 of the following calendar year unless the Owner notifies the General Contractor in writing at least thirty (30) days prior to termination that the Agreement will not be renewed. Further, this Agreement will terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of the Owner. This Agreement does not create a debt of the Owner for the payment of any sum beyond the calendar year of execution or in the event of renewal, beyond the calendar year of such renewal.

28.

#### **CONFLICT OF INTEREST AFFIDAVIT**

General Contractor agrees, and shall execute an affidavit in the form as attached hereto as **Exhibit "M"** attesting that, to the best of its knowledge no circumstances exist that will cause a conflict of interest in performing services for Owner, that no employee of Owner, nor any public agency official or employee affected by this Agreement has any pecuniary interest in the business of this firm, associates or consultants of this firm, or the firm's parent firm, subsidiary, or other legal entity of which this firm is a part, and that no person associated with or employed by this firm has any interest that would conflict in any way, manner or degree with the performance of services for Owner.

29.

#### **NON-COLLUSION AFFIDAVIT**

Owner and General Contractor acknowledge that the Georgia statute concerning public works construction contracting requires that any person who procures such work by bidding or proposal shall make an oath in writing that he/she has not prevented or attempted to prevent competition in such bidding [OCGA § 36-91-21(d),(e)]. In compliance with O.C.G.A. § 36-91-21(d), (e) General Contractor shall make the oath and complete an affidavit in



the form as attached hereto as **Exhibit "N"**. If such oath is false, this agreement shall be void, and all sums paid by the Owner on the Agreement may be recovered by appropriate action.

**30.**

**NOTICES**

All notices, claims or other communications provided for by this Contract shall be in writing and shall be mailed by certified mail to the following Notice addresses:

**OWNER**

City of Powder Springs  
P. O. Box 46  
Powder Springs, GA 30127  
Attention: Pam Conner

with copy to:

4PM  
205 Corporate Center Drive, Suite B  
Stockbridge, GA 30236  
Attention: Kirby Glaze

**GENERAL CONTRACTOR**

Macallan Construction LLC  
1642 Powers Ferry Road SE, Suite 250  
Marietta, Georgia 30067  
Attention: Nathan Harbison

with copy to:

Macallan Construction LLC  
1642 Powers Ferry Road SE, Suite 250  
Marietta, Georgia 30067  
Attention: James L. Rhoden III

Such notices, claims and communications shall be deemed to date from date of receipt.

**(SIGNATURES APPEAR ON THE FOLLOWING PAGE)**



Therefore the parties hereto set their hand and seal this \_\_\_\_ of \_\_\_\_\_, 2023.

**City of Powder Springs**

By: Albert Shuman  
Title: Mayor

Attested to by:

Kelly A. St.  
City Clerk

Approved as to form by:

Julie K. St.  
City Attorney

**GENERAL CONTRACTOR**

By: Nathan Harbison

Nathan Harbison  
Title: Vice President Operations Manager



Therefore the parties hereto set their hand and seal this \_\_\_\_ of \_\_\_\_\_, 2023.

**City of Powder Springs**

By: Albert Thurman  
Title: Mayor

Attested to by:

Kelly Axt  
City Clerk

Approved as to form by:

Julie 2  
City Attorney

**GENERAL CONTRACTOR**

By: Nathan Harbison

Nathan Harbison  
Title: Vice President Operations Manager



Therefore the parties hereto set their hand and seal this \_\_\_\_ of \_\_\_\_\_, 2021.

**City of Powder Springs**

By: Albert Shannon  
Title: Mayor

Attested to by:

Kelly Axt  
City Clerk

Approved as to form by:

Julie K. Ziegler  
City Attorney

**GENERAL CONTRACTOR**

By: Nathan Harbison

Nathan Harbison  
Title: Vice President Operations Manager



Therefore the parties hereto set their hand and seal this \_\_\_\_ of \_\_\_\_\_, 2023.

**City of Powder Springs**

By: Albert Johnson  
Title: Mayor

Attested to by:

Kelly A. [Signature]  
City Clerk

Approved as to form by:

[Signature]  
City Attorney

**GENERAL CONTRACTOR**

By: Nathan Harbison

[Signature]  
Title: Vice President Operations Manager



## **EXHIBIT A**

### **Project Description – Phase I**

The total project consists of the design and construction for the renovation and construction of additions of and to the Municipal Court building located at 4483 Pineview Drive, Powder Springs, Georgia. The project is for the renovation of the existing facility to house City Hall, Community and Economic Development and Municipal Court services due to the City's urban redevelopment plan to redevelop underutilized properties and facilities as private, mixed use development to accomplish the goals and objectives of the Comprehensive Plan of the City of Powder Springs.

These services would include the confirmation of compatibility of the space program, renovation and expansion with a second story addition, and cost budget through design, construction, contract closeout and warranty enforcement, preparation of all design and construction documents and construction compliance inspection services, pre-construction consulting services to control project cost and schedule during the design, and construction services.

The total project is anticipated to be completed in two Phases. This Contract is for Phase I of the total project. Phase I includes the site work to be completed to prepare the new building site and the parking deck site, the development and construction of the parking deck, and a deposit to be applied for the structural steel of the new building. The General Conditions provided in the original Schedule of Values includes the General Conditions for the entire Project Phase I and the anticipated Phase II. This Contract for Phase I is for the not to exceed amount of \$3,865,950.00. After the final design has been completed, this Contract is anticipated to be amended to include Phase II for the total Contract Value for Phase I and Phase II in an amount not to exceed \$12,562,730.



