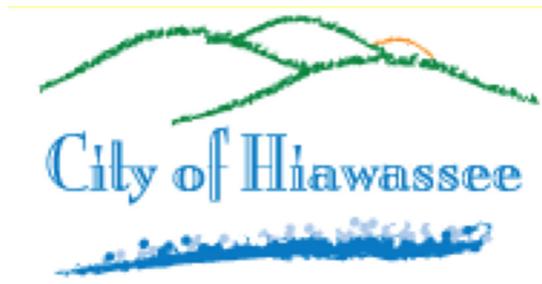


PROJECT MANUAL

LAKE CHATUGE BOARDWALK

CITY OF HIAWASSEE, GEORGIA

October 25, 2023



**City of Hiawassee
50 River Street
Hiawassee, GA 30546**

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SECTION A: INVITATION TO BID

This is a Section 3 Covered Contract. Section 3 Business Concerns are encouraged to apply.

- A-01.** Notice is hereby given that the City of Hiawassee will accept competitive sealed bids for the Lake Chatuge Boardwalk project, in strict conformity with the bidding and Contract Documents.
- A-02.** Each bid must be submitted on the prescribed Bid Form. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and the certification (reference Bid Form paragraph B-09) must be fully completed and executed when submitted.
- A-03.** Such sealed bids as received prior to **2:00 P.M. on December 5, 2023** will be opened and read aloud at **2:00 P.M. on December 5, 2023** in the Hiawassee City Hall, 50 River Street, Hiawassee, Georgia, 30546. All mailed or hand delivered bids must be received by the City of Hiawassee at the Hiawassee City Hall, prior to that date and time. Bidder retains full responsibility for assuring that bids are received prior to the time stated for bid opening.
- A-04.** Bid documents are available at no charge and may be downloaded from the internet by visiting the City of Hiawassee website at www.hiawasseegea.gov under the Business tab. **Bidders should check the web site for updates, addenda and any other additional information.**
- A-05.** Each bid must be accompanied with a BID BOND (Bond only; certified checks or other forms are not acceptable) in an amount equal to 5% of the base bid, payable to the City of Hiawassee and issued by a Corporate Surety authorized to do business in the State of Georgia, in order to guarantee that the bidder will enter into a contract to construct the project strictly within the terms and conditions stated in this bid and in the bidding and Contract Documents, should the construction contract be awarded to him.
- A-06.** The successful bidder shall be required to furnish a bond for the faithful performance on the contract and a bond to secure payment of all claims for materials furnished and/or labor performed in performance of the project, both in amounts equal to 100% of the Contract Price. Both bonds shall be issued by a Corporate Surety authorized to do business with the State of Georgia. All bids submitted shall remain open for a period of sixty (60) days after the date of the bid opening.
- A-07.** The owner reserves the right to reject any or all bids and to waive technicalities and irregularities.
- A-08.** All bids submitted in response to this Invitation to Bid shall be made in general accordance with the applicable provisions of Georgia Law.
- A-09.** All expenses for preparing and submitting bids are the sole cost of the party submitting the bid. The City of Hiawassee is not obligated to any party to reimburse such expenses. All submittals, upon receipt, become the property of the City of Hiawassee. Labeling information provided in submittals as "proprietary" or "confidential", or any other designation of restricted use will not protect the information from public view. Subject to the provisions of the Open Records Act, the details of the bid documents will remain confidential until final award.
- A-10.** Contractor is responsible for complying with all federal provisions.

SECTION B: BID FORM

BID CLOSING DATE: December 5, 2023
BID CLOSING TIME: 2:00 PM

TO:
Liz Ordiales
Mayor
City of Hiawassee
50 River Street
Hiawassee, Georgia 30546

Gentlemen:

B-01. Having carefully examined the Bidding Documents entitled: Lake Chatuge Boardwalk Project, dated October 25, 2023, and

Addendum(a) No.(s) _____,
*[the Owner reserves the right to disqualify any bid submitted which fails to
acknowledge receipt of all issued addendum (a)]*

as well as the premises and conditions affecting the Work, the undersigned proposes to furnish all services, labor, and materials called for by them for the entire Work, in accordance with said documents, for the sum of:

_____ DOLLA
RS

(\$ _____), which sum is hereinafter called the "BASE BID."

B-02. ALTERNATES/UNIT PRICES: The following Alternate Prices/Unit Prices are hereby established and subject to Owner approval: (1) may form the basis of a Change Order or (2) may be incorporated into the Contract Price at the time of the award. Said Alternate Prices and Unit Prices shall remain firm and in effect for 30 days after proceed order is issued by the Owner. Any alternate, or alternates, if taken, will be taken in numerical sequence to the extent necessary. Failure to provide pricing for all alternate prices may result in rejection of bid. Unless otherwise stated, all alternates are deductive.

ALTERNATE NO. 1: Provide the Pile Tip Bearing at Rock Alternate (Drawing S1.0.)

ADD THE SUM OF _____
DOLLARS (\$ _____) For each pile.

ALTERNATE NO. 2: Eliminate the lighting on the boardwalk and the associated electrical work. Electrical panel and receptacles on kiosk including associated wiring to remain.

DEDUCT THE SUM OF _____
DOLLARS (\$ _____).

- B-03.** The undersigned hereby agrees that this bid may not be revoked or withdrawn after the time set for the opening of bids, but shall remain open for acceptance for a period of 90 days following such time.

- B-04.** In the event that the undersigned is notified in writing by mail, telegraph, or delivery of the acceptance of this bid within 35 days after the time set for the opening of bids, the undersigned agrees to execute, within ten (10) business days, a contract (on a form supplied by the City of Hiawassee, when a stipulated sum forms the basis of payment) for the Work for the above stated compensation and at the same time to furnish and deliver to the Owner a Performance Bond and Payment Bond in accordance with the forms shown in Exhibits C & D and the General Conditions of the Contract, both in an amount equal to 100% of the Contract sum. The surety must be one which is licensed to do business in the State of Georgia.

- B-05.** Prior to the bid opening date and hour, errors may be stricken or revisions may be made and corrections entered on this bid form, provided that any such strike-over or revision is signed in ink by the person signing the bid or his agent. **Any revisions made on the outside of the envelope will not be accepted.**

- B-06.** The undersigned agrees to commence actual physical work on the site with an adequate work force and equipment within ten days of the date of the proceed order and to complete to MATERIAL COMPLETION all work by not later than May 10, 2024.

- B-07.** Enclosed herewith is a bid bond (Bid Bond only, Bonding Company Form is Acceptable; certified checks or other forms of bid security are not acceptable) in the amount of _____ DOLLARS (\$_____) (being not less than 5% of the base bid) payable to the City of Hiawassee. The undersigned agrees that the above stated amount is the proper measure of liquidated damages which the Owner will sustain by the failure of the undersigned to execute the Contract and to furnish performance and payment bonds in case this bid is accepted.

- B-08.** If this bid is accepted within 90 days after the date set for the opening of bids, and the undersigned fails to execute the Contract within ten (10) business days after notice of such acceptance or if he fails to furnish both performance and payment bonds, the obligation of the bid bond, if applicable, will remain in full force and effect and the money payable thereon shall be paid into the funds of the Owner as liquidated damages for such failure; otherwise, obligation of the bond will be null and void.

This portion intentionally left blank

B-9. The bidder submits the following statement.

STATEMENT OF BIDDER
(To be subscribed and sworn to before a notary public)

Firm Name: _____
LEGAL NAME OF BUSINESS (As registered with Secretary of State)

Address: _____
LEGAL BUSINESS ADDRESS (P.O. BOX IS INSUFFICIENT)

_____ CITY STATE ZIP

_____ MAILING ADDRESS IF DIFFERENT FROM ABOVE

Telephone Number: _____ Facsimile Number: _____

Contact Person Name and Email Address: _____

Georgia Resident: YES ___ NO ___

When Organized: _____ Where Incorporated: _____

Federal I.D. No.: _____ or Social Security No.: _____

Number of years engaged in the contracting business under the present firm name: _____

Georgia General Contractor: YES ___ NO ___ License Number(s): _____

The foregoing statement is submitted under oath.

B-10. Contractor certifies that they have been granted and possess all necessary, valid, current licenses to do business in the State of Georgia as issued by the respective State Boards and Government Agencies responsible for regulating and licensing the services to be provided and performed pursuant to this Agreement.

B-11. Under oath I certify that I am a principal or other representative of the bidder and that I am authorized by it to execute the foregoing offer on its behalf. I am a principal person of the foregoing with management responsibility for the foregoing subject matter and as such I am personally knowledgeable of all its pertinent matters. The foregoing statement of facts is true and correct.

B-12. I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences and civil damage awards. I agree to abide by all conditions of this bid and certify that provisions of Georgia O.C.G.A. Section 45-10-20, *et. sec.*, have not and shall not be violated in any respect.

The full names of persons and firms interested in the foregoing bids as principals are as follows:

(1) _____

Check One: President () Partner () Owner ()

(2) _____

Check One: Vice President () Secretary () Partner ()

If incorporated, the names of both the President and Corporate Secretary must be indicated. If a partnership, all partners must be indicated.

The legal name of the bidder as registered with the Secretary of State is:

DATE: _____

BY: _____
Authorized Signature (BLUE INK PLEASE)

Typed/Printed Name Title

Sworn to and subscribed before me this ____ day of _____, 20____.

Notary Public

My commission expires: _____

NOTICE TO BIDDERS

- 1) **MAKE SURE YOU HAVE SIGNED THIS BID FORM IN THE SPACE PROVIDED ABOVE.**
- 2) **MAKE SURE YOU AND YOUR SURETY HAVE PROPERLY EXECUTED THE BID BOND.**
- 3) **INCLUDE THE GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT WITH YOUR BID, SEE SECTION E.**

SECTION C: INSTRUCTIONS TO BIDDERS

1. **Bidding Documents.** The Bidding Documents include the Bid Requirements, Specifications, Drawings, and all Addenda.
2. **Bids Shall Comply with Georgia Law.** All bids submitted in response to this Invitation to Bid shall be made in general accordance with the applicable provisions of Georgia Law.
3. **Bid Submission.** All bids must be submitted by the time stated in the Invitation to Bid. The Bid Verification and Statement of Qualifications, Bid Bond, E-Verify Affidavit and any other forms required to be submitted at the time of bid shall be submitted. All blanks on the Bid Verification and Statement of Qualification Form must be completed. Failure to complete entries in all blanks in the Bid Verification and Statement of Qualification Form, or any other required form may be considered sufficient cause for rejection of a bid. The inclusion of any condition, alternate, qualification, limitation, or provision not called for may render the bid non-responsive and may be sufficient cause for rejection of a bid.
4. **Alternates.** Bids must include prices for all specified alternates, if any. If a price is not provided for all alternates, the bid may be determined non-responsive and not considered for award. Unless otherwise stipulated, all alternates are deductive. Any alternate or alternates, if taken, will be taken in numerical sequence, starting with Alternate #1, to the extent necessary.
5. **Bid Bond Required.** Each bid must be accompanied with a BID BOND in an amount equal to 5% of the base bid, payable to Owner, in order to guarantee that the successful bidder will enter into the Contract, substantially in accordance with the Contract shown in the Bidding Documents, to construct the project strictly in compliance with the Bidding Documents and Contract. Bid Bonds should be furnished on forms accepted as standard by the insurance industry.
6. **Withdrawal of Bids.** Bids may be withdrawn by bidders prior to the time set for official opening. After bids have been opened, no bid may be withdrawn for a period of sixty (60) days after the time and date of opening. Negligence or error on the part of any bidder in preparing its bid confers no right of withdrawal or modification of the bid after bid opening, except as otherwise provided by Georgia law.
7. **Owner's Right to Reject Bids.** Owner reserves the right to reject any or all bids and to waive technicalities and irregularities. Owner further reserves the right, in its sole and complete discretion, to reject any bid that is over budget and to reject any bid from a bidder that is not responsible. In judging whether the bidder is responsible, Owner will consider, but is not limited to consideration of, the following:
 - (a) Whether the bidder or its principals are currently ineligible, debarred, suspended, or otherwise excluded from bidding or contracting by any local, state, or federal agency, department, or authority;
 - (b) Whether the bidder or its principals have been terminated for cause or are currently in default on any contract;
 - (c) Whether the bidder can demonstrate a commitment to safety with regard to Workers' Compensation by having an Experience Modification Rate (EMR) over the past three years not exceeded an average of 1.2; and
 - (d) Whether the bidder's past work provides evidence of an ability to successfully complete public works projects within the established time, quality, or cost, and to comply with the bidder's contract obligations.
8. **Owner's Right to Negotiate with the Lowest Bidder.** In the event all responsive and responsible bids are in excess of the budget, Owner, in its sole and absolute discretion and in addition to the rights set forth above, reserves the right to negotiate with the lowest responsive and responsible bidder (after taking all deductive alternates) only for the purpose of making changes to the Project that will result in a cost to Owner that is within the budget, as it may be amended.

- 9. Bid Preparation Expenses.** All expenses for preparing and submitting bids are the sole cost of the party submitting the bid. Owner is not obligated to any party to reimburse such expenses. All bids, upon receipt, become the property of Owner.
- 10. Open Records Act.** As required by the Open Records Act, the details of the bids will remain confidential until final award. Labeling information provided in submittals as “proprietary” or “confidential,” or any other designation of restricted use will not protect the information from public view unless it is otherwise not subject to disclosure under the Open Records Act. Bidders shall be solely responsible for taking all steps necessary to ensure such documents are exempted from disclosure by law.
- 11. Award.** The Contract will be awarded, if at all, on a lump sum basis to the lowest responsible, responsive bidder. The lowest bid will be the bid, whose price, after incorporating all accepted alternates, is the lowest responsive bid which was received from a responsible bidder.
- 12. Contract Forms and Bonds.** The Contract, if awarded, will be substantially in accordance with the Contract shown in the Bidding Documents. If the Contract is awarded, the successful bidder shall be required to execute the Contract and return it to Owner within ten (10) business days. The successful bidder shall also be required to furnish payment and performance bonds, both in amounts equal to 100% of the Contract Sum along with the executed Contract.
- 13. Failure to Execute Contract.** If the successful bidder fails to execute the Contract within ten (10) business days after notice of such acceptance or if the bidder fails to furnish performance and payment bonds, the obligation of the bid bond, if applicable, will remain in full force and effect and the money payable thereon shall be paid into the funds of Owner.
- 14. Surety and Insurance Companies.** The Contract provides that the surety and insurance companies must be acceptable to Owner. Only those sureties listed in the Department of Treasury’s Listing of Approved Sureties (Department Circular 570) are acceptable to Owner. At the time of issuance, all insurance policies and bonds must be issued by a company licensed by the Georgia Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance. Such company shall be an insurer with an A.M. Best Financial Strength Rating of “A-“ or better and with an A.M. Best Financial Size Category of Class V or larger.
- 15. Interpretations.** No oral interpretations will be made to bidders as to the requirements of the Bidding Documents. Requests for interpretation of the Bidding Documents shall be made in writing not later than **six (6)** business days prior to the date set for receipt of bids. All interpretations made to the bidders will be issued in the form of addenda to the Bidding Documents and will be posted to the e-Builder web site. Such addenda are to be acknowledged at the appropriate location on the electronic Bid Form. No addenda will be issued within three (3) business days of the date set for receipt of bids without an extension of the bid date.
- 16. Trade Names.**
- a. *No Restriction of Competition.* When reference is made in the Bidding Documents to trade names, brand names, or to the names of manufacturers, such references are made solely to indicate that products of that description may be furnished and are not intended to restrict competitive bidding. If it is desired to use products of trade or brand names or of manufacturers’ names which are different from those mentioned in the Bidding Documents, application for the approval of the use of such products must be received by the Design Professional and the Contracting Officer at least ten (10) business days prior to the date set for the opening of bids.
- b. *Request for Approval of Substitute Product.* All requests for approval of substitution of a product must

- c. be made to the Design Professional in writing. The request shall include a copy of the published recommendations of the manufacturer for the installation of the product, together with a complete schedule of changes in the Drawings and Specifications, if any, that must be made in other work in order to permit the use and installation of the proposed product in accordance with the recommendations of the manufacturer of the product. The application must be accompanied by a schedule setting forth in which respects the materials or equipment submitted for consideration differ from the materials or equipment designated in the Bidding Documents. To be approved, a proposed product must also meet or exceed all express requirements of the Bidding Documents.
 - d. *Issuance of Addenda.* If the submittal is approved by the Design Professional, an addendum will be issued to all prospective bidders. The successful bidder may furnish no products of any trade names, brand names, or manufacturers' names except those designated in the Bidding Documents or any addenda.
 - e. *Conference with Owner.* Any party who alleges that rejection of a submittal is the result of bias, prejudice, caprice, or error on the part of the Design Professional may request a conference with a representative of Owner; PROVIDED that the request for said conference, submitted in writing, is received by Owner at least five business days prior to the date set for the opening of bids, time being of the essence.
- 17. Sales Tax.** Unless otherwise provided in the Bidding Documents, the successful bidder shall pay all sales, consumer, use and other similar taxes, which are legally enacted at the time bids are received.
- 18. Examination of Site.** In submitting a bid for the Project, the bidder acknowledges that it has visited the Project Site and has taken into consideration all observed conditions that might affect its work.
- 19. Employment of Georgia Citizens and Use of Georgia Products.** It is the desire of Owner that materials and equipment manufactured or produced in Georgia shall be used in the work and that Georgia citizens shall be employed in the work at wages consistent with those being paid in the general area in which the work is to be performed. This desire on the part of Owner is not intended to restrict or limit competitive bidding or to increase the cost of the work; nor shall the fulfillment of this desire be asserted by the successful bidder as an excuse for any noncompliance or omission to fulfill any obligation under the Contract.
- 20. Georgia Security and Immigration Compliance Act.** All bids shall include a Contractor Affidavit required under O.C.G.A § 13-10-91(b)(1), a form of which is attached hereto ("E-Verify Affidavit"). Failure to submit this form with submission of a bid will result in the rejection of the bid.

SECTION D: BID VERIFICATION AND STATEMENT OF QUALIFICATIONS

(To be subscribed and sworn to before a notary public)

Under oath, the undersigned submits the following bid verification and statement of qualifications for consideration by Owner:

Firm Name: _____
LEGAL NAME OF BUSINESS (As registered with Secretary of State)

Address: _____
LEGAL BUSINESS ADDRESS (P.O. BOX IS INSUFFICIENT)

CITY STATE ZIP

MAILING ADDRESS IF DIFFERENT FROM ABOVE

Telephone Number: _____ Facsimile Number: _____

Contact Person Name: _____ Contact's Email Address: _____

Year Organized: _____ Where Incorporated: _____

Is Firm a Georgia Resident: YES NO

Form of Organization: Proprietorship Corporation Partnership LLC

Federal I.D. No.: _____ or Social Security No.: _____

The firm's principals are as follows:

(1) _____
Check One: President Partner Owner

(2) _____
Check One: Vice President Secretary Partner

(If incorporated, the names of both the President and Corporate Secretary must be indicated. If a partnership, all partners must be indicated.)

Number of years engaged in the contracting business under the firm's current name: _____

Georgia General Contractor: YES NO License Number(s): _____

Other State General Contractor Licenses, Trade or Specialty Licenses:

- Type: _____ License Number: _____
Issuing State or Issuing Authority: _____
- Type: _____ License Number: _____

Issuing State or Issuing Authority: _____

Has the bidder refused to execute a contract upon award? YES NO

Has the bidder been declared in default on a contract? YES NO

Has the bidder ever been terminated for cause on a contract? YES NO

Has the bidder, its principals, or officers been convicted of building code violations, bribery, bid rigging, or any other felony involving moral turpitude? YES NO

Is the bidder or its principals or officers currently debarred, suspended, or declared ineligible or otherwise excluded from contracting with the Federal government or any state or local governmental entity? YES NO

Is the bidder's current Experience Modification Rate (EMR) greater than 1.2? YES NO

If answer is "Yes" to any statement above, please explain (attach additional sheets if necessary):

1. **Bid Certification.** Having carefully examined the Bidding Documents titled Lake Chatuge Boardwalk, dated, October 25, 2023, and any addenda, as well as the premises and conditions affecting the Work, the undersigned certifies its bid, submitted via e-Builder, to furnish all services, labor, and materials called for by said Bidding Documents.

2. **Bid Bond.** Enclosed herewith is a bid bond in the amount of _____ DOLLARS (\$ _____) (being not less than 5% of the base bid) payable to the City of Hiawassee, the undersigned hereby agrees that this bid may not be revoked or withdrawn after the time set for the opening of bids, but shall remain open for acceptance for a period of 60 days following such time.

3. **Certification of Proper Licenses.** Bidder certifies that it has been granted and possess all necessary, valid, and current licenses to do business in the State of Georgia as issued by the respective State Boards and Government Agencies responsible for regulating and licensing the services to be provided and performed pursuant to this Agreement.

4. **Certification of No Fraud or Collusion.** I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this bid and certify that provisions of O.C.G.A. § 45-10-20 *et seq.* have not and will not be violated in any respect.

Under oath I certify that I am a principal or other representative of the bidder and that I am authorized by it to execute this Bid Verification on its behalf. I am personally knowledgeable of the foregoing statements of fact, which are true and correct.

BY: _____
Authorized Signature (BLUE INK PLEASE)

Typed/Printed Name Title

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

____ DAY OF _____, 20__

Notary Public

[NOTARY SEAL]

My Commission Expires:

NOTICE TO BIDDERS

- 1) **MAKE SURE YOU HAVE SIGNED THIS BID VERIFICATION AND STATEMENT OF QUALIFICATIONS IN THE SPACE PROVIDED ABOVE.**
- 2) **MAKE SURE YOU AND YOUR SURETY HAVE PROPERLY EXECUTED THE BID BOND.**
- 4) **YOU MUST UPLOAD THE FOLLOWING FORMS INTO E-BUILDER WHEN YOUR BID IS SUBMITTED:**
 - **BID VERIFICATION AND STATEMENT OF QUALIFICATIONS**
 - **BID BOND**
 - **CONTRACTOR AFFIDAVIT UNDER O.C.G.A § 13-10-91 (E-VERIFY AFFIDAVIT)**

SECTION E: CONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91

The undersigned contractor ("Contractor") executes this Affidavit to comply with O.C.G.A § 13-10-91 related to any contract to which Contractor is a party that is subject to O.C.G.A. § 13-10-91 and hereby verifies its compliance with O.C.G.A. § 13-10-91, attesting as follows:

- a) The Contractor has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program;
- b) The Contractor will continue to use the federal work authorization program throughout the contract period, including any renewal or extension thereof;
- c) The Contractor will notify the public employer in the event the Contractor ceases to utilize the federal work authorization program during the contract period, including renewals or extensions thereof;
- d) The Contractor understands that ceasing to utilize the federal work authorization program constitutes a material breach of Contract;
- e) The Contractor will contract for the performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the Contractor with the information required by O.C.G.A. § 13-10-91(a), (b), and (c);
- f) The Contractor acknowledges and agrees that this Affidavit shall be incorporated into any contract(s) subject to the provisions of O.C.G.A. § 13-10-91 for the project listed below to which Contractor is a party after the date hereof without further action or consent by Contractor; and
- g) Contractor acknowledges its responsibility to submit copies of any affidavits, drivers' licenses, and identification cards required pursuant to O.C.G.A. § 13-10-91 to the public employer within five business days of receipt.

Federal Work Authorization User Identification Number

Date of Authorization

Name of Contractor

Name of Project

Name of Public Employer

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, _____, 20____ in _____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

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

NOTARY PUBLIC
My Commission Expires: _____

SECTION F: SAMPLE FORM OF CONTRACT

THIS CONSTRUCTION CONTRACT (hereinafter the "Contract") is made this _____ day of _____, by and between (Insert Name of Contractor), hereafter "Contractor," and the Georgia State Financing and Investment Commission, hereafter called "Owner," for the construction of Project (Insert Project No. & Description) (hereinafter the "Project").

Contractor and Owner agree as follows:

1. The Contract and Scope of Work. The Contract includes this Form of Contract, Contract General Requirements, Supplementary Contract Requirements, Exhibits, and all Drawings and Specifications included in the Bidding Documents titled Insert Title of Bidding Documents), and all Addenda, each of which are incorporated herein. Contractor shall furnish all the materials and perform all the Work described in the Contract and shall do everything required by or reasonably inferable therefrom.

2. The Contract Sum. Owner shall pay Contractor for the full performance of the Work the Contract Sum as follows:

Dollars (\$ _____)

3. Notice. Notice in accordance with Section 1.1.5 of the General Requirements shall be given to the following addresses:

Contractor:	Attention: Phone Number:
OWNER:	Attention: Phone Number:
DESIGN PROFESSIONAL:	Attention: Phone Number:

4. Material Completion. The Material Completion Date is _____.

5. Liquidated Damages. The agreed amount for Liquidated Damages is _____ Dollars (\$) per day.

6. No Assignment. This Contract and the proceeds of this Contract shall not be assigned, nor may the performance hereunder be assigned, without the prior written consent of Owner. Any attempted assignment without such prior written consent shall be void.

7. Full Performance; No Waiver. Owner and Contractor hereby agree to the full performance of the Contract. The failure of Owner at any time to require performance by Contractor of any provision will not affect the right of Owner thereafter to enforce such provision or any other provision of the Contract. The failure of Owner to enforce or exercise remedies as a result of any breach of any provision shall not be considered a waiver of such provision, such remedies, any subsequent breach of such provision, or any other provision, or a modification or rescission of the Contract. No provision of this Contract, or right or remedy of Owner, will be deemed waived unless such waiver is in writing and executed by Owner.

8. Severability. If any provision of this Contract, or the application thereof to any person or circumstance, is declared invalid or unenforceable to any extent, then the remainder of this Contract, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Contract shall be valid and enforced to the fullest extent permitted by law.

9. Full Agreement. The Contract supersedes all prior negotiations, discussions, statements, and agreements between Owner and Contractor and constitutes the full, complete, and entire agreement between Owner and Contractor. There can be no changes to this Contract by oral means, by course of conduct of the parties, or by custom of the trade. No change to this Contract will be binding on either party unless such change is properly authorized, in writing, and in accordance with the terms of this Contract.

IN WITNESS WHEREOF the parties hereto have executed this Contract under seal on the day and year first written above.

Contractor	Owner
By: _____	By: _____
Title: _____	Title: _____

SECTION G: CONTRACT GENERAL REQUIREMENTS
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GENERAL PROVISIONS

1.1 Miscellaneous Contract Requirements

1.1.1 Administration of Contract. Both the Owner and Design Professional have construction contract administration duties under the Contract. Design Professional is not the agent of Owner, except to the extent so specified in writing. Design Professional has no authority to unilaterally amend the Contract, orally or in writing, either expressly or by implication.

1.1.2 Requirement for Written Amendment. No amendment to this Contract shall be effective unless it is in writing and signed by duly authorized representatives of the parties. No representation, request, instruction, directive or order, made or given by any official of any agency of the State of Georgia, whether verbal or written shall be effective to amend this contract or excuse or modify performance hereunder unless reduced to a formal amendment and executed as set forth above. Contractor shall not be entitled to additional compensation, delay in performance, or other benefit claimed for relying upon or responding to any such representation, request, instruction, directive, or order. Contractor expressly acknowledges the constitutional prohibition of claims (including Claims) against Owner based solely upon oral statement, course of conduct, customs of the trade, quasi-contract, unjust enrichment, quantum meruit, or O.C.G.A. § 13-4-4 (mutual departure from contract terms)

1.1.3 Work Not Subject to Lien. Title to the Site and the Project is vested in the State of Georgia and City of Hiawassee as public property of the State of Georgia and City of Hiawassee and is therefore not subject to levy or lien.

1.1.4 Legal Compliance. This Contract shall be interpreted and governed by the laws of Georgia without regard to principles of conflicts of laws. Contractor shall comply with all laws, rules, regulations, ordinances, and orders of any governmental authority having jurisdiction over the Project or the performance of the Work, and the specific laws noted below, and shall ensure such compliance of its Subcontractors.

1.1.4.1 Open Records Act. Owner and Contractor acknowledge and agree that certain records of the Project and the Work, including records of Subcontractors, are subject to the Georgia Open Records Act, O.C.G.A. § 50-18-70 *et seq.*, with particular attention being called to O.C.G.A. § 50-18-70(a) regarding the records of private persons, firms, corporations, or other private entities engaged in performance of services or functions on behalf of a state agency, public agency, or public office.

1.1.4.2 Use of Georgia Materials and Equipment and Georgia Forest Products. Contractor shall use materials and equipment manufactured or produced in Georgia when the use of Georgia products does not sacrifice quality, increase the cost of the Work, or restrict or limit competitive bidding. If the Work includes forest products, Contractor and its Subcontractors shall use exclusively Georgia forest products if Georgia forest products are available. These provisions shall not apply when in conflict with Federal law, rules, and regulations concerning interstate commerce or construction.