## List of Contract Documents

1. **Guranteed fixed Price Contract,**
2. **Payment Bond,**
3. **Performance Bond,**
4. **Drawings,**
5. **Specifications and Addenda,**
6. **Schedule of Work, as provided for in Section 11 (G) herein.**
7. City of Powder Springs Request for Qualifications and Proposals for Design-Build Services for a new Municipal Complex – RFQ/RFP 22-015, Macallan Construction LLC response to RFQ/RFP 22-015,
8. All Contract Exhibits referenced with Contract,
9. Non-Collusion Affidavit,
10. Immigration Reform and Control Act Contractor Affidavit,
11. Plans prepared by Croft & Associates entitled A New Parking Deck for the City of Powder Springs dated June 16, 2022, and Civil Drawings noted below:

Discipline	Drawing No.	Drawing Title	Revision	Drawing Date	Received Date
Civil	C-0.0	Cover Sheet	1	6/16/2022	10/26/2022
Civil	C-0.1	Project Notes	1	6/16/2022	10/26/2022
Civil	C-0.2	SURVEYOR	0	2/28/2022	10/26/2022
Civil	C-1.0	Overall Site Plan	1	6/16/2022	10/26/2022
Civil	C-2.0	Demolition Plan	1	6/16/2022	10/26/2022
Civil	C-3.0	Site Plan	1	6/16/2022	10/26/2022
Civil	C-4.0	Grading Plan	1	6/16/2022	10/26/2022
Civil	C-5.0	Utility Plan	1	6/16/2022	10/26/2022
Civil	C-6.0	Erosion Notes	1	6/16/2022	10/26/2022
Civil	C-6.1	Erosion Notes	1	6/16/2022	10/26/2022
Civil	C-6.2	Erosion Control Plan Initial Phase	0	6/16/2022	10/26/2022
Civil	C-6.3	Erosion Control Plan Intermediate Phase	0	6/16/2022	10/26/2022
Civil	C-6.4	Erosion Control Plan Final Phase	0	6/16/2022	10/26/2022
Civil	C-7.0	Sewer Profiles	1	6/16/2022	10/26/2022
Civil	C-8.0	Details	1	6/16/2022	10/26/2022
Civil	C-8.1	Details	1	6/16/2022	10/26/2022
Civil	C-8.2	Details	1	6/16/2022	10/26/2022
Civil	C-8.3	Details	0	6/16/2022	10/26/2022

**Clarifications: See next three pages for clarifications.**



**Powder Springs Municipal Building and Parking Deck Phase I**  
**List of Specifications, Clarifications & Pricing Assumptions**

**Clarifications:**

**Clarifications:**

**03 00 00 CONCRETE**

**03 00 50 Cast-in-Place Concrete**

**Inclusions:**

- Cast-in-place concrete as shown on plans for detention pond and footings

**Exclusions:**

- Any concrete work not specifically identified above.

**16 00 00 PLUMBING 16 00**

**10 Plumbing**

**Inclusions:** •

None.

**Exclusions:**

- Any Plumbing Piping work not specifically identified above.

**17 00 00 HEATING, VENTILATING, AND AIR CONDITIONING (HVAC) 17 00 30 HVAC Air**

**Distribution**

**Inclusions:** •

None.

**Exclusions:**

- Any HVAC work not specifically identified above.

**17 02 10 Central HVAC Equipment (DDC Controls) Inclusions:**

- None.

**Exclusions:**

- Any Automation Controls, Actuators, Operators, or Transmitters, devices, or sensors, not specifically identified above.

**18 00 00 ELECTRICAL**

**18 00 10 Electrical Protection**

**Inclusions:**

- None.

**Exclusions:**

- Any Electrical Protection work not specifically identified above.



**Powder Springs Municipal Building and Parking Deck Phase I**  
**List of Specifications, Clarifications & Pricing Assumptions**

**21 00 00 Earthwork 21 00**

**30 Grading**

**Inclusions:**

- Grading as shown on plans
- Assumes existing materials will be suitable for use as structural fill.
- Erosion Control per plans. NPDES monitoring / sampling by others, if required.
- We have carried an allowance per the Geo-Tech report under existing fill for remediation of localized areas of poor-quality fill materials.

**Exclusions:**

- Any Grading not specifically identified above.
- Note 4 S-311
- Note 6A S-001

**21 00 50 Erosion and Sedimentation Controls Inclusions:**

- Erosion and Sedimentation Controls as shown on plans.

**Exclusions:**

- Any Erosion and Sedimentation Controls not specifically identified above.

**21 01 20 Bored Piles**

**Inclusions:**

- None

**Exclusions:**

- Any Special Foundations and Load Bearing Elements not specifically identified above.

**22 00 00 Exterior Improvements**

**22 00 30 Curbs, Gutters, Sidewalks, and Driveways Inclusions:**

- None

**Exclusions:**

- Any Curbs, Gutters, Sidewalks, and Driveways work not specifically identified above.

**23 00 00 Utilities**

**23 00 10 Water Utilities**

**Inclusions:**

- New water service as shown on plans.

**Exclusions:**

- Any Water Utilities work not specifically identified above.





**Powder Springs Municipal Building and Parking Deck**  
**Phase I List of Specifications, Clarifications & Pricing**  
**Assumptions**

**23 00 20 Sanitary Sewerage**

**Inclusions:**

- Sanitary Sewerage as shown on plans.
- Assumes proper invert elevation for existing sanitary sewerage. **Exclusions:**
- Any Sanitary Sewerage work not specifically identified above.