1.1.4.3 Illegal Immigration Reform and Enforcement Act of 2011. Contractor certifies its compliance with Illegal Immigration Reform and Enforcement Act of 2011 and specifically those provisions codified at O.C.G.A. § 13-10-90 *et seq.* Contractor warrants that it has registered with and uses the federal work authorization program commonly known as “E-Verify.” Contractor further agrees that it will contract for the physical performance of services in satisfaction of this Contract only with Subcontractors who present an affidavit as required by O.C.G.A. § 13-10-91. Contractor warrants that it will include a similar provision in all contracts entered into with Subcontractors for the physical performance of services in satisfaction of this Contract.

1.1.4.4 Drug-Free Workplace. Contractor certifies that it will provide a drug-free work place in accordance with the Drug-Free Workplace Act, O.C.G.A. §§ 50-24-1 *et seq.* Contractor certifies that it will secure from all Subcontractors the following written certification: “As part of the subcontracting agreement with (contractor’s name), (subcontractor’s name) certifies to the contractor that a drug-free workplace will be provided for the subcontractor’s employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of Code Section 50-24-3.”

1.1.4.5 Applicable Sales and Use Taxes. Contractor shall pay all applicable sales and use taxes, including such taxes on Owner supplied tangible personal property that is to be incorporated into the Project as required

by O.C.G.A. 50-24-1(h)(1). Prior to supplying such property, Owner shall provide notice of the amount of tax owed for such tangible personal property.

1.1.4.6 No Boycott of Israel. Contractor certifies that it is not currently engaged in, and agrees for the duration of this Contract not to engage in, a boycott of Israel, as defined in O.C.G.A. §§ 50-5-85.

1.1.4.7 Applicable Codes. The latest edition of the regulations, rules, and codes listed below, with all amendments as of the date of permitting for construction, shall govern all Work. The following codes, rules, and regulations are adopted and incorporated into the Contract, and it shall be the responsibility of Contractor to familiarize itself with the requirements of these codes, rules, and regulations as applied to the performance of the Work.

1.1.4.8 Building Codes. The following Building Codes, as approved by the Georgia Department of Community Affairs, shall be used. (See O.C.G.A. § 8-2-20 *et seq.*) Design Professional will designate any additional codes or special modifications in the Construction Documents.

- International Building Code, with Georgia Amendments
- International Fire Code, with Georgia Amendments
- International Plumbing Code, with Georgia Amendments
- International Mechanical Code, with Georgia Amendments
- International Fuel Gas Code, with Georgia Amendments
- National Electrical Code, with Georgia Amendments
- International Energy Conservation Code, with Georgia Supplements and Amendments

1.1.4.9 Fire, Life Safety, and Accessibility Codes. The following codes, in the versions approved by the Georgia State Fire Marshal/Fire Safety Commissioner and Department of Human Resources, shall be used. Design Professional will designate any additional codes or special modifications in the Supplementary General Requirements.

- Georgia State Life Safety Code (NFPA 101)
- State Accessibility Codes (See O.C.G.A. § 30-3-3)
- Rules and Regulations of the Georgia Safety Fire Commissioner

1.1.4.10 Adherence to Contract When in Excess of Code. The Construction Documents shall govern when they call for quality of materials, quality of workmanship, or quality of construction which is equal to or in excess of the quality required by the codes stated above.

1.1.4.11 Variances. If Contractor observes that the Construction Documents are at variance with any laws, ordinances, rules, regulations, or codes stated above, it shall promptly give Notice to Owner. If Contractor performs any Work contrary to such laws, ordinances, rules, regulations, or codes without providing such prior Notice to Owner, it shall bear all costs arising therefrom. No variances from the Contract are allowed except to the extent that the said variances are necessary to comply with the above-stated codes. If any express requirements of the Contract are at variance with the above-stated codes, a Change Order shall be executed to bring the Contract into compliance with the above-stated codes.

1.1.5 Notice. Any Notice or other material communication required or permitted under this Contract shall be in writing, dated, and signed by an officer or duly authorized representative of the party making same. Unless otherwise required by the provisions of this Contract, Notice may be sent via electronic mail, fax, U.S. Mail, or hand delivered to the addresses shown in Section 3 of the Form of Contract. All members of the Project Team shall be copied on any Notice. The persons and addresses to which notices should be given may be changed by Notice given in accordance with this Section. Such Notice shall be effective as of the date on which it is received or would have been received but for the refusal of the addressee to accept delivery.

1.1.6 Order of Precedence of Contract and Changes. In the event of conflict among the Contract documents, a Change Order shall control over any previous Change Order; and a Change Order shall control over the Supplementary General Requirements, which shall control over the Form of Contract, which shall control over the General Requirements, which shall control over the Specifications.

1.1.7 Order of Precedence in Construction Documents. The following general principles shall govern the settlement of disputes that may arise over conflicts in the Construction Documents: (a) as between the drawings and specifications, the specifications shall govern; (b) as between figures given on drawings and the scaled

measurements, the figures shall govern; and (c) as between large-scale drawings and small-scale drawings, the larger scale shall govern. Conflicts discovered shall be immediately reported to Design Professional.

1.1.8 Intellectual Property Rights in Construction Documents, Drawings, and Models. The Construction Documents and other documents prepared by Design Professional for the Project are the property of Owner. Neither Contractor nor any Subcontractor shall own or claim a copyright in such drawings, specifications, and other similar or related documents; Owner shall retain all common law, statutory, and other intellectual property rights with respect thereto. All models are the property of Owner.

1.1.9 Licenses, Easements and Surveys. Permanent easements for structures shall be obtained and paid for by Owner unless otherwise specified. Any licenses necessary for the permanent operation of the completed Project shall be obtained by the Owner unless otherwise specified. Owner shall furnish all surveys unless otherwise specified.

1.1.10 Owner's Right to Perform Other Work at the Project Site. Owner reserves the right at any time, upon Notice to Contractor, to perform other work at the Site. Contractor shall afford Owner and Separate Contractors reasonable access to the Site, subject to the Separate Contractors' compliance with Contractor's safety rules and Site specific policies, reasonable areas for storage of materials and equipment, and reasonable opportunity to execute work at the Site. Contractor shall, if required by the Contract, coordinate its work with Owner's Separate Contractors but shall have no responsibility to certify the suitability or correctness of any work performed by Separate Contractors.

1.2 Bonds, Insurance and Indemnification

1.2.1 Bonds. Upon execution of the Contract, Contractor shall furnish both a performance bond and a payment bond, in the exact form attached hereto, with a penal sum equal to at least the Contract Sum. Surety companies must be acceptable to Owner. Only those sureties listed in the Department of Treasury's Listing of Approved Sureties (Department Circular 570, as amended) are acceptable to Owner. All bonds at the time of issuance must be issued by a company authorized by the Insurance Commissioner to transact the business of suretyship in the State of Georgia, and shall have an A.M. Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. When any subsequent Change Order, or combination of Change Orders, increases the Contract Sum by five percent (5%) or more, Contractor shall obtain a rider to the payment and performance bonds increasing the penal sum to match the increased Contract Sum.

1.2.2 Indemnification Obligation. Contractor shall indemnify, defend, and hold harmless Owner, the City of Hiawassee and its departments, agencies and instrumentalities, and all of their respective officers, members, employees, and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, suits, judgments, liability, demands, losses, costs, or expenses, including reasonable attorneys' fees and other costs of litigation including expert witnesses, arising out of bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this Contract or any act or omission on the part of Contractor, its Subcontractors, its agents, employees, or others working at the direction of Contractor or on its behalf, or due to any breach of this Contract by Contractor, or due to the application or violation of any applicable Federal, State or local law, rule, or regulation. The indemnification obligation set forth in this Section extends to the successors and assigns of Contractor, and will survive the termination of the Contract or Contractor's performance hereunder and the dissolution or, to the extent allowed by law, the bankruptcy of Contractor. Whenever Contractor is obligated to defend the Owner or any other Indemnitee pursuant to this Agreement, Contractor shall use counsel selected or approved by Owner.

1.2.2.1 This indemnification obligation does not extend beyond the scope of the Project, this Contract, and the Work or obligations undertaken thereunder. Nor does this indemnification extend to claims for losses or injuries or damages incurred due to the sole negligence of the Indemnitees.

1.2.2.2 This indemnification does not extend to claims for losses or injuries or damages incurred by the Indemnitees due solely to the negligent acts, errors, or omissions of Design Professional in the performance of professional services in connection with the Project that fail to meet the applicable professional standard of care, skill, and ability as employed by others in their profession.

1.2.3 Insurance Coverage. Contractor shall procure the insurance coverages identified below in accordance with the policy requirements listed below. Contractor shall provide Owner with a Certificate of Insurance showing the required coverage prior to execution of this Contract. If Owner requests, Contractor shall provide a certified copy of insurance policies required hereunder. Owner owes no duties or contractual obligations to any third party and will not be liable to any third party for Contractor's failure to obtain, or failure to require its Subcontractors to obtain, the insurance required hereunder or required by law.

Worker's Compensation Insurance	Minimum Coverage Limit
	Coverage to meet Georgia statutory requirements
Employer's Liability Insurance	Minimum Coverage Limit
Bodily Injury by Accident	\$1,000,000 per Accident
Bodily Injury by Disease	\$1,000,000 per Employee \$1,000,000 Aggregate
Commercial General Liability Coverage	Minimum Coverage Limit
Premises and Operations	\$ 1,000,000.00 per Occurrence and \$2,000,000 General Aggregate
Products and Completed Operations	\$1,000,000.00 per Occurrence and \$2,000,000 General Aggregate
Personal and Advertising Injury	\$ 1,000,000.00 per Occurrence
Commercial Automobile Liability Coverage	Minimum Coverage Limit

	\$ 1,000,000.00 combined single limits covering all owned, non-owned, leased or borrowed vehicles used by Contractor in connection with the Work
Commercial Umbrella Liability	Minimum Coverage Limit
Projects with Contract Sum Less than \$5,000,000	\$ 5,000,000 Per Occurrence and General Aggregate
Projects with Contract Sum Less than \$15,000,000	\$ 10,000,000 Per Occurrence and General Aggregate
Projects with Contract Sum Equal to or Greater than \$15,000,000	\$20,000,000 Per Occurrence and General Aggregate
Builder's Risk	Minimum Coverage Limit
	Coverage in an amount equal to Contract Sum

1.2.3.1 Workers' Compensation Policy Requirements. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan.

1.2.3.2 Commercial General Liability Policy Requirements. Commercial General Liability Insurance shall be provided by the 2004 ISO Occurrence Form, or its equivalent, that shall include, without limitation, coverage for bodily injury and property damage arising from premises and operations liability, independent contractors, products and completed operations, blasting and explosion, collapse of structures, underground damage, personal and advertising injury, and contractual liability. The Commercial General Liability policy shall contain no exclusion for Subcontractor work and may not contain ISO endorsement CG 22 94 10 01 or similar. The policy must include separate aggregate limits per project.

1.2.3.3 Commercial Business Automobile Liability Requirements. The Commercial Business Automobile Liability Insurance shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned, or hired automobile and shall be issued on an "occurrence" basis.

1.2.3.4 Commercial Umbrella Liability Requirements. Commercial Umbrella Liability Insurance shall provide excess coverage above the Commercial General Liability, Commercial Business Automobile Liability and the Workers' Compensation and Employers' Liability and shall be issued on an "occurrence" basis.

1.2.3.5 Additional Insured Requirements. Contractor shall cause its insurer to issue an additional insured Endorsement naming Owner and all Indemnitees as additional insureds on all required liability policies (except for Workers Compensation and, if required, Professional Liability).

1.2.3.6 Builders Risk Policy Requirements. Builder's Risk Policy shall be made payable to Owner and Contractor, as their interests may appear, and shall include in the interests of Contractor's Subcontractors. The policy shall be written on a Builder's Risk "All Risk," or its equivalent, and include coverage for collapse, pollution, water or flood damage, earthquake, subsidence, testing, and boiler and machinery perils (unless covered by separate insurance). The form of policy for Builder's Risk shall be "Completed Value." The Builder's Risk Policy shall have a deductible of not more than \$25,000 (or such other amount as approved by Owner in writing), and payment of the deductible shall be the responsibility of Contractor, except to the extent the loss is caused by Owner, in which case Owner shall pay a share of the deductible proportionate to its fault. The Builder's Risk Policy shall cover portions of the Work stored off site or in transit. The policy shall be endorsed as follows:

The following may occur without diminishing, changing, altering or otherwise affecting the coverage and protection afforded the insured under this policy:

- (i) Furniture and equipment may be delivered to the insured premises and installed in place ready for use;
- (ii) Partial or complete occupancy by Owner; and
- (iii) Performance of work in connection with construction operations insured by Owner, by agents or lessees or other Contractors of Owner

In the event that the Contract is for renovation, addition, or modification of an existing structure and Builders Risk Insurance is not available, Owner will accept an Installation Floater Insurance Policy with the above endorsements in lieu of the Builders' Risk Insurance Policy. Such floater must insure loss to

materials and equipment prior to acceptance by Owner and must be on an ALL RISK BASIS with the policy written on a specific job site.

1.2.3.7 Waiver of Subrogation. Contractor hereby waives all rights of subrogation against Owner and all Indemnitees and additional insureds required under this Contract to the extent a loss is covered by any insurance maintained by any party hereto, and Contractor shall require similar waivers from its Subcontractors. All insurance policies required to be maintained by Contractor shall contain a waiver of subrogation by the insurer in favor of the Owner and all Indemnitees and additional insureds required under this Contract.

1.2.3.8 Insurer Qualifications. All insurance providers shall be authorized by the Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance, and shall have an A.M Best Policyholders Rating of "A" or better and with a financial size rating of Class V or larger.

1.2.3.9 Termination of Obligation to Insure. Unless otherwise expressly provided to the contrary, the obligation to insure as provided herein shall not terminate until Design Professional issues the Certificate of Final Completion. Contractor's obligation to provide Builder's Risk insurance shall terminate upon the issuance of the Certificate of Material Completion. In addition, any "claims-made" policies required hereunder shall be kept in full force and effect for a period of four (4) years after the issuance of the Certificate of Material Completion.

1.2.3.10 Deductibles. All deductibles shall be paid for by Contractor, except as provided in Section 1.2.3.6. The maximum deductible, except for Builder's Risk and Workers' Compensation qualified self-insurers or group self-insurers, in any policy shall not exceed one hundred thousand dollars (\$100,000.00). Owner will consider larger deductible amounts on a case-by-case basis.

1.2.3.11 Certificate of Insurance Requirements. Contractor shall provide Owner with certificates of insurance, completed by a duly authorized representative, evidencing that at least the minimum coverages required herein are in effect and specifying that the liability coverages (except professional liability, if required) are written on an occurrence form. The certificates of insurance shall contain a provision that the coverage afforded under the policy or policies will not be canceled or non-renewed without thirty (30) days' prior written notice to Owner. The failure of Owner to demand such a certificate or other evidence of full compliance with these requirements or the failure of Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. The acceptance of delivery by Owner or its designated representative of any certificate of insurance evidencing the required coverages and limits does not constitute approval or agreement by Owner that the insurance requirements have been met or that the insurance policies shown in the certificates of insurance are in compliance with the requirements. Owner shall have the right, but not the obligation, of prohibiting Contractor and its Subcontractors from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner. If Contractor fails to maintain the insurance as set forth herein, Owner shall have the right, but not the obligation, to purchase said insurance at Contractor's expense. Alternatively, Contractor's failure to maintain the required insurance shall constitute a material breach hereof and may result in termination of this contract at Owner's option. Provision of proper certificates of insurance as set forth herein by Contractor on behalf of itself and all Subcontractors actively operating on site is a condition precedent to payment hereunder. If any of the coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverages shall be submitted with Contractor's final invoice and annually thereafter. Upon demand by the Owner, Contractor shall provide certified copies of any policy set forth herein.

1.2.3.12 Subcontractor Insurance Requirements. Contractor shall require each Subcontractor performing Work or performing any activity on the Project Site to obtain an insurance certificate showing proof of Commercial General Liability, Workers' Compensation Coverage and Employers Liability Insurance, Commercial Automobile Liability, Umbrella Liability, and Professional Liability (where required) with limits commercially appropriate for the work of such Subcontractor and in no event less than \$1,000,000 per occurrence, claim, accident, or employee, as applicable to each line of coverage, and Contractor shall provide Owner with an insurance certificate for each Subcontractor evidencing compliance with this provision annually and before such Subcontractor begins work on the Project.

1.3 Defined Terms and Basic Definitions

1.3.1 Defined Terms. Wherever used in the Contract, the terms defined in this Contract will have the meanings indicated that are applicable to both the singular and plural, and to the masculine and feminine thereof.

1.3.1.1 Meaning of Words and Phrases. Unless the context or the Contract taken as a whole indicate to the contrary, or unless otherwise defined, words used in the Contract that have usual and common meanings shall be given their usual and common meanings; words having technical or trade meanings shall be given their customary meaning in the subject business, trade, or profession. Materials or Work described in words that, so applied, have a well-known technical or trade meaning shall refer to such recognized meaning.

1.3.1.2 Install, Deliver, Furnish, Supply, Provide and Other Such Words. Install, deliver, furnish, supply, provide, and other such words mean that the Work in question shall be put in place by Contractor ready for use unless expressly provided to the contrary.

1.3.1.3 Sections Not Plenary. This Section and Section 1.3.2 are not entire, plenary, or exhaustive of all terms used in this Contract.

1.3.2 Basic Definitions.

1.3.2.1 Bidding Documents. The Bid Requirements, Contract, Specifications, Drawings, and all Addenda, which form the basis for the bid submitted by the bidder.

1.3.2.2 Certificate of Material Completion. The Notice from Design Professional certifying achievement of Material Completion.

1.3.2.3 Change Order. A document which, in conformity with the Contract, authorizes a change or changes to the Contract Sum, the Contract Time, or the Contract.

1.3.2.4 Change Order Sum. The amount of compensation payable under a Change Order or, when applicable, a portion thereof.

1.3.2.5 Change Order Work. Work that is authorized or changed by a Change Order.

1.3.2.6 Claim. A demand or assertion by Contractor seeking an adjustment of the Contract Sum, Contract Time, or both, or regarding other disputes or requests by Contractor for relief arising out of or relating to the terms of the Contract.

1.3.2.7 Construction Documents. The Specifications and Drawings that set forth the design for the Project, including any Drawings and Specifications that have been incorporated into the Contract by Change Order.

1.3.2.8 Construction Phase. The phase of the Project, commencing with the first Proceed Order, when physical work is performed on the Site.

1.3.2.9 Construction Progress Schedule. A schedule, as more fully defined in Section 2.1.4, prepared by Contractor indicating proposed milestone dates, activity sequences, and durations.

1.3.2.10 Contract. The Contract include the Contract, General Requirements, Supplementary General Requirements, Change Orders, and any Construction Documents that have been incorporated into the Contract by Change Order.

1.3.2.11 Contract Sum. The sum of all compensation authorized by the Contract and any Change Orders.

1.3.2.12 Contract Time. The period of time established for completion of the Work and the Project by the Contract.

1.3.2.13 Cure Period. The time stated in a Notice of Non-Compliant Work for correction of Non-Compliant Work.

- 1.3.2.14 Days, Months, Years. All references to the terms "day," "days," "month," or "months" mean calendar day, calendar days, calendar month, or calendar months, respectively.
- 1.3.2.15 Drawings. The graphic portion of the Construction Documents showing the design, location and dimensions of the Work.
- 1.3.2.16 Certificate of Final Completion. The certificate issued by Design Professional stating that all Work has been completed in accordance with the terms of the Contract.
- 1.3.2.17 Final Completion. The full and final completion of all Work in accordance with the Contract.
- 1.3.2.18 Final Punchlist. The Punchlist compiled by the Design Professional at the Inspection for Material Completion which lists all Minor Items and Permitted Incomplete Work.
- 1.3.2.19 Initial Punchlist. Punchlist prepared by Contractor prior to the inspection for Material Completion that lists all Minor Items and Permitted Incomplete Work.
- 1.3.2.20 Material Completion. Material Completion occurs when the Work of the Project is complete in accordance with the Contract, except for any Minor Items or Permitted Incomplete Work, so that Owner can occupy and utilize the Work for its intended use.
- 1.3.2.21 Material Completion Date. The date by which Contractor shall achieve Material Completion of the Project.
- 1.3.2.22 Minor Item. A Minor Item is a portion of Work designed by Design Professional that is incomplete at Material Completion but does not interfere with the complete use and enjoyment of the Project by the Owner and which can be completed within thirty (30) days while the Owner occupies the Project without interfering with the Owner's use and occupation of the Project.
- 1.3.2.23 Notice. The written document from any Project Team Member that invokes a right or requests a remedy under this Contract or provides any notice required by the terms of this Contract.
- 1.3.2.24 Non-Compliant Work. Work that, for any reason, is not in compliance with the Contract in any respect, including but not limited to quality of Work or timeliness of Work. Such term shall also include the failure of Contractor to perform any obligation of the Contract in a proper or timely manner, to meet the Overall Project Schedule, or to supply an adequate and skilled work force.
- 1.3.2.25 Notice of Non-Compliant Work. The official Notice from Design Professional or Owner regarding Non-Compliant Work.
- 1.3.2.26 Notice of Readiness. The Notice provided by Contractor stating that the Work is ready for inspection by Design Professional.
- 1.3.2.27 Overall Project Schedule or OPS. The final Construction Progress Schedule that is recommended by Design Professional and approved by Owner, as amended from time to time as provided in this Contract.
- 1.3.2.28 Payment Application. The form, and any required supporting documentation, that must be submitted by Contractor to request payment from Owner.
- 1.3.2.29 Permitted Incomplete Work. Work that is required by the Contract to be completed after Material Completion, such as HVAC Seasonal Test and Balance or seasonal landscaping or Work that is incomplete through no fault of Contractor, such as recently added Change Order Work that is permitted by the Change Order to be performed after Material Completion.
- 1.3.2.30 Proceed Order. Notice from Owner to Contractor that authorizes Contractor to commence Work at the Project Site.
- 1.3.2.31 Project. The total and complete undertaking for the public works facility to be constructed under this Contract.

- 1.3.2.32 Request for Information (RFI). A request issued by Contractor to Design Professional requesting information or clarification of the Construction Documents.
- 1.3.2.33 Separate Contractor. Any person or entity other than Contractor that contracts directly with Owner to perform work on the Site.
- 1.3.2.34 Site. The real property furnished by Owner for the Work and use of Contractor.
- 1.3.2.35 Specifications. The portion of the Construction Documents consisting of written requirements for materials, equipment, and standards of workmanship.
- 1.3.2.36 Maximum Sum. The amount stated in a Force Account Authorization that sets the maximum amount payable for Work thereunder.
- 1.3.2.37 Subcontractor. Generic term for any party contracting to perform the Work or supply materials for the Work.
- 1.3.2.38 Submittals. Shop drawings, samples, schedules, data, catalogue cuts, manufacturers' published recommendations, charts, bulletins, brochures, illustrations, circulars, roughing drawings or formulae, or other documents that are submitted by Contractor to illustrate some portion of the Work or for use in installing the Work. Submittals are not Construction Documents.
- 1.3.2.39 Warranty Complaint. Notice that is given by the Owner to Contractor of apparent non-compliant or defective Work that arises or is discovered after Material Completion.
- 1.3.2.40 Work. All construction, materials, and services required by the Contract or reasonably inferable therefrom. The Work may refer to the whole Project or only a part of the Project.

1.4 Time

1.4.1 Duty to Commence and Complete Work. Contractor shall commence physical Work at the Project Site within ten (10) days of the issuance of the Proceed Order but shall not commence any physical Work on the Site until a Proceed Order is issued. Contractor shall achieve Material Completion of the Project not later than the Material Completion Date.

1.4.1.1 Time is of the Essence. Time is of the essence of this Contract and all obligations hereunder. Time being of the essence, it is mutually agreed that Owner will suffer damages if Contractor does not achieve Material Completion by the Material Completion Date and Contractor shall therefore compensate Owner for the delay as provided herein. Contractor has carefully examined and analyzed the Site, the Contract, Construction Documents, and all known factors related to its ability to achieve Material Completion by the Material Completion Date. Contractor agrees that the stipulated Contract Time is fair and reasonable.

1.4.1.2 Liquidated Damages for Delay. The parties may agree to an amount to be paid as Liquidated Damages if Contractor fails to achieve Material Completion by the Material Completion Date. If the parties agree to Liquidated damages, such Liquidated Damages shall be stated in Section 5 of the Form of Contract. The specified liquidated damages are not a penalty but are agreed to in advance because of the difficulty of determining and proving the amount of delay damages incurred by the Owner as a result of the delay. Liquidated Damages shall be charged beginning upon the day following the contractually required Material Completion Date and ending on the date that the Certificate of Material Completion is issued. Liquidated Damages shall be deducted from payments due to Contractor as they accrue and such deduction shall be in addition to the retainage provided for in the Contract. If the parties do not agree to a sum for Liquidated Damages, Owner shall be entitled to recover its actual damages if Contractor fails to reach Material Completion by the Material Completion Day.

1.4.2 General Rule – No Damages for Delay, Extension of Time Sole Remedy. If, between the Proceed Order Date and the Material Completion Date, the critical path of Work based on the Overall Project Schedule is delayed without any fault of Contractor or its Subcontractors by an event that is beyond the reasonable control of Contractor or its Subcontractors, then such delay shall be excused and the Contract Time shall be extended for such period of delay. Contractor's sole remedy for such delays shall be an extension of time with no increase to the Contract Sum.

1.4.3 Exception to General Rule – Compensable Delay. Contractor shall be entitled to an extension of Contract Time and adjustment to the Contract Sum for the delays caused by an act or neglect of Owner, Design Professional, or Separate Contractor, on the condition that it submits a Notice of Claim in conformance with, and by the time set forth in, Section 1.5.3. As an additional condition precedent to such extension of Contract Time and adjustment to the Contract Sum, Contractor must prove that (i) such delays extended the critical path of Work based on the Overall Project Schedule; (ii) Contractor has taken all reasonable actions to mitigate the effects of the delay events; (iii) the fault or negligence of Contractor or Contractor's Subcontractors did not contribute to such delay events; and (iv) Contractor shall have provided Notice to Owner of the cause or causes of such delay within seven (7) days from the date on which Contractor first becomes aware, or should have become aware, of such delay.

1.5 Design Professional's Decisions and Claims

1.5.1 Continuation of the Work. Unless otherwise agreed in writing, and notwithstanding any other rights or obligations of either of the parties under the Contract, Contractor must proceed with the performance of the Work during the pendency of any Claim, dispute, protest, and other matter in question or during any alternative dispute resolution proceeding, court proceeding, or other proceeding to resolve any Claim, dispute, protest, and other matter in question. Unless otherwise provided herein, Owner will continue to make payments in accordance with the Contract, but Owner is under no obligation to make payments on or against such Claim, dispute, protest, and other matter in question during the time required to resolve such Claim, dispute, protest, and other matter in question.

1.5.2 Design Professional's Decisions. Whenever the Contract requires the Design Professional to make a determination on any issue, Design Professional shall issue its decision ("Design Professional's Decision") promptly. All Design Professional's Decisions on matters of aesthetics are final and binding on all parties if consistent with the requirements of the Contract. If Contractor desires to protest any Design Professional's Decision, then it shall issue a Notice of Protest to Owner and Design Professional no later than thirty (30) days after the Design Professional's Decision. Contractor's Notice of Protest shall be made in writing, shall include a title or subject line that clearly identifies the document as a "Notice of Protest" and shall set forth in detail the basis for the Protest. All Design Professional's Decisions shall be final and binding on Contractor in the absence of a timely Notice of Protest

1.5.3 Claim. If Contractor desires to assert a Claim against Owner, it shall issue a Notice of Claim within the time and in the form provided in this Section. Any and all Claims not made within the required time period, or in the required form, are waived by Contractor. The requirement of Contractor to provide a Notice of Claim under this Section shall be in addition to any requirement to provide Notice under any other Section hereof.

1.5.3.1 Form of Claims. A Notice of Claim shall be made in writing, shall be hand delivered or sent via U.S. Mail with return receipt, shall include a title or subject line that clearly identifies the document as a "Claim," shall identify the specific provision of the Contract upon which the Claim is based, and must set forth in detail the basis for the Claim. Claims for adjustments to the Contract Sum or other damages or compensation shall identify the amount of the Claim and shall include appropriate documentation of the amount claimed. Claims for extensions of Contract Time shall identify the number of days claimed, the cause of any delay, the affected schedule activities, and information to demonstrate critical path was extended.

1.5.3.2 Time for Submission of Claims. A Notice of Claim shall be made within fourteen (14) days after the occurrence of the event giving rise to the Claim or within fourteen (14) days after the event giving rise to the Claim should have been first observed, whichever is first, unless the Contract specifies a shorter or longer period with respect to such event, in which case such specific provision shall govern. In the case of a continuing delay as a result of a single event, only one Notice of Claim is necessary.