**23 00 40 Stormwater Utilities**

**Inclusions:**

- Stormwater Utilities as shown on plans. • P1-P3 priced as part of this contract **Exclusions:**
- Any Stormwater Utilities work not specifically identified above.

**25 00 00 Taxes & Insurance**

**26 00 00 Profit & Overhead**

**27 00 00 Contingency for Concealed or Unforeseen Circumstances**

## EXHIBIT C

### Schedule of Values

20-02-010000	General Requirements	
20-02-010005	Pre-Construction Services	\$22,500
20-02-010010	Allowances	
20-02-010020	Unit Prices	
20-02-010030	Alternates	
20-02-010040	Project Management and Coordination	\$424,080
20-02-010041	Assistant PM and Superintendent	
20-02-010042	Safety Office	
20-02-010043	Project Accounting	
20-02-010050	Construction Progress Documentation	\$24,500
20-02-010060	Quality Control	\$9,450
20-02-010070	Temporary Facilities and Controls	\$57,875



20-02-010071	Traffic Control	
20-02-010080	Temporary Utilities	\$21,600
20-02-010090	Other	
20-02-010100	Temporary Barriers and Enclosures	\$24,500
20-02-010110	Cleaning and Waste Management	\$54,300
20-02-010120	Closeout Submittals	\$4,000
20-02-010130	Demonstration and Training	
20-02-010140	Payment & Performance Bonds	\$33,156
20-02-010150	Permits & Licenses	
20-02-010160	Impact Fees	
20-02-010170	Special Inspection Fess	
20-02-010180	As-Built Survey	\$7,000
20-02-020000	Existing Conditions	
20-02-020001	Surveys	

20-02-020010	Existing Conditions Assessment	
20-02-020020	Environmental Assessment	
20-02-020030	Hazardous Material Assessment	
20-02-020040	Subsurface Investigation	
20-02-020050	Geotechnical Investigations	
20-02-020060	Demolition	\$110,272
20-02-020070	Site Remediation	
20-02-020080	Remediation Soil Stabilization	
20-02-020090	Underground Storage Tank Removal	
20-02-020110	Asbestos Remediation	
20-02-020120	Lead Remediation	
20-02-020130	Tree Removal or Harvesting	
20-02-020140	Other Existing Conditions	
20-02-030000	Concrete	



20-02-030010	Concrete Forming and Accessories	
20-02-030020	Concrete Forming	
20-02-030030	Concrete Reinforcing	
20-02-030040	Reinforcement Bars	
20-02-030050	Cast-in-Place Concrete	\$726,452
20-02-030060	Concrete Finishing	
20-02-030070	Specialty Placed Concrete	
20-02-030080	Post-Tensioned Concrete	
20-02-030090	Precast Concrete	\$1,496,952
20-02-030090	Precast Concrete	
20-02-030100	Site-Cast Concrete	
20-02-030110	Concrete Cutting and Boring	
20-02-030120	Concrete Stairs	
20-02-040000	Masonry	

20-02-040010	Concrete Unit Masonry	
20-02-040020	Stone Assemblies	
20-02-040030	Stone Masonry	
20-02-040040	Masonry Fireplaces	
20-02-040050	Cast Stone Masonry	
20-02-050000	Metals	
20-02-050010	Structural Metal Framing	
20-02-050020	Structural Steel Framing	\$250,000 Deposit
20-02-050030	Structural Cabling	
20-02-050040	Metal Joists	
20-02-050050	Steel Joist Framing	
20-02-050060	Aluminum Joist Framing	
20-02-050070	Metal Decking	
20-02-050080	Metal Support Assemblies	



20-02-050090	Metal Fabrications
20-02-050100	Metal Stairs
20-02-050110	Metal Railings
20-02-050120	Metal Specialties
20-02-050130	Decorative Metal
20-02-050140	Fixed Ladders
20-02-050150	Metal Bollards
20-02-060000	Wood, Plastics, and Composites
20-02-060010	Rough Carpentry
20-02-060020	Wood Framing
20-02-060030	Structural Panels
20-02-060040	Heavy Timber Construction
20-02-060050	Wood Decking
20-02-060060	Sheathing

20-02-060070	Glued-Laminated Construction
20-02-060080	Finish Carpentry
20-02-060090	Millwork
20-02-060100	Architectural Wood Casework
20-02-060110	Wood Paneling
20-02-060120	Wood Stairs and Railings
20-02-060130	Ornamental Woodwork
20-02-060140	Wood Screens and Shutters
20-02-060150	Structural Plastics
20-02-060160	Plastic Structural Assemblies
20-02-060170	Plastic Decking
20-02-060180	Plastic Trim
20-02-060190	Composite Structural Assemblies
20-02-060200	Composite Decking



20-02-060210	Composite Railings
20-02-060220	Composite Trim
20-02-060230	Composite Paneling
20-02-060240	Casework
20-02-060250	Specialty Casework
20-02-060260	Countertops
20-02-070000	Thermal and Moisture Protection
20-02-070010	Dampproofing and Waterproofing
20-02-070020	Thermal Insulation
20-02-070030	Roof and Deck Insulation
20-02-070040	Exterior Insulation and Finish Systems
20-02-070041	Stucco
20-02-070050	Vapor Retarders
20-02-070060	Roofing and Siding Panels

20-02-070070	Roof Panels
20-02-070075	Roof Accessories
20-02-070080	Wall Panels
20-02-070090	Siding
20-02-070100	Membrane Roofing
20-02-070110	Built-Up Bituminous Roofing
20-02-070120	Modified Bituminous Membrane Roofing
20-02-070130	Elastomeric Membrane Roofing
20-02-070140	Thermoplastic Membrane Roofing
20-02-070150	Flashing and Sheet Metal
20-02-070160	Sheet Metal Roofing
20-02-070170	Sheet Metal Flashing and Trim
20-02-070180	Fire and Smoke Protection
20-02-070190	Joint Sealants