1.5.4 Claims Limited to Actual Costs. Unless otherwise provided herein, Claims for increase in the Contract Sum shall be no greater than the actual direct, jobsite costs incurred by Contractor. If any other provision of the Contract limits or precludes additional compensation to Contractor in certain events or circumstances, then any Claim for additional compensation related to such event or circumstance shall be limited or precluded as provided in such provision. As an additional condition to increase the Contract Sum, Contractor shall retain contemporaneous documentation of all costs supporting such increase and shall submit copies thereof to Owner along with the Notice of Claim or, for continuing Claims, on a daily basis after submitting the Notice of Claim.

1.6 Contract Suspension and Termination

1.6.1 Right to Suspend Work. Owner or Design Professional may stop the Work upon observation of apparent Non-Compliant Work or whenever such stoppage may be necessary to protect the Work or protect the interests of Owner. The stop work order may be given orally, with Notice to be provided to Contractor within seventy-two (72) hours. If the Work is later determined by Design Professional to be conforming Work, and Contractor then complies with Section 1.5.3, Contractor shall be entitled to a compensable time extension in accordance with Section 1.4.3. If the Work is determined by Design Professional to be Non-Compliant Work, then Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time, and Owner may exercise any right hereunder with regard to such Non-Compliant Work.

1.6.2 Owner's Right to Terminate Contract Without Cause. Owner may terminate the Contract at any time, without cause, upon giving Contractor fifteen (15) days' Notice. In the event Owner elects to terminate the Contract after, Owner shall pay Contractor, in accordance with the terms of the Contract for all Work executed prior to termination, and for the costs incurred by Contractor because of the termination, up to the unpaid balance of the Contract Sum.

1.6.3 Owner's Right to Terminate Contract for Cause. Owner may terminate the Contract if Contractor is in breach of a Notice of Non-Compliant Work; if Contractor makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency; if Contractor persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction over the Project; if Contractor abandons the Project for a period of fourteen (14) or more days; if Contractor is otherwise guilty of a substantial violation of any provision of this Contract; or for any reason that would permit Owner to terminate the Contract under applicable law. Owner may terminate the Contract for these causes, without prejudice to any other right or remedy under this Contract, at equity, or in law, upon giving Contractor fifteen (15) days' Notice of Owner's intent to terminate for cause.

1.6.3.1 Owner's Right to Complete Work Upon Termination for Cause. Upon termination for cause, Owner shall have the right to take possession of the Work, together with all materials, equipment, tools, and improvements thereon and to finish the Work by whatever reasonable method Owner may deem expedient.

1.6.3.2 Payment Due Upon Termination for Cause. Upon termination for cause, Contractor shall not be entitled to receive any further payment until the Work is completed. Upon completion, Contractor shall pay to Owner the positive excess of (i) Owner's cost of completion of the Work, plus any damages incurred by Owner due to such termination and the basis for such termination, including but not limited to liquidated damages for delays in completion, over (ii) the unpaid balance of the Contract Sum. Upon completion, Owner shall pay the positive excess of (i) the unpaid balance of the Contract Sum over (ii) Owner's cost of completion of the Work, plus any damages incurred by Owner due to such termination or the basis for such termination, including but not limited to liquidated damages for delays in completion.

1.6.3.3 Determination of Wrongful Termination. In the event a court of competent jurisdiction determines (or the parties agree to settle with a consent determination) that a termination for cause is wrongful or not authorized by the terms of the Contract, the termination shall be considered to be a Termination For Convenience, and the sole remedy available to Contractor shall be the contractual treatment of the termination pursuant to Section 5.1.2 without any other damages, relief, or compensation.

1.6.4 Contractor's Right to Terminate for Nonpayment. If Owner fails to pay Contractor the amount due within the time required by the Contract, Contractor must give Notice to Owner of such nonpayment. If Owner fails to pay such amount or provide a Notice of a dispute as to the amount sought by Contractor within thirty (30) days after receipt of Contractor's Notice of nonpayment, Contractor may terminate this Contract by giving the Owner fifteen days' Notice of Contractor's Intent to Terminate. Upon such termination and upon providing Owner with all releases in the same manner as would be required upon Final Completion, Owner will pay Contractor, as provided in the applicable provisions of Section 4, for the Work properly executed, and, only if Contractor submits a Claim in the manner and time provided in Section 1.5.3, for any proven damages sustained or cost incurred for any materials, equipment, tools, construction equipment and machinery, and cancellation charges on obligations of Contractor outstanding as of the termination. The remedies provided in this Section shall be the sole remedies of Contractor for such termination for cause.

1.6.5 Notices of Termination. Notwithstanding any other provision of this Contract, if either party elects to terminate this Contract under any provision in Section, then the terminating party will issue a written Notice of Termination that shall be sent by Certified Mail, Return Receipt Requested.

1.6.6 Cumulative Remedies. Except as otherwise provided herein, each of Owner's rights and remedies provided for in this Contract shall be cumulative and shall be in addition to every other right or remedy provided for in this Contract, at law, or in equity, or by statute or otherwise. The exercise or beginning of the exercise of any one or more of the rights or remedies provided for in this Contract, at law, or in equity, or by statute or otherwise, shall not preclude the simultaneous or later exercise of any or all other rights or remedies provided for in this Contract, at law, or in equity, or by statute or otherwise. Owner's rights and remedies hereunder shall survive any termination by Owner or Contractor.

2 THE WORK

2.1 Pre-Construction Requirements

2.1.1 Pre-Construction Phase. The Pre-Construction Phase commences with the execution of the Contract and ends with the issuance of the Proceed Order. No physical Work may be done at the Project Site until the Proceed Order is issued.

2.1.2 Pre-Construction Meeting. Upon execution of the Contract, a Pre-Construction Meeting shall be held between the Owner, the Contractor and the Design Professional to review the Project, inspect the existing facilities, and set up the approximate work sequence schedule.

2.1.3 Inspection of Existing Facilities Prior to Commencing Work. If the Project involves renovations or modifications to existing facilities, the Owner, Contractor, and Design Professional shall jointly inspect the existing facilities to identify any damage to existing work and shall prepare a schedule identifying and showing the location of any damage to the existing work which is ascertainable by inspection. It is agreed that the preparation of the schedule is for the benefit of the Contractor and is intended to enable it to have the protection afforded by a record of such existing damage as is visually ascertainable. The Contractor shall have no responsibility to repair any damage that shall appear on the above-mentioned schedule nor shall he be responsible for repairing any existing damage which was not ascertainable by visual inspection or which was not the result of negligence on his part, unless such repair is included in the Work.

2.1.4 Submission of Overall Project Schedule. Within ten (10) days of the Pre-Construction Meeting, Contractor shall submit to the Owner and Design Professional for approval a Construction Progress Schedule showing the critical path of the Work, agreed upon milestone dates through Material Completion, and dates for submission of Submittals. Upon recommendation by Design Professional and approval by Owner, the Construction Progress Schedule shall become the Overall Project Schedule, which shall be utilized by Design Professional, Owner, and Contractor.

2.1.5 Submission of Safety Plan. Within ten days of the Pre-Construction Meeting, the Contractor shall prepare and submit to the Owner a specific safety program for the Work which shall identify the person in charge of Project Safety for the Contractor. The Contractor shall establish and require all subcontractors to establish reasonable safety programs.

2.1.6 Submission of Schedule of Values. Within ten days of the Pre-Construction Meeting, Contractor shall submit a Schedule of Values in accordance with Section 2.6.1.

2.1.7 Permits & Licenses. Contractor shall obtain and pay for all permits and licenses necessary for the prosecution of the Work. Owner shall cooperate with Contractor as it secures building and other permits, licenses, and inspections that are required to be obtained by Contractor.

2.1.8 Utilities. If permanent utilities are available at the Site, the Owner shall furnish without cost to the Contractor water and electricity as presently available at the Site as required to do the Work, provided however that the Contractor shall pay the costs of any separate connections. The Contractor shall make connection to utilities at locations agreeable to the Owner. The Contractor shall pay all costs for connections and extending these to the area where it proposes to use them. If permanent utilities are not available at the Site, Contractor shall obtain temporary utilities and provide sewage disposal at its expense until the extension and connection of permanent utilities and shall pay for all such utility services until Material Completion has been achieved.

2.1.9 Submission of Documents for Issuance of Proceed Order. Contractor shall submit the following documents as a prerequisite to Owner's issuance of the Proceed Order: Payment and Performance Bonds, Insurance Certificates, Worker's Compensation and Employer's Liability Insurance Certificates for all Subcontractors, Subcontractors' Affidavit for Georgia Security and Immigration Compliance, Project Safety Plan, Construction Progress Schedule, and Schedule of Values.

2.2 Construction Phase Requirements

2.2.1 Review of Construction Documents. Prior to commencing the Work, Contractor shall review all Construction Documents for any inconsistency, ambiguity, error, or omission. When potential design issues are identified, Contractor shall annotate the Construction Documents and shall issue an RFI in writing to the Design Professional. Design Professional shall furnish complete, definite, and clear instructions in response to the RFI in writing, or by issuing drawings, or both. In the event instructions are given orally for expediency, they shall be confirmed in writing or by drawings within five (5) days following the oral instructions. Any such additional instructions shall be consistent with the Construction Documents and reasonably inferable therefrom. Contractor shall not proceed with the affected Work until receiving a response from the Design Professional. Contractor shall exercise skill and judgment in the performance of its review of the Construction Documents but does not warrant or guarantee any design services furnished by Design Professional

2.2.2 Construction Documents at Site and Recording Changes. Contractor shall keep at the Site at least one copy of the Construction Documents in good order and available to Design Professional and to its representatives. Contractor shall record all changes and shall annotate a copy of the Construction Documents to reflect the as-built condition.

2.2.3 Progress Reports. During the Construction Phase, Contractor shall monitor the progress of the Work for conformance with the Overall Project Schedule and keep Owner informed of such progress and shall maintain records documenting the progress of the Work. Contractor shall submit progress reports at intervals reasonably determined by the Owner. Progress Reports shall document the progression of the Work and shall include information on the percentage of completion and indicate completed activities and any changes in sequencing or activity durations, including approved Change Orders. Progress Reports also note dates by which Non-Compliant Work shall have been cured and note the actual date of cure of the Non-Compliant Work.

2.2.4 Supervision of Work. Contractor shall supervise and direct the Work using diligent skill and attention in order to ensure satisfactory progress of the Work and that the quality of the Work complies with the Contract. Contractor shall be responsible for and shall coordinate all construction means, methods, techniques, sequences, and procedures. Contractor is fully responsible to Owner for the acts and omissions of its officers, employees, agents, all Subcontractors and their respective officers, employees and agents, and all other persons on the Site at the direction of Contractor or to perform Work. Non-performance, improper performance, or other default by any Subcontractor or employee or agent of Contractor shall not excuse Contractor from its obligation to assure timely performance of the Work in compliance with the Contract.

2.2.5 Project Superintendent. Contractor shall ensure that a competent Superintendent remains on the Project, on a full-time basis, until Material Completion. A Superintendent shall be present to supervise completion of all Punchlist Items and Permitted Incomplete Work. All directions given to the Superintendent shall be as binding as if given to Contractor. The Superintendent shall not be changed except with the consent of Owner unless the Superintendent ceases to be in Contractor's employ. Contractor must obtain Owner's prior written approval before engaging a replacement Superintendent and must ensure that the replacement has similar qualifications and experience to the original Superintendent.

2.2.6 Protection of Work, Property, and People. The Contractor shall provide protection of the Work, adjacent property, and persons on the Site and adjacent thereto. Contractor shall make good any damage, injury, or loss such Work, persons, or property, except to the extent the damage, injury, or loss is directly the result of errors in the Construction Documents or such as shall be caused directly by agents or employees of the Owner.

2.2.7 Safety. The Contractor is responsible for the safety of the Site and the Work. The Contractor shall comply with the rules and regulations of OSHA and/or the Department of Labor (O.C.G.A. § 34-2-6), and, where not inconsistent with the foregoing, the "Manual of Accident Prevention in Construction" issued by the Associated General Contractors of America, Inc., for safety and prevention of accidents. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, proper safeguards for the protection of workmen and the public and shall post danger warnings against any hazards created thereby.

2.2.8 Emergencies. In an emergency affecting the safety of life or the work or of adjoining property, the Contractor, without special instruction or authorization from the Design Professional or Owner, shall act, at his discretion, to prevent such threatened loss or injury. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with the Allowable Costs under Section 2.4.6.

2.2.9 Use of Premises. The Contractor shall confine its operation and storage to the Project Site and any other areas specifically indicated in the Contract. The Contractor shall have access to Site between 7:30 A.M. and 5:00 P.M. Monday through Friday and, upon written permission of the Owner, may make deliveries and have access to the Site at any hour of any day. Contractor's promise to perform the Work within the Contract Time stated is not dependent on the availability of the Site for hours other than identified hereinabove unless other hours are agreed upon at Contract execution.

2.2.10 Building Occupancy. Contractor acknowledges that portions of the Site are occupied by City employees performing essential tasks necessary to the efficient operation of City government. Contractor agrees that it shall perform all Work in such a manner as to provide the least possible disruption to the occupants. Contractor shall schedule Work and provide temporary ventilation and/or isolation to insure that fumes from welding, other construction tasks, and out-gassing from construction materials do not migrate to occupied areas. The Contractor shall provide such mats, drop cloths, etc., as shall be necessary to protect the surrounding areas from soil or damage. The Contractor and its personnel shall not use the passenger elevators for transportation of equipment, supplies, goods and material unless otherwise agreed to in writing by the Owner. Contractor shall use only those bathroom facilities specifically designated by the Owner for Contractor's use unless the Owner instructs Contractor to provide for temporary toilets.

2.2.11 Cleaning Up. The Contractor shall at all time keep the Site free from accumulations of waste material or rubbish caused by his employees or Work. At the end of each working day, Contractor shall leave the premises in a broom clean condition and remove all trash and debris.

2.2.12 Cutting, Patching and Fitting. The Contractor shall do all cutting, fitting, or patching required to complete the Work or to make its several parts come together properly and fit. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the Work unless otherwise required by the Contract.

2.2.13 Submittals. Contractor shall provide all Submittals as required by the Contract in accordance with the Overall Project Schedule. Contractor shall perform no portion of the Work for which the Contract requires Submittals until Design Professional has approved the respective Submittal. Contractor shall maintain at the Site one copy of all approved Submittals.

2.2.14 Hazardous Materials. A Hazardous Material is any substance or material identified as of the date of the Agreement as hazardous under any governmental law, rule, or regulation, or otherwise subject to governmental requirements concerning handling, disposal, and/or cleanup. Except for Hazardous Materials specifically identified to be remediated by the Contract, the Contractor shall not be required to perform any work related to Hazardous Materials encountered at the Site. The Contractor is fully responsible for any Hazardous Materials brought on the Site by the Contractor or any Subcontractor. Contractor shall immediately notify Owner and Design Professional of its discovery of and the location of any Hazardous Materials at the Site that were not anticipated or contemplated as part of the Work.

2.2.15 Differing Site Conditions. If the Contractor encounters conditions at the Site that are subsurface or concealed conditions that materially differ from those expressly identified in the Contract or conditions at the Site that are materially different than those conditions anticipated or expected by a reasonably observant and prudent construction contractor, then Contractor shall promptly provide notice to the Owner and Design Professional. If Design Professional determines that such conditions differ materially from those identified in the Contract or those reasonably anticipated, and such difference shall cause an increase or decrease in the Contractor's costs or time, the Design Professional shall recommend an equitable adjustment.

2.2.16 Contract Provisions Required in All Subcontracts. Contractor agrees to bind every Subcontractor to the terms of the Contract insofar as they are applicable to its Work. Contractor shall expressly name Owner as an intended third-party beneficiary of each Subcontract.

2.3 Warranties, Inspections and Correcting the Work

2.3.1 Construction Warranty. All Work shall be free from defects and conform to the requirements of the Contract. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials and Work. Such warranties are referred to herein as the Construction Warranty. In addition to the Construction Warranty, Contractor shall provide all additional warranties called for in the Construction Documents. These warranties shall be in such form as to permit direct enforcement by Owner against any Subcontractor or third party whose guaranty or warranty is called for. The calling for or the furnishing of written warranties or bonds shall in no way limit the Construction Warranty and the contractual obligations of Contractor hereunder, including but not limited to the obligation correct the Work as set forth in Section 2.3.7. The remedies stated in this Section are in addition to the remedies otherwise available to Owner, do not exclude such other remedies, and are without prejudice to any other remedies.

2.3.2 Inspection of the Work. Both Contractor and Design Professional have separate duties to inspect the Work. Inspection of the Work by Owner, Design Professional or any third party shall not diminish, relieve, or alter the responsibility of Contractor to ensure that all Work complies with the Contract. The failure of Owner, Design Professional, or other third-parties to discover or notify Contractor of the existence of Non-Compliant Work shall not relieve Contractor of its responsibility to ensure that all Work complies with the Contract, and neither Design Professional's Certificate of Material Completion or Certificate of Final Completion nor payment shall relieve Contractor of responsibility to ensure that all Work complies with the Contract.

2.3.3 Contractor's Inspection of the Work. Contractor has an indivisible, non-delegable, and nontransferable contractual obligation to Owner to make inspections of the Work at all stages to confirm at all times that all Work has been executed strictly in accordance with the Contract. Contractor shall not rely on an inspection by Owner, Design Professional, or any other third party to identify Non-Compliant Work.

2.3.4 Fire Marshal's Inspection of the Work. The State Fire Marshal may make inspections at any time. If the Work requires a Certificate of Occupancy, Contractor shall request a Fire Marshal Inspection at eighty percent (80%) completion and at one hundred percent (100%) completion and will give Notice when all items on the one hundred percent (100%) inspection report have been completed. Requests shall be in writing with a copy to Owner and Design Professional.

2.3.4.1 Eighty Percent (80%) Inspection. The Eighty Percent (80%) Inspection shall take place when the structural components, including the fire walls, vertical shafts, stairways, smoke stops, hazardous area separations, roof and ceiling assemblies, corridor and door width, and HVAC systems, are in place and open for review of the fire safety components.

2.3.4.2 One Hundred Percent (100%) Inspection. The One Hundred Percent (100%) Inspection shall take place when Contractor has completed all of the items noted on the Eighty Percent (80%) Inspection report and the building is ready for issuance of the Certificate of Occupancy.

2.3.5 Design Professional's Inspection of the Work. Design Professional shall inspect all Work for compliance with the Contract. At all times, Contractor shall permit Design Professional and its representatives to access the Work for inspection.

2.3.5.1 Notice to Design Professional Prior to Covering Work. If the Contract, laws, ordinances, or any public authority require any Work to be specially tested or inspected, Contractor shall give Design Professional timely Notice of its readiness for inspection and, if the inspection is by any authority other than Design Professional, will inform Design Professional of the date fixed for such inspection. Inspections by Design Professional shall be made promptly and, where practicable, at the source of supply.

2.3.5.2 False Starts. In the event Contractor shall have issued Notice of Readiness prematurely, its action shall be deemed to be a "false start." Contractor shall be liable for the costs and damages resulting from false starts, including but not limited to the salary, professional fees, and travel and living expenses of the persons or parties affected by false starts.

2.3.5.3 Inspection of Work Covered Without Consent of Design Professional. If any Work is covered without written approval or consent of Design Professional or contrary to any provision of the Contract, then Contractor shall uncover such Work for inspection by Design Professional. Contractor shall be liable for the costs of

uncovering such Work, as well as the cost of recovering Work and the fees of Design Professional arising from the review of such uncovered Work.

2.3.6 Notice of Non-Compliant Work. The Owner or Design Professional may issue a Notice of Non-Complaint Work if it observes Non-Compliant Work, including failure to maintain the Overall Project Schedule. The Notice of Non-Compliant Work shall be in writing, dated, and addressed to Contractor with a copy to Owner or Design Professional, as applicable. The Notice of Non-Compliant Work shall include a description of the Non-Compliant Work, a citation to the provision of the Contract (or incorporated document or standard) that has been violated, and a reasonable period to correct the Non-Compliant Work ("Cure Period"). If Contractor is unsure or unaware of any information necessary to correct the Non-Compliant Work, it shall immediately request such information in writing. In the event that Owner incurs increased costs due to re-inspection of Work that was found to be Non-Compliant, Contractor shall be liable for the costs of the re-inspection, including but not limited to the salary, professional fees, and travel expenses of the Design Professional or inspection firm.

2.3.7 Duty to Promptly Correct Work. Contractor shall promptly correct any Non-Compliant Work within the Cure Period stated in the Notice of Non-Compliant Work. The duty to correct the Work shall apply whether the Non-Compliant Work is discovered before or after Material Completion. Contractor shall bear the costs of correcting such Non-Compliant Work, including, without limitation, additional testing and inspections and shall bear the expense of restoring all Work of Separate Contractors affected or destroyed by such removal or replacement. Contractor shall give prompt Notice upon completion of the correction of the Non-Compliant Work. In the absence of such Notice, it shall be and is presumed under this Contract that there has been no correction of the Non-Compliant Work.

2.3.7.1 Notice of Non-Compliant Work for Failure to Maintain Schedule. If Design Professional issues a Notice of Non-Compliant Work for failure to maintain the Overall Project Schedule, Contractor shall deliver to Design Professional and Owner a written plan explaining how Contractor intends to bring the Project back in compliance with the Overall Project Schedule within seven (7) days of the issuance of the Notice of Non-Compliant Work. Contractor's plan must provide sufficient detail to allow Design Professional and Owner to determine the proposal's feasibility.

2.3.7.2 Owner's Option to Accept Non-Compliant Work. If Design Professional and Owner deem it inexpedient to correct Non-Compliant Work, Owner may agree, in writing, to accept the Non-Compliant Work and make an equitable deduction from the Contract Sum which shall be deducted from Contractor's next payment.

2.3.7.3 Owner's Remedies for Breach of Notice of Non-Compliant Work or Failure to Prosecute the Work. If Contractor does not correct the Non-Compliant Work within the Cure Period stated in the Notice of Non-Compliant Work, Contractor shall be deemed to have breached the Notice of Non-Compliant Work. If Contractor breaches a Notice of Non-Compliant Work or fails to prosecute the Work in accordance with the Contract, Owner may, after giving five (5) days' Notice to Contractor, correct the Non-Compliant Work, prosecute the Work, or supplement the labor of Contractor or its Subcontractors and deduct the costs thereof from any payment then or thereafter due to Contractor and recover any resulting deficit from Contractor. The remedies stated in this Section are in addition to the remedies otherwise available to Owner and are without prejudice to any other remedies.

2.3.8 Correction of Non-Compliant Work After Material Completion. Contractor shall promptly remedy any Non-Compliant Work upon receipt of a Warranty Complaint received within one (1) year from the date of Material Completion, unless such Warranty Complaint is a result of a design defect or Owner abuse. Within seven (7) days of receipt of a Warranty Complaint from the Owner, Contractor shall issue a written response to the Owner stating Contractor's plan to correct the Work and the time needed to correct the Work. Contractor shall promptly commence correction of the Work unless the Design Professional agrees that the Warranty Complaint is the result of a design defect or Owner abuse. Contractor and its Subcontractors shall make no visits to the Site without first giving Notice to the Owner. Warranty Complaints should be corrected within fourteen (14) days of receipt unless the Work cannot be corrected within fourteen (14) days, in which case Contractor shall notify the Owner in its initial response. If Contractor does not provide the initial response within seven (7) days or remedy the Warranty Complaint within the time specified in its initial response, upon five (5) days' Notice, Owner may remedy the Warranty Complaint, including but not limited to any resulting damage to the Work or other property, at the expense of Contractor.

2.3.9 Warranty Complaints - Emergency Situations. If the Warranty Complaint is an emergency, this will be noted and Owner may (i) require Contractor to correct the Work immediately or (ii) if the emergency involves risk of property

damage or personal injury or death, Owner may proceed at once to remedy the Warranty Complaint. If, pursuant to the aforementioned clause (i), Contractor is requested to correct the Work, it shall respond to the Warranty Complaint in emergency situations within twenty-four (24) hours. If Contractor fails to respond within such time limit, Owner may remedy the Warranty Complaint and charge the cost thereof to Contractor, including but not limited to any resulting damage to the Work or other property. If, pursuant to the aforementioned clause (ii), Owner proceeds to remedy the Warranty Complaint in an emergency situation, then Owner will charge the cost thereof to Contractor, including but not limited to any resulting damage to the Work or other property.

2.3.10 No Limitation. Nothing contained in this Section 0 shall be construed to establish a period of limitation with respect to Contractor's liability for defective or Non-Compliant Work under this Contract, at law, or in equity. The remedies stated in this Section 0 are in addition to the remedies otherwise available to Owner and are without prejudice to any other remedies.

2.4 Change Orders

2.4.1 Change Orders. The Owner, without invalidating the Contract, may order changes in the Work consisting of additions, deletions, or modifications to the Work, with the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized only by written Change Order signed by the Owner. (A sample change order form is attached hereto, however, the exact form to be used may differ and may be provided by the Design Professional or the Owner.) Without a Change Order executed by Owner, Contractor shall not make any changes in the Work or perform any work that is not a part of the Contract, nor shall Contractor receive any compensation or make any Claim therefor.

2.4.2 Change Order Sum. The Change Order Sum may be determined in one or more of the following ways: 1) by an estimate of Allowable Change Order Costs agreed upon in advance and paid as a lump sum ("Lump Sum Change Order"), 2) by Unit Prices named in the Contract or subsequently agreed upon, which Unit Prices shall include all Contractor overhead, profit, and markup ("Unit Price Change Order"), or 3) by the amount of actual Allowable Change Order Costs incurred in the performance of the Change Order Work ("Force Account Change Order").

2.4.3 Change Order Proposals. Owner shall provide Contractor with a proposed Change Order that shall include a description of Change Order Work provided by the Design Professional. Contractor shall promptly respond to the proposed Change Order with an estimate of the Allowable Costs of the Change Order Work and the impact to the Project Schedule. The response shall include an itemized breakdown of Allowable Change Order Costs and a justification to the change in the Project Schedule. The Contractor's justification is provided so that the Design Professional and Owner can determine the whether the proposed change in Contract Time or Contract Sum is reasonable and in compliance with the terms of the Contract.

2.4.3.1 Disagreement as to Change in Contract Sum. If Design Professional or Owner disagree with Contractor as to the amount of the proposed adjustment to the Contract Sum and such disagreement is not resolved promptly, then Owner, if it desires the Change Order Work to proceed, may direct the Change Order Work to commence under a Force Account Change Order in accordance with Section 2.4.5. In no event shall any increase in the Contract Sum for such Change Order Work exceed the increase identified in Contractor's response under Section 2.4.3.

2.4.3.2 Disagreement as to Change in Contract Time or Other Disagreements. If Design Professional or Owner disagrees with Contractor as to matters other than adjustments to Contract Sum, including but not limited to proposed adjustments to Contract Time, and such disagreement is not resolved promptly, then Owner, if it desires the Change Order Work to proceed, may direct the Change Order Work to commence, and the dispute shall be resolved as a Design Professional's Decision as set forth in Section 1.5.2.

2.4.4 Acceptance of Proposed Change Order. If Owner agrees with Contractor's proposed changes to the Contract Time and Contract Sum, then Owner shall execute the Change Order. Upon Owner's execution, the Change Order shall be binding and of full force and effect. All Change Orders shall be performed under the conditions of the original Contract except as specifically modified by the Change Order. The change in Contract Time and Contract Sum (if any) provided by the Change Order constitutes compensation in full to Contractor for the Change Order Work and accounts for all delays and impacts related thereto.

2.4.5 Force Account Change Orders. A Force Account may be used in the event (i) Contractor and Owner cannot agree on the Change Order Sum for a Lump Sum Change Order, (ii) costs associated with a Change Order cannot be reasonably determined prior to beginning the Change Order Work, (iii) Owner and Contractor have agreed to Unit Prices for the Work but cannot determine the number of Units involved in the Change Order, or (iv) Owner otherwise determines. To initiate a Force Account Change order, Owner will issue a Force Account Authorization that sets a Maximum Sum that shall be paid for the Change Order Work and authorizes the Contractor to proceed. Upon completion of the Force Account Change Order Work, a Change Order is executed that sets the Change Order Sum on the basis of the actual Allowable Change Order costs incurred, or in the case of Unit Prices, on the basis of the actual number of units.

2.4.5.1 Accounting for Allowable Change Order Costs. If Owner issues a Force Account Authorization, Contractor must provide a daily accounting of Allowable Change Order Costs incurred in accomplishing the Work. With respect to Unit Price Change Orders, Contractor must provide a daily accounting of units completed. Owner shall be permitted, on a daily basis, to verify such records and information, and may require such additional records as are necessary to determine the Allowable Change Order Costs of such Change Order

Work. Allowable Change Order Costs shall not exceed the Maximum Sum stated in the Force Account Authorization. Contractor is responsible for applying for an increase in the Maximum Sum if it believes the Allowable Costs incurred shall exceed the Maximum Sum.