20-02-070200	Expansion Control
20-02-080000	Openings
20-02-080010	Doors and Frames
20-02-080020	Metal Doors and Frames
20-02-080030	Metal Frames
20-02-080040	Metal Doors
20-02-080050	Wood Doors
20-02-080060	Plastic Doors
20-02-080070	Composite Doors
20-02-080080	Integrated Door Opening Assemblies
20-02-080090	Specialty Doors and Frames
20-02-080100	Access Doors and Panels
20-02-080110	Sliding Glass Doors
20-02-080120	Coiling Doors and Grilles

20-02-080130	Entrances and Storefronts
20-02-080140	Entrances
20-02-080150	Storefronts
20-02-080160	Curtain Wall and Glazed Assemblies
20-02-080170	Windows
20-02-080180	Metal Windows
20-02-080190	Wood Windows
20-02-080200	Composite Windows
20-02-080210	Roof Windows and Skylights
20-02-080220	Glazed Canopies
20-02-080230	Skylight Protection and Screens
20-02-080240	Hardware
20-02-080250	Door Hardware
20-02-080260	Window Hardware



20-02-080270	Hardware Accessories
20-02-080280	Glazing
20-02-080290	Mirrors
20-02-080300	Plastic Glazing
20-02-080310	Louvers and Vents
20-02-090000	Finishes
20-02-090010	Plaster and Gypsum Board Assemblies
20-02-090020	Gypsum Board
20-02-090030	Tiling
20-02-090040	Ceilings
20-02-090050	Acoustical Ceilings
20-02-090060	Flooring
20-02-090070	Masonry Flooring
20-02-090080	Wood Flooring

20-02-090090	Resilient Flooring
20-02-090100	Terrazzo Flooring
20-02-090110	Carpeting
20-02-090120	Wall Finishes
20-02-090130	Wall Coverings
20-02-090140	Acoustic Insulation
20-02-090150	Painting and Coating
20-02-090160	Painting Interior
20-02-090161	Painting Exterior
20-02-090170	Special Coatings
20-02-090180	Base
20-02-100000	Specialties
20-02-100010	Display Cases
20-02-100020	Directories



20-02-100030	Signage
20-02-100040	Partitions
20-02-100050	Service Walls
20-02-100060	Wall and Door Protection
20-02-100070	Toilet, Bath, and Laundry Accessories
20-02-100080	Fireplaces and Stoves
20-02-100090	Emergency Aid Specialties
20-02-100100	Fire Protection Specialties
20-02-100110	Photoluminescent Exit Specialties
20-02-100120	Storage Specialties
20-02-100130	Lockers
20-02-100140	Postal Specialties
20-02-100150	Storage Assemblies
20-02-100160	Flagpoles

20-02-100170	Other Specialties
20-02-100180	Gas Lighting
20-02-110000	Equipment
20-02-110001	Parking Control Equipment
20-02-110002	Pedestrian Control Equipment
20-02-110003	Security Control Equipment
20-02-110004	Commercial Equipment
20-02-110005	Retail and Service Equipment
20-02-110006	Postal, Packaging, and Shipping Equipment
20-02-110007	Residential Equipment
20-02-110008	Unit Kitchens
20-02-110010	Foodservice Storage Equipment
20-02-110011	Food Cooking Equipment
20-02-110012	Food Dispensing Equipment



20-02-110013	Foodservice Cleaning and Disposal Equipment
20-02-110014	Library Equipment
20-02-110015	Audio-Visual Equipment
20-02-110016	Entertainment and Recreation Equipment
20-02-110017	Recreational Equipment
20-02-110018	Facility Maintenance and Operation Equipment
20-02-110019	Other Equipment
20-02-110020	Security Equipment
20-02-110021	Detention Equipment
20-02-110090	Foodservice Equipment
20-02-110091	Kitchen Equipment
20-02-120000	Furnishings
20-02-120001	Wall Decorations
20-02-120002	Window Treatments

20-02-120003	Window Blinds
20-02-120004	Curtains and Drapes
20-02-120005	Interior Shutters
20-02-120006	Window Shades
20-02-120007	Casework
20-02-120009	Countertops
20-02-120010	Furnishings and Accessories
20-02-120011	Office Accessories
20-02-120012	Furnishing Accessories
20-02-120013	Furniture
20-02-120014	Office Furniture
20-02-120015	Fixed Audience Seating
20-02-120016	Portable Audience Seating
20-02-120017	Stadium and Arena Seating



20-02-120018	Other Furnishings
20-02-120080	Specialty Casework
20-02-130000	Special Construction
20-02-130001	Swimming Pools
20-02-130002	Fountains
20-02-130003	Special Purpose Rooms
20-02-130005	Athletic and Recreational Special Construction
20-02-130006	Special Structures
20-02-130007	Sound, Vibration, and Seismic Control
20-02-130040	Vaults
20-02-140000	Conveying Equipment
20-02-140002	Elevator Equipment and Controls
20-02-140003	Escalators and Moving Walks
20-02-140004	Lifts

20-02-140005	Scaffolding
20-02-140006	Other Conveying Equipment
20-02-140010	Elevators
20-02-150000	Fire Suppression
20-02-150001	Facility Fire-Suppression Water-Service Piping
20-02-150002	Fire-Suppression Standpipes
20-02-150004	Fire-Suppression Pressure Maintenance Pumps
20-02-150005	Fire-Extinguishing Systems
20-02-150006	Carbon-Dioxide Fire-Extinguishing Systems
20-02-150007	Clean-Agent Fire-Extinguishing Systems
20-02-150008	Wet-Chemical Fire-Extinguishing Systems
20-02-150009	Dry-Chemical Fire-Extinguishing Systems
20-02-150010	Fire Pumps



20-02-150011	Fire-Suppression Water Storage
20-02-150030	Fire-Suppression Sprinkler Systems
20-02-160000	Plumbing
20-02-160001	Plumbing Piping
20-02-160003	Facility Potable-Water Storage Tanks
20-02-160006	Plumbing Equipment
20-02-160007	Domestic Water Softeners
20-02-160008	Domestic Water Filtration Equipment
20-02-160009	Electric Domestic Water Heaters
20-02-160010	Fuel-Fired Domestic Water Heaters
20-02-160011	Plumbing Fixtures
20-02-160012	Residential Plumbing Fixtures
20-02-160013	Commercial Plumbing Fixtures
20-02-160014	Emergency Plumbing Fixtures

20-02-160015	Security Plumbing Fixtures
20-02-160016	Drinking Fountains and Water Coolers
20-02-160017	Pool and Fountain Plumbing Systems
20-02-160018	Swimming Pool Plumbing Systems
20-02-160019	Fountain Plumbing Systems
20-02-160020	Facility Water Distribution
20-02-160040	Facility Sanitary Sewerage
20-02-160050	Facility Storm Drainage
20-02-160200	Grease Traps
20-02-170000	Heating, Ventilating, and Air Conditioning (HVAC)
20-02-170001	HVAC Piping and Pumps
20-02-170002	HVAC Water Treatment
20-02-170003	HVAC Air Distribution
20-02-170004	HVAC Ducts and Casings



20-02-170005	Air Plenums and Chases
20-02-170006	Air Duct Accessories
20-02-170007	HVAC Fans
20-02-170008	Special Exhaust Systems
20-02-170009	Ventilation Hoods
20-02-170010	HVAC Air Cleaning Devices
20-02-170011	Furnaces
20-02-170012	Fuel-Fired Heaters
20-02-170013	Solar Energy Heating Equipment
20-02-170014	Heat Exchangers for HVAC
20-02-170015	Central Cooling Equipment
20-02-170016	Refrigerant Compressors
20-02-170017	Packaged Compressor and Condenser Units
20-02-170018	Refrigerant Condensers

20-02-170019	Packaged Water Chillers
20-02-170020	Cooling Towers
20-02-170021	Central HVAC Equipment
20-02-170022	Indoor Central-Station Air-Handling Units
20-02-170023	Packaged Outdoor HVAC Equipment
20-02-170024	Custom-Packaged Outdoor HVAC Equipment
20-02-170025	Radiant Heating Units
20-02-170026	Humidity Control Equipment
20-02-180000	Electrical
20-02-180001	Electrical Protection
20-02-180002	Facility Lightning Protection
20-02-180003	Surge Protective Devices
20-02-180004	Lighting
20-02-180005	Interior Lighting



20-02-180006	Safety Lighting
20-02-180070	Special Purpose Lighting
20-02-180080	Exterior Lighting
20-02-180090	Low Voltage
20-02-180100	Generators
20-02-190000	Communications
20-02-190001	Structured Cabling
20-02-190002	Communications Equipment Room Fittings
20-02-190003	Communications Connecting Cords, Devices, and Adapters
20-02-190004	Data Communications
20-02-190005	Voice Communications
20-02-190060	Audio-Video Communications
20-02-190070	Audio-Video Systems
20-02-200000	Electronic Safety and Security

20-02-200002	Video Surveillance
20-02-200005	Life Safety
20-02-200007	Specialized Systems
20-02-200010	Access Control
20-02-200030	Surveillance Cameras
20-02-200040	Security Detection, Alarm, and Monitoring
20-02-200060	Fire Detection and Alarm
20-02-210000	Earthwork
20-02-210002	Earth Moving
20-02-210004	Excavation and Fill
20-02-210007	Soil Stabilization
20-02-210008	Shoring and Underpinning
20-02-210009	Excavation Support and Protection
20-02-210010	Clearing and Grubbing



20-02-210011	Driven Piles	
20-02-210012	Bored Piles	
20-02-210030	Grading	\$139,520
20-02-210050	Erosion and Sedimentation Controls	\$32,540
20-02-210051	Retention Structures	
20-02-210060	Soil Treatment	
20-02-210100	Special Foundations and Load-Bearing Elements	
20-02-210130	Special Foundations	
20-02-220000	Exterior Improvements	
20-02-220001	Unit Paving	
20-02-220005	Athletic and Recreational Surfacing	
20-02-220006	Site Improvements	
20-02-220007	Fences and Gates	
20-02-220009	Site Furnishings	

20-02-220010	Fabricated Bridges
20-02-220011	Screening Devices
20-02-220012	Wetlands Restoration
20-02-220020	Aggregate Surfacing
20-02-220030	Curbs, Gutters, Sidewalks, and Driveways
20-02-220031	concrete Sidewalks
20-02-220032	Concrete Paving
20-02-220040	Paving Specialties
20-02-220041	Marking and Striping
20-02-220080	Retaining Walls
20-02-220130	Irrigation
20-02-220140	Planting
20-02-230000	Utilities
20-02-230003	Onsite Wastewater Disposal



20-02-230005	Wireless Communications Transmission and Distribution	
20-02-230010	Water Utilities	\$10,550
20-02-230020	Sanitary Sewerage	\$12,030
20-02-230040	Stormwater Utilities	\$103,070
20-02-230060	Utility Connections	
20-02-240000	Transportation	
20-02-240001	Bridges	
20-02-250000	Taxes & Insurance	\$66,286
20-02-260000	Profit & Overhead	\$169,031
20-02-270000	Contingency for Concealed or Unforeseen Circumstances	\$66,286
	TOTAL	\$3,865,950

## EXHIBIT D



Public-Private  
Partnership  
Project  
Management, Inc.