2.4.5.2 Determining Final Cost of Force Account. Within fourteen (14) days after the conclusion the Change Order Work ordered by a Force Account Change Order, Contractor and Owner shall determine the total Change Order Sum. Such Change Order Sum shall be incorporated into and finalized in the Force Account Change Order.

2.4.6 Allowable Change Order Costs. Allowable Change Order Costs include the items in this Section, but only those costs that are incurred in the performance of the Change Order Work.

2.4.6.1 Allowable Subcontractor Costs. Allowable Subcontractor Change Order Costs shall include the costs of all materials and equipment used in completing the Change Order Work and the costs of all labor to physically perform the Change Order Work but shall not include any charges for small tools or other expendables.

2.4.6.2 Subcontractor Markup. Allowable Subcontractor Costs for Change Order Work include a markup of up to twenty percent (20%) on the Allowable Subcontractor Costs noted above to compensate the Subcontractor for its overhead and profit. If the Subcontractor uses a Sub-Subcontractor to perform a portion of the Change Order Work, the Sub-Subcontractor may receive a markup for its overhead and profit but the total markup for both the Subcontractor and the Sub-Subcontractor shall not exceed twenty percent (20%).

2.4.6.3 Contractor's Payment and Performance Bond and Insurance Costs. Allowable Change Order Costs include the increases in premiums for Contractor's Payment Bond and Performance Bonds and Insurance required under the terms of this Contract, but solely to the extent that such increased costs are a result of the Change Order. In no event shall Contractor's compensation for such costs exceed two percent (2%) of the Allowable Change Order Costs (excluding this Section).

2.4.6.4 Contractor's Costs for Self-Performed Work. If the Contractor performs Change Order Work with its own personnel ("Self-Performed Work), Allowable Change Order Costs shall include the costs of all materials and equipment used in the completing the Self-Performed Work and the costs of all labor to physically perform the Self-Performed Work but shall not include a Subcontractor markup unless expressly agreed to in advance by the Owner.

2.4.6.5 Contractor's Supervision Costs. Allowable Change Order Costs include increased costs of Contractor's Superintendent and field office personnel in direct supervision of the Change Order Work, but solely to the extent that such increased costs are a result of the Change Order.

2.4.6.6 Contractor's Mark-Up. Allowable Change Order Costs include a markup of up to seven and a half percent (7 ½%) on the Subcontractor's Allowable Costs to compensate the Contractor for its overhead and profit on the Change Order Work.

2.4.6.7 Allowable Costs for Unit Price Change Orders. Unit prices shall be inclusive of all Contractor's overhead and profit and no mark-up on top of the Unit prices shall be allowed.

2.5 Project Closeout

2.5.1 Material Completion. To achieve Material Completion, the Work shall be materially complete so that the Owner can use and occupy the entire Project for its intended purpose. Additionally, Contractor shall complete the following Work and submit the Final Documents listed below as prerequisites to Material Completion.

2.5.1.1 Operation and Maintenance Training and Manuals. Prior to the inspection for Material Completion, Contractor shall provide the Owner with training in the operation and maintenance of any mechanical, electrical, or other operating systems and equipment included in the Work and shall provide manufacturer's manuals for operating and maintaining systems and equipment.

2.5.1.2 Warranties and Service Agreements. Contractor shall submit all warranties and maintenance service agreements as called for in the Specifications to the Design Professional at least seven (7) days prior to the proposed date of Inspection for Material Completion.

2.5.1.3 Marked-up Construction Documents. At the inspection for Material Completion, Contractor shall provide a complete set of Marked-up Construction Documents to Design Professional, which shall reflect all changes caused by field changes, Change Orders, or observed changes by Contractor or Subcontractors for the purpose of Design Professional's issuance of Record Documents to Owner.

2.5.1.4 Initial Punchlist. Prior to the Inspection for Material Completion, Contractor shall prepare an Initial Punchlist itemizing all Minor Items and Permitted Incomplete Work and shall provide a copy of the Initial Punchlist to Design Professional and Owner. Contractor is encouraged to consult with Design Professional and Owner prior to finalizing the Initial Punchlist, in particular in arriving at consensus for Minor Items and Permitted Incomplete Work.

2.5.2 Inspections for Material Completion. Contractor shall request an Inspection for Material Completion when it has completed all Work, except for Minor Items and Permitted Incomplete Work and submitted all required documents, including Final Documents.

2.5.2.1 Cleaning Prior to Material Completion. Prior to the inspection for Material Completion, Contractor shall remove from the Site all waste and perform a thorough cleaning of the Work. Contractor shall dust all hard surfaces, mop all hard floors, vacuum all carpet, remove any stains and paint spots, clean and polish all plumbing fixtures and equipment, clean all electrical and mechanical equipment, and clean all ductwork and filters if dirty. Contractor shall also restore any existing facilities such as roads, landscaping, pavement, fencing, curbing, and the like at the Site to at least their pre-construction conditions. Contractor may leave equipment at the Site as necessary to achieve Final Completion of the Project. To achieve Material Completion, Contractor shall have fully cleaned the Site.

2.5.2.2 Notice of Readiness for Inspection for Material Completion. When Contractor determines that the Project is ready for Inspection for Material Completion, Contractor shall give Notice to Design Professional and Owner requesting Inspection for Material Completion. Such Notice shall be provided at least seven (7) days in advance of the date requested for Inspection for Material Completion. Such Notice shall include a copy of the Initial Punchlist. If Contractor requests inspection for Material Completion and it is determined by Design Professional that the Project has not reached Material Completion, referred to as a "false start," then Contractor shall be liable for the costs and damages resulting therefrom, including but not limited to the salary, professional fees, and travel and living expenses of the persons or parties affected by false starts.

2.5.2.3 Inspection, Certificate of Material Completion. Design Professional shall conduct the Inspection for Material Completion and shall confirm the Initial Punchlist by adding or deleting Minor Items or Permitted Incomplete Work as appropriate. Upon completion of the Inspection for Material Completion, if Design Professional determines the Work has reached Material Completion, Design Professional shall execute the Certificate of Material Completion and attach a first draft of a Final Punchlist, which may be handwritten or in electronic format and which shall list all Minor Items and Permitted Incomplete Work and assign amounts to be withheld from the Payment for Material Completion on account of each Minor Item and Permitted Incomplete Work.. The Final Punchlist shall include completion dates for the Permitted Incomplete Work. All Minor Items shall be completed within thirty (30) days of Material Completion.

2.5.2.4 Payment for Material Completion. Upon Material Completion, Contractor shall submit a Payment Application along with a Payment Affidavit certifying completion of all Work in accordance with the Contract, except for Minor Items and Permitted Incomplete Work, and releasing all claims against the Owner of any nature arising out of the Project except any claims noted on the Payment Affidavit. If Contractor fails to provide a Payment Affidavit, Payment for Material Completion shall operate as settlement, waiver, release, discharge, and payment in full of all claims (including Claims) against Owner of any nature arising out of the Project except for the Work associated with the Minor Items and the Permitted Incomplete Work.

2.5.2.5 Effect of Failure to Achieve Material Completion. Should Material Completion not be achieved by the Material Completion Date, Contractor is in breach of the covenant of time, Liquidated Damages at the specified daily rate in Section 5 of the Contract begin to accrue and are payable on the day immediately following the Material Completion Date.

2.5.2.6 Material Completion Not a Waiver. A determination that Contractor has achieved Material Completion, the issuance of a Certificate of Material Completion, or Owner's Payment for Material Completion shall not preclude or diminish Owner's rights or remedies for Non-Compliant Work discovered after such events. All such rights and remedies set forth herein shall continue after such events.

2.5.3 Final Completion, Payment. Final Completion is the completion of all Work. When Contractor has completed all Work, it shall request an inspection for Final Completion. Design Professional shall inspect all Work and if it determines that all Work is complete, it shall execute the Certificate of Final Completion. Upon Final Completion, Contractor shall submit a Payment Application requesting the remainder of the Contract Sum. Acceptance of Payment for Final Completion by Contractor shall operate as settlement, waiver, release, discharge and payment in full of all claims against Owner of any nature arising out of the Project.

2.5.4 Effect of Achieving Final Completion. A determination that Contractor has achieved Final Completion, the issuance of a Certificate of Final Completion, or Owner's Payment for Final Completion shall not preclude or diminish Owner's rights or remedies for Non-Compliant Work discovered after such events. All such rights and remedies set forth herein shall continue after such events.

2.6 Payment

2.6.1 Schedule of Values. Prior to the issuance of the Proceed Order, Contractor shall submit a Schedule of Values of the Work to assist Design Professional in reviewing Payment Applications. The Schedule of Values shall allocate the Contract Sum to the portions of the Work in such detail as Owner or Design Professional require. If requested, Contractor shall provide evidence of the accuracy of the Schedule of Values. Unless objected to the Owner or Design Professional, the Schedule of Values shall be used to determine the payment due for completion of each portion of the Work.

2.6.2 Payment Applications. Contractor shall submit a Payment Application to the Owner and Design Professional by the fifth (5th) day of each month for the Work performed during the previous month on the form supplied by the Owner. The Payment Application shall itemize the total sum billed in the same format as the Schedule of Values and shall include the percentage complete for each item of Work. Contractor shall submit no more than one (1) Payment Application during each month. No payment shall become due to Contractor until a proper Payment Application is submitted.

2.6.3 Representations of Contractor. The Payment Application constitutes a representation by Contractor to Owner that (i) the quality of the Work covered by the application is in accordance with the Contract; (ii) Contractor is entitled to payment in the amount requested; (iii) all Work covered by any previously approved Payment Application, for which Contractor has been paid, is free and clear of liens, claims, security interests or encumbrances, and (iv) title to all Work covered by the Payment Application will pass to Owner no later than the time of payment.

2.6.4 Payment. The Owner shall make payment for all Work completed in the previous month, based upon the Schedule of Values and Contractor's estimate of percentage complete, as confirmed by the Design Professional, less the retainage pursuant to Section 2.6.10 and subject to Owner's right to withhold amounts in accordance with Section 2.6.7 and Owner's right to adjust for overpayments. Owner shall make payment to Contractor no later than thirty (30) days after receipt of a properly completed Payment Application.

2.6.5 Disputed Payments. Owner and Contractor agree to use their best efforts to resolve all disputes concerning the Payment Application during the said thirty (30) day payment period. If Owner disputes a portion of the Payment Application, Owner shall make payment of all undisputed amounts within the thirty (30) day payment period.

2.6.6 Late Payments and Interest. Should Owner fail to timely pay as required by Section 2.6.7, Contractor shall provide Notice to Owner in writing by certified mail. If Owner fails to pay within seven (7) days of receipt of the Notice, Contractor shall receive, in addition to the payment due, interest thereon at the rate of one-half percent (1/2%) per month. Pursuant to O.C.G.A. § 13-11-7(b), Owner and Contractor expressly agree to payment periods for Owner's Payment to Contractor and interest rates on late payments that become due to Contractor for late payment by Owner that are different than those set forth in O.C.G.A. § 13-11-4(a) and O.C.G.A. § 13-11-7(a). The payment periods and interest rates set forth herein shall control to the exclusion of any provisions set forth in the Georgia Prompt Pay Act, O.C.G.A. § 13-11-1, *et seq.*, and the provisions of said Act are waived.

2.6.7 Payments Withheld. Design Professional or Owner may withhold payment, or nullify the whole or part of any previous Payment Application, to such extent necessary to protect Owner from loss on account of any one or more of the following: (i) Non-Compliant Work; (ii) failure of Contractor to make payments due to Subcontractors; (iii) reasonable evidence that the Contract cannot be completed for the unpaid Contract Sum; (iv) damage to a Separate Contractor or to any other third party, or reasonable evidence that third parties may file claims against Owner due to acts or omissions of Contractor; (v) failure to maintain the Overall Project Schedule, or (vi) requests for or prior payment of costs that are not required to be reimbursed hereunder. When the grounds for withholding payment are remedied (if applicable), payment shall be made for amounts withheld because of them. In the case of withholding payment for failure to pay Subcontractors, Owner may agree to payment upon receipt of a satisfactory Consent of Surety.

2.6.8 Payment of Subcontractors. Contractor shall pay Subcontractors the amount due for Subcontractor's Work, less applicable retainage, within seven (7) days of receipt of payment from Owner for such Work unless the contract between Contractor and Subcontractor provides that no such payment is due (e.g. without limitation, as a result of non-performance under the Subcontract). The Owner has the right to request evidence from the Contractor that the Contractor has properly paid all Subcontractors. If the Contractor fails to provide such information within seven days of Owner request, Owner shall have the right to contact Subcontractors to determine if they have been paid. Owner shall have no obligation to pay or see to the payment of money to a Subcontractor.

2.6.9 Payment Not Acceptance of Work. Neither payment by Owner nor any partial or entire use or occupancy of the Project shall constitute an acceptance of Work not in accordance with the Contract.

2.6.10 Retainage. Until the payment for Material Completion, Owner shall withhold retainage in the amount of five percent (5%) from each Payment Application, subject to the terms below.

2.6.10.1 Retainage Release. When Material Completion is achieved, retainage shall be paid to Contractor with the payment for Material Completion.

2.6.10.2 Subcontractor's Retainage Release. Upon request by Contractor, Owner may, in its sole discretion, permit an amount equal to the retainage associated with a Subcontractor to be separately released from the retainage held by Owner upon completion of the Subcontractor's Work. To request Subcontractor retainage release, Contractor shall submit an original certificate executed by the Contractor and Subcontractor certifying that the Subcontractor's Work is complete, releasing of all claims by the Subcontractor, and stating the amount due to the Subcontractor.