### Request for Change Order, Contingency Draw or Allowance

**Project:**

**General Contractor:**

**General Contractor's Tracking No.:**

**Reason for Request:**

General Contractor Documentation: General Contractor acknowledges that with this submittal all back up documentation and verification has been included to support this request.

\_\_\_\_\_  
Authorized Signature for General Contractor

**Amount of Request:**

Labor/Materials, etc.:

**General Conditions:**

**Overhead & Profit:**

**Total:**

**Additional days requested:**

**4PM Recommendation:**

<p>_____ By:</p>
----------------------

**Owner Approval:**

Owner Approval



Authorized Signature for Owner

# EXHIBIT E

## Pay Request

### APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702  
APPLICATION NO: 0

PAGE ONE OF PAGES

Distribution to:

OWNER  
ARCHITECT  
CONTRACTOR

FROM CONTRACTOR:

VIA ARCHITECT:

PERIOD TO:

PROJECT NOS:

CONTRACT FOR:

### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.  
Continuation Sheet, AIA Document G703, is attached.

CONTRACT DATE:

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By:

Date:

State of: County of: day of:

Notary Public:

My Commission expires:

### ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED: \$

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By:

Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

AIA DOCUMENT G702 - APPLICATION AND CERTIFICATION FOR PAYMENT - 1992 EDITION - AIA - ©1992  
Users may obtain validation of this document by requesting a completed AIA Document D401 - Certification of Document's Authenticity from the Licensee.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month	\$0.00	\$0.00
TOTALS		
NET CHANGES by Change Order	\$0.00	

1. ORIGINAL CONTRACT SUM	\$	0.00
2. Net change by Change Orders	\$	0.00
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$	0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	0.00
5. RETAINAGE:		
a. % of Completed Work (Column D + E on G703)	\$	0.00
b. % of Stored Material (Column F on G703)	\$	0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	0.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	0.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	0.00
8. CURRENT PAYMENT DUE	\$	0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	0.00



## ALA DOCUMENT G703

PAGE OF PAGES

APPLICATION NO: \_\_\_\_\_  
APPLICATION DATE: \_\_\_\_\_

APPLICATION DATE:

PERIOD TO:

ARCHITECT'S PROJECT NO:

A	B	C	D	E	F	G	H	I	J
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD	MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+H)	% (G + C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE RATE)
	(Fill in & break down contract values)								
	(Add any change orders/ descriptions)								
	GRAND TOTALS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0%	\$0.00	\$0.00

**Users may obtain validation of this document by requesting of the license a completed AIA Document D401 - Certification of Document's Authenticity**

## EXHIBIT F

### Form of General Contractor's Affidavit, Release and Lien Waiver

STATE OF GEORGIA

)  
)

COUNTY OF COBB

#### GENERAL CONTRACTOR'S AFFIDAVIT AND LIEN WAIVER

**PERSONALLY APPEARED** before me, the undersigned attesting authority in and for said State and County, the undersigned deponent, who being first duly sworn, on oath deposes and says as follows:

1. That the undersigned is the contractor ("Contractor") who contracted with the City of Powder Springs (as "Owner") for the following work:

\_\_\_\_\_(describe work performed)\_\_\_\_\_  
\_\_\_\_\_

performed upon or with regard to the following property: Those properties located at 4483 Pineview Drive, Powder Springs, Georgia pursuant to the current street numbering system of the City of Powder Springs, Georgia.

2. A contract for such work was executed on \_\_\_\_\_ (date) and may subsequently have been amended by one or more change orders (collectively referred to herein as the "Contract").

3. The undersigned warrants that the work described by such Contract has been fully completed according to the terms of the Contract between Contractor and Owner, and in accordance with all change orders thereto, and that all bills incurred for labor, material and/or services furnished or performed in connection with such work have been fully paid, without exception, including the bills of all mechanics, materialmen, suppliers or laborers used by me or by my subcontractors.

4. The undersigned acknowledges receipt of all monies which Contractor and all of Contractor's mechanics, materialmen, suppliers, laborers, and other subcontractors are due under the terms of said Contract. This Affidavit is made under the provisions of Official Code of Georgia annotated Section 44-14-361.2 and is made for the purpose of inducing said Owner to pay the balance of their contract price to Contractor.

5. Contractor expressly and unconditionally waives any lien rights which Contractor has or may have against or with regard to Owner or Owner's aforesaid Property.



**CONTRACTOR:**

Macallan Construction LLC

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

Address: \_\_\_\_\_

\_\_\_\_\_  
WITNESS

Sworn to and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

## EXHIBIT G

Form of Sub-Contractor's Affidavit,  
Release and Lien Waiver  
Interim Waiver and Release Upon Payment

STATE OF GEORGIA  
COUNTY OF COBB

The undersigned subcontractor, laborer, mechanic and/or materialman has been employed by Macallan Construction LLC (name of contractor) to furnish services and/or material for the construction of improvements known as City of Powder Springs Municipal Complex at 4483 Pineview Drive Project which is located in the City of Powder Springs, County of Cobb, and is owned by the City of Powder Springs and more particularly described as follows: Those properties located at 4483 Pineview Drive Powder Springs, Georgia pursuant to the current street numbering system of the City of Powder Springs, Georgia.

Upon receipt of the sum of \$ \_\_\_\_\_, the undersigned waives and releases any and all liens or claims of liens it has upon the foregoing described property or any rights against any labor and or material bond through the date of \_\_\_\_/\_\_\_\_/\_\_\_\_(date) and excepting those rights and liens that the mechanic and/or materialman might have in any retained amounts, on account of labor or materials, or both, furnished by the undersigned to or on account of said contractor for said building or premises.

Given under hand and seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

VENDOR: \_\_\_\_\_  
\_\_\_\_\_(seal)

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THIS FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-14-366.

Unconditional Waiver and Release Upon Final Payment



STATE OF GEORGIA

COUNTY OF COBB

The undersigned subcontractor, laborer, mechanic and/or materialman has been employed by Macallan Construction LLC (name of contractor) to furnish \_\_\_\_\_ for the construction of improvements known as the City of Powder Springs Muncipal Complex Project which is located in the City of Powder Springs, County of Cobb, and is owned by The City of Powder Springs and more particularly described as follows: Those properties located at 4483 Pineview Drive, Powder Springs, Georgia pursuant to the current street numbering system of the City of Powder Springs, Georgia.

Upon receipt of the sum of \$\_\_\_\_\_, the undersigned waives and releases any and all liens or claims of liens it has upon the foregoing described property or any right against any labor and/or material bond on account of labor or materials, or both furnished by the undersigned to or on account of said contractor for said property.

Given under hand and seal this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

VENDOR: \_\_\_\_\_  
\_\_\_\_\_(seal)

Signed, sealed and delivered in the presence of:

\_\_\_\_\_

Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

NOTICE: WHEN YOU EXECUTE AND SUBMIT THIS DOCUMENT, YOU SHALL BE CONCLUSIVELY DEEMED TO HAVE BEEN PAID IN FULL THE AMOUNT STATED ABOVE, EVEN IF YOU HAVE NOT ACTUALLY RECEIVED SUCH PAYMENT, 60 DAYS AFTER THE DATE STATED ABOVE UNLESS YOU FILE EITHER AN AFFIDAVIT OF NONPAYMENT OR A CLAIM OF LIEN PRIOR TO THE EXPIRATION OF SUCH 60 DAY PERIOD. THE FAILURE TO INCLUDE THIS NOTICE LANGUAGE ON THE FACE OF THE FORM SHALL RENDER THIS FORM UNENFORCEABLE AND INVALID AS A WAIVER AND RELEASE UNDER O.C.G.A. SECTION 44-14-366.

## EXHIBIT H

### PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_, as Principal, hereinafter called a Contractor, and \_\_\_\_\_, a corporation duly organized under the laws of the State of \_\_\_\_\_, listed in the latest issue of U.S. Treasury Circular 570, and registered in State of Georgia, as Surety, are held and firmly bound unto the **City of Powder Springs**, hereinafter called Owner, in the sum of \_\_\_\_\_ Dollars (in words), (\$\_\_\_\_\_) (in figures), for the payment of which sum, well and truly to be made, the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Contractor has entered into a written contract dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with the Owner for **City of Powder Springs Municipal Complex**, in accordance with drawings and specifications prepared by \_\_\_\_\_, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

- A. A claimant is defined as one having a direct contract with the Contractor or with a Subcontractor of the Contractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- B. The above named Contractor and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expense of any such suit.



C. No suit or action shall be commenced hereunder by any claimant,

1. Unless claimant, other than one having a direct contract with the Contractor, shall have given written notice to any two of the following: the Contractor, the Owner, or the Surety above-named, within ninety (90) days after such claimant did or performed the last of the work of labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Contractor, Owner or Surety, at any place where any office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
2. After one (1) year from the completion of Contract and the acceptance by Owner of the work thereunder, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
3. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, and not elsewhere.
4. The amount of this bond shall be reduced by and to the extent of any payment of payments made in good faith hereunder, inclusive of the payment by surety of mechanics' liens which may be filed on record against said improvement, whether or not claim for the amount of such presented under and against this bond.

PROVIDED FURTHER, that the Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED FURTHER, that no final settlement between Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claims may be unsatisfied.

*THE REMAINDER OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY.*

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

\_\_\_\_\_

\_\_\_\_\_(SEAL)  
Principal (Bidder)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

Attest:

\_\_\_\_\_

\_\_\_\_\_(SEAL)  
Surety

\_\_\_\_\_  
Signature Attorney-in-Fact

\_\_\_\_\_  
Typed Name

(Attach Certified and Dated Power of Attorney)  
DO NOT DATE PAYMENT BOND. BOND DOCUMENT WILL BE DATED BY BOC.  
(Bond must not be dated prior to date of Agreement)



**EXHIBIT I**  
**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_,  
, as Principals, hereinafter called Contractor, and \_\_\_\_\_, a  
corporation duly organized under the laws of the State of \_\_\_\_\_, listed in the latest issue of  
U.S. Treasury Circular 570, and registered in the State of Georgia, as Surety, are held and firmly  
bound unto the **City of Powder Springs**, hereinafter called Owner, in the sum of  
\_\_\_\_\_ Dollars (in words), (\$\_\_\_\_\_  
\_\_\_\_\_) (in figures), for payment of which sum, well and truly to be made, the Contractor  
and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly  
and severally, firmly by these presents.

WHEREAS, the Contractor has entered into a written contract dated the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_, with the Owner for **City of Powder Springs Municipal Complex**, in accordance  
with drawings and specifications prepared by \_\_\_\_\_, which contract is by reference  
made a part hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall  
promptly and faithfully perform said Contract, then this obligation shall be null and void otherwise  
shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension  
of time made by the Owner. Whenever Contractor shall be, and declared by Owner to be in default  
under the Contract, the owner having performed Owner's obligations thereunder, the Surety may  
promptly remedy the default, or shall promptly:

- A. Complete the Contract in accordance with its terms and conditions; or,
- B. Obtain a bid or bids for completing the Contract in accordance with its terms, and conditions,  
and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects,  
upon determination by the Owner and the Surety jointly of the lowest responsible bidder,  
arrange for a contract between such bidder and Owner, and make available as Work progresses  
(even though there should be default or a succession of defaults) under the contract or contracts  
of completion arranged under this paragraph sufficient funds to pay the cost of completion less  
the balance of the contract prices; but not exceeding, including other costs and damages for  
which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.  
The term "balance of the Contract Price", as used in this paragraph, shall mean the total amount  
payable by Owner to Contractor under the Contract and any amendments thereto, less the  
amount properly paid by Owner to Contractor.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date on  
which final payment under the Contract falls due. No right of action shall accrue on this Bond to or

for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

The Contractor is required to provide the Owner a one-year guarantee covering workmanship and materials of the Project. This Performance Bond shall remain in force for one year from the date of Acceptance of the Project by the Owner.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Attest:

\_\_\_\_\_

\_\_\_\_\_  
Principal (Bidder) (SEAL)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

Attest:

\_\_\_\_\_

\_\_\_\_\_  
Surety (SEAL)

\_\_\_\_\_  
Signature Attorney-in-Fact

\_\_\_\_\_  
Typed Name

(Attach Certified and Dated Copy of Power of Attorney)  
DO NOT DATE PERFORMANCE BOND. BOND DOCUMENT WILL BE DATED BY BOC.  
(Bond must not be dated prior to date of Agreement)



## **EXHIBIT K**

### **CONTRACTOR AFFIDAVIT & AGREEMENT PROJECT: City of Powder Springs Municipal Complex**

By executing this affidavit, the undersigned contractor verifies compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with City of Powder Springs, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with City of Powder Springs, Georgia, the contractor or subcontractor will:

- (1) Notify the County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the attached Subcontractor Affidavit (EXHIBIT "L") prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed Immigration Compliance Certification (EXHIBIT \_\_\_\_ ) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that the City of Powder Springs, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance and provide a copy of each such verification to the City of Powder Springs, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from the City of Powder Springs, Georgia; and
- (6) Maintain such records for a period of five (5) years.

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EEV (E-Verify) Program User ID Number

---

EEV Program Date of Authorization

\_\_\_\_\_  
BY: Authorized Officer or Agent  
[Contractor Name]

\_\_\_\_\_  
Contractor Business Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_,  
201\_\_\_\_\_

Notary Public Commission Expires\_\_\_\_\_

*Effective 07-01-2013*



**EXHIBIT "L"**  
**SUBCONTRACTOR AFFIDAVIT & AGREEMENT**  
**PROJECT: City of Powder Springs Municipal Complex**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of City of Powder Springs, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with City of Powder Springs, Georgia, the undersigned subcontractor will:

- (1) Notify the City within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on this Subcontractor Affidavit form (EXHIBIT A-1) prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed  
Immigration Compliance Certification (EXHIBIT A-2) prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that City of Powder Springs, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance and provide a copy of each such verification to City of Powder Springs, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from the City of Powder Springs, Georgia; and
- (6) Maintain such records for a period of five (5) years.

---

EEV (E-Verify) Program User ID Number

---

EEV Program Date of Authorization

---

BY: Authorized Officer or Agent  
[Subcontractor Name]

---

Subcontractor Business Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_,  
201\_\_\_\_\_

Notary Public Commission Expires\_\_\_\_\_

*Effective 07-01-2013*



**EXHIBIT "M"**  
**CONFLICT OF INTEREST AFFIDAVIT**

As a duly authorized representative of the firm \_\_\_\_\_, I, \_\_\_\_\_ with the title \_\_\_\_\_ certify that to the best of my knowledge no circumstances exist that will cause a conflict of interest in performing services for the City of Powder Springs, Georgia, that no employee of the City, nor any public agency official or employee affected by this Request for Proposals has any pecuniary interest in the business of this firm, associates or consultants of this firm, or the firm's parent firm, subsidiary, or other legal entity of which this firm is a part, and that no person associated with or employed by this firm has any interest that would conflict in any way, manner or degree with the performance of services for the City of Powder Springs.

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

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

Authorized Representative Name: \_\_\_\_\_

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

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

SUBSCRIBED AND SWORN

BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**EXHIBIT "N"**  
**OFFICER'S OATH**

As a duly authorized representative of the firm involved in the bidding for or procuring the contract for the construction of the new City of Powder Springs Municipal Complex, Powder Springs, Georgia I, \_\_\_\_\_ with the title \_\_\_\_\_  
\_\_\_\_\_ certify that I did not prevent or attempt to prevent competition in such proposals by any means whatsoever. Nor did I prevent or endeavor to prevent anyone from making a proposal therefore by any means whatsoever, or induce another to withdraw a proposal for the work.

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

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

Authorized Representative Name: \_\_\_\_\_

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

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

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_