SECTION H: FORMS

**PERFORMANCE BOND
PAYMENT BOND
CHANGE ORDER TEMPLATE
CERTIFICATE OF MATERIAL COMPLETION
CERTIFICATE OF FINAL COMPLETION
PAYMENT AFFIDAVIT**

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That **(Legal Name and Address of Contractor)**, as principal (hereinafter called the "Principal"), and **(Legal Title and Address of Surety)**, as surety (hereinafter called the "Surety"), are held and firmly bound unto the **(Insert Name of Owner)** as Obligee (hereinafter called the "Owner"), in the amount of _____ DOLLARS (\$ _____), the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written agreement with the Owner dated _____ (hereinafter the "Contract") for construction of a project known as **(Insert Name of Project)** (hereinafter the "Project"), and such Contract is incorporated herein by reference;

NOW THEREFORE, the conditions of this obligation are as follows:

1. If the Principal shall completely and promptly perform each and all of the requirements of the Contract, including any warranties or guarantees required thereunder, and all modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made; and if the Principal and the Surety shall indemnify and hold harmless the Owner from any and all losses, liability, damages, claims judgements, liens, costs, and fees of every description, arising from the Project or under the Contract, whether imposed by law or equity, which may be caused by the failure or default of the Principal in the performance of the Contract, including all modifications, amendments, changes, deletions, additions, and alterations thereto and any warranties or guarantees required thereunder, then this obligation shall be void; otherwise this obligation shall remain in full force and effect.
2. In the event of the failure of performance of the Contract by the Principal, which shall include, but is not limited to, any breach or default of the Contract, the Surety, upon demand by the Owner, shall undertake and complete such required performance and cure any breach or default of the Contract. The Surety shall not assert any action or inaction of the Principal as justification for the Surety's failure to timely perform the obligations of this Bond.
 - a. The Surety shall commence performance of its obligations and undertakings hereunder no later than thirty (30) days after receiving notice of the Principal's failure of performance. If the Surety fails to commence performance as required herein within such period of time, or if the Surety otherwise breaches its obligations to the Owner under this Bond and the Contract, the Surety shall be liable to the Owner for Owner's actual damages, including but not limited to all costs of litigation and attorneys' fees, plus any penalties as may be provided by law.
 - b. The means, methods, or procedure by which the Surety undertakes to perform its obligations under this Bond shall be subject to the advance written approval of the Owner, such approval shall not be unreasonably withheld.
 - c. If the Surety fails or refuses to perform as provided above, or if the Owner and the Surety cannot agree as to the means, methods, or procedure of performance by the Surety, the Owner shall have the right, through itself or others, to do all or any part of the remaining work to be performed by the Principal, and without limiting its other obligations hereunder, the Surety shall pay the Owner any losses or damages resulting therefrom.
3. The Surety hereby waives notice of any and all modifications, amendments, changes, deletions, additions, or alterations to the Contract, and agrees that the obligations arising under this Bond shall not be impaired in any manner by any reason of any such modifications, amendments, changes, deletions, additions, or alterations. The obligations arising under this Bond shall not be impaired by the Owner's performance of any work on the Project.
4. The Surety shall not assign or delegate any rights or obligations under this Bond without the written consent of the Owner, such consent shall not be unreasonably withheld.
5. The Surety agrees that the Owner may make inquiries at any time of any subcontractor, laborer, materialman, or any other party concerning the status of payments for labor, materials, or services furnished to or for the Project.
6. 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 legal successors of Owner.
7. For the purposes of this bond, notice shall be sent to the Surety at the following address:

Name:

Address:

City: State: Zip Code:

- 8. This Performance Bond shall be governed by the laws of the State of Georgia, is furnished in accordance with O.C.G.A. §§ 13-10-40, and shall be subject to increase in the penal amount of the bond pursuant to such statute and the provisions of the Contract.

SIGNED AND SEALED THIS _____ DAY OF _____, 20_____.

ATTEST (Seal) (Name of Contractor)

Secretary (Note 1) By President

(Seal) (Name of Surety) (Note 2)

By: (Title) Resident Georgia Agent *

Note 1. Please apply seal of Corporation over Secretary's Signature.

Note 2. Please apply seal of Surety and arrange for countersignature by a "Resident Georgia Agent" of Surety in order to comply with surety regulations of Georgia.

(*) Attach Power of Attorney

STATUTORY PAYMENT BOND

That **(Legal Name and Address of Contractor)** as Principal (hereinafter referred to as the "Principal") and **(Legal Title and Address of Surety)** as Surety (hereinafter referred to as "Surety"), are held and firmly bound unto the **(Insert Name of Owner)** as Obligee (hereinafter referred to as "Owner") for the use and benefit of all subcontractors and all persons supplying labor, materials, machinery, or equipment to the Principal or a subcontractor for the Project (as hereinafter defined), in the amount of _____ DOLLARS (\$_____) to which payment Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written agreement with the Owner dated _____ (hereinafter the "Contract") for construction of a project known as **(Insert Name of Project)** (hereinafter the "Project"), and such Contract is incorporated herein by reference;

NOW, THEREFORE, the conditions of this obligation are as follows:

1. If the Principal shall promptly pay in full every subcontractor and all persons supplying labor, materials, machinery, or equipment to the Principal or a subcontractor for the Project, then this obligation shall be void; otherwise it shall remain in full force and effect.
2. This Payment Bond is governed by the laws of the State of Georgia, is furnished in accordance with O.C.G.A. §§ 13-10-60 *et seq.*, shall be subject to increase in the penal sum of the bond pursuant to such statute and the provisions of the Contract, and is construed in accordance with applicable statutes.
3. The Surety hereby waives notice of any and all modifications, amendments, changes, deletions, additions, or alterations to the Contract, and agrees that the obligations arising under this Bond shall not be impaired in any manner by any reason of any such modifications, amendments, changes, deletions, additions, or alterations.
4. Every subcontractor or person who has not been paid in full for supplying labor, materials, machinery, or equipment to the Principal or a subcontractor for the Project before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by such person, or the material or machinery or equipment was furnished or supplied by such person for which claim is made, shall have the right to bring an action on this Payment Bond for the amount, or the balance thereof, unpaid at the time of the commencement of such action and to prosecute such action to final execution and judgment for the sum or sums due such person, subject to the requirements of O.C.G.A. §§ 13-10-63.
5. The Contractor and Surety agree that the Owner may make inquiries at any time of any subcontractor, laborer, materialman, or any other party concerning the status of payments for labor, materials, machinery, or equipment furnished to or for the Project.
6. For the purposes of this bond, notice shall be sent to the Surety at the following address:

Name:

Address:

City:

State:

Zip Code:

SIGNED AND SEALED THIS _____ DAY OF _____, 20____.

ATTEST

(Name of Contractor)

Secretary (Note 1)

By) _____ (Seal)
President

(Seal)

(Name of Surety) (Note 2)

By _____ (Seal)
(Title)
Resident Georgia Agent *

Note 1. Please apply seal of Corporation over Secretary's Signature. Otherwise "(Seal)" shall constitute such seal.

Note 2. Please apply seal of Surety. Otherwise "(Seal)" shall constitute such seal. Arrange for countersignature by a "Resident Georgia Agent" of Surety in order to comply with surety regulations of Georgia.

(*) Attach Power of Attorney

CHANGE ORDER

Owner:	
Project Name:	
Date:	
Change Order #:	

This Change Order is executed to change the terms of the Contract for the above listed Project. Owner and Contractor agree as follows:

1. The Construction Professional shall perform the following Work:

The following documents are attached to this Change Order to further describe the scope of the change in the Work that is authorized:
2. The Contractor shall be allowed _____ additional calendar days to reach Material Completion because of this Change Order. The new Material Completion Date is _____.
3. The Contract Sum shall be changed by _____ on account of this Change Order. The Construction Professional affirms that the quantities and pricing submitted are accurate and do not exceed actual requirements and that that all prices are fair and equitable and do not exceed current costs for like services or materials.
4. The change in Contract Time and Contract Sum (if any) provided by this Change Order constitutes compensation in full to Contractor for the Change Order Work and accounts for all delays and impacts related thereto.
5. **Proceed Order:** The Construction Professional is authorized to proceed with the Change Order Work as of _____.

RECOMMENDED FOR OWNER'S ACCEPTANCE

Design Professional:

By _____

Name: _____

ACCEPTED AND AGREED:

Owner:	Contractor:
By: _____	By: _____
Name: _____	Name: _____

CERTIFICATE OF MATERIAL COMPLETION

Project Number and Name:

Contractor:

Design Professional:

The Design Professional issues this Certificate of Material Completion of the Project and certifies as follows. Any exceptions shall be identified and explained in Paragraph 8 below:

1. The Design Professional, having conducted inspections of the Project, has determined that all Work required by the Contract Documents has been completed in accordance with the Contract Documents with the exception of items shown on the attached draft of the Final Punch List.
2. The attached draft of the Final Punch List specifies items that constitute either a Minor Item or Permitted Incomplete Work. Within five days of the execution of this Certificate of Material Completion, a Final Punchlist shall be issued which shall include the amounts to be withheld for each Minor Item and Permitted Incomplete Work and a required completion date for each.
3. There are no outstanding Notices of Non-Compliant Work which are not included on the Final Punch List.
4. All tests and inspections required by the Contract Documents have been performed and were reviewed by a registered architect or registered engineer of the Design Professional.
5. No Work has been certified for payment that was covered prior to consent of the Design Professional.
6. The State Fire Marshal has issued a Certificate (or Temporary Certificate) of Occupancy if required for this Project.
7. There are no pending Change Orders resulting in credits due to the Owner.
8. Exceptions (State Paragraph reference and explanation): _____

This Certificate is executed by the Design Professional this _____ day of _____, 20__.

(Name of Design Professional Firm)

By: _____

(License Number and State)

Printed Name: _____

Title: _____

CERTIFICATE OF FINAL COMPLETION

Project Number and Name:

Contractor:

Design Professional:

The Design Professional issues this Certificate of Final Completion of the Project and certifies as follows.

1. The Design Professional, having conducted observations and evaluations of the Project, has determined that all Work required by the Contract Documents has been completed in accordance with the Contract Documents.
2. There are no outstanding Notices of Non-Compliant Work.
3. All tests and inspections required by the Contract Documents have been performed and were reviewed by a registered architect or registered engineer of the Design Professional.
4. No Work has been certified for payment that was covered prior to consent of the Design Professional.
5. The State Fire Marshal has issued a Certificate of Occupancy (if required for the Project).
6. There are no pending Change Orders resulting in credits due to the Owner.

This Certificate is executed by the Design Professional this day of .

(Name of Design Professional Firm)

By: _____

(License Number and State)

Printed Name:

Title:

PAYMENT AFFIDAVIT

Project Number and Name:

Contractor:

Design Professional:

**STATE OF GEORGIA;
COUNTY OF**

KNOW ALL MEN BY THESE PRESENTS:

Pursuant to the Contract between Contractor and the Owner for the Project noted above, the Contractor certifies as follows:

1. All Work required under the Contract has been performed in accordance with the terms thereof except as listed on attached Schedule A. *Check if Schedule A is attached*
2. Contractor has paid for all Work covered by previous Payment Applications, paid all Subcontractors for Work covered by previous Payment Applications, and no Subcontractors have made claims for past due payment except as listed on attached Schedule B. *Check if Schedule B is attached*
3. The Contractor has no outstanding claims against the Owner of any character, including disputed claims, arising out of the performance of the Contract except as listed on attached Schedule C. *Check if Schedule C is attached*
4. To the best of its knowledge and belief there are no unsatisfied claims for damages resulting from injury or death to any employees, Subcontractors, or the public at large arising out of the performance of the Contract, or any suits or claims for any other damage of any kind, nature, or description except as listed on attached Schedule D. *Check if Schedule D is attached*
5. There has been no exertion or attempted exertion of any influence by any employee, officer, or agent of the Owner, or any person connected with the City of Hiawassee, on the Contractor in the purchase of materials, equipment, or other items involved in construction, manufacture, or employment of labor under the aforesaid Agreement.

The undersigned makes this affidavit for the purpose of receiving payment for Material Completion, a Retainage Release, or in the case of Final Payment, for full settlement of all claims against the Owner arising under or by virtue of the Construction Agreement except as stated above. Acceptance of such payment is acknowledged as a release of the Owner from any and all claims arising under or by virtue of the Agreement except as stated above.

This Affidavit is executed by the Contractor this (Day) day of (Month), (Year).
(Insert Name of Construction Firm)

By: _____, (Name and Title of Signatory)

**SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE**

_____ DAY OF _____, 20__

Notary Public

[NOTARY SEAL]

My Commission Expires: _____

SECTION I: CONTRACT SUPPLEMENTARY GENERAL REQUIREMENTS

1. Liquidated damages of \$150 per day will be assessed for each day the project remains incomplete beyond the construction contract end date.
2. Lloyd's Landing and Mayors' Park including the boat ramp to remain open during construction. Portions of the parking lot can be used for staging as approved by the Owner's Representative. Contractor to provide fencing, barricades, etc. to protect the work and the public.
3. "Owner" is defined as The City of Hiwassee.
4. "Design Professional" is defined as the Project Landscape Architect and their engineering subconsultants.

SECTION J

Federal Contract Conditions

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"Provision for Remedies" Clause

1.) **Termination:** Unearned payments under this contract may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by City/County; or if the grant to the City/County under the Community Development Block Grant Program is suspended or terminated. Moreover, if through any cause, the contractor shall fail to fulfill its obligations under this contract in a timely and proper manner or if the contractor shall violate any of the covenants, agreements, conditions or obligations of the contract documents; the City/County may terminate this contract by giving written notice to the contractor and surety of such termination and specifying the effective date of such termination. In such event, the City/County may take over the work and prosecute the same to completion, by contract or otherwise, and the contractor and his sureties shall be liable to the City/County for any additional cost incurred by the Owner in its completion of the work and they shall also be liable to the Owner for liquidated damages for any delay in the completion of the work as provided below. Furthermore, the Contractor will be paid an amount which bears the same ratio to the total compensation as the work and services actually performed bear to the total work and services required. Provided, however, that if less than sixty percent of the services required by this Contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services required by this Contract.

2.) **Liquidated Damages for Delays.** If the work is not completed within the time stipulated, therefore, including any extensions of time for excusable delays as herein provided, the Contractor shall pay to the Owner as fixed and agreed liquidated damages (it being impossible to determine the damages occasioned by the delay) for each working day of delay, until the work is completed, the amount as set forth in (*insert location of liquidated damages statement, normally found in the Contract General Conditions*) and the Contractor and his sureties shall be liable to the Owner for the amount thereof.

3.) **Excusable Delays.** The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

(a) To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;

(b) To any acts of the Owner;

(c) To causes not reasonable foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in the performance of some other contract with the Owner, fires, floods, epidemics, quarantine, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, and cyclones; and

(d) To any delay of any subcontractor occasioned by any of the causes specified in subparagraphs (a) (b) and (c) or this subparagraph "d".

Provided, however, that the Contractor promptly notified the Owner within ten (10) days of the cause of the delay. Upon receipt of such notification, the Owner shall ascertain the facts and the cause and extent of delay. If upon the basis of the terms of this contract the delay is properly excusable, the Owner shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

"Termination for Convenience Clause"

1.) Termination for Convenience of the Owner:

The Owner may terminate this contract at any time for any reason by giving at least thirty (30) days notice in writing to the contractor. If the contract is terminated by the Owner as provided herein, the contractor will be paid a fair payment as negotiated with the Owner for the work completed as of the date of termination.

Equal Employment Opportunity (EEO) Clause

During the performance of this contract, the Contractor agrees as follows:

- 1.) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2.) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- 3.) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4.) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- 5.) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- 6.) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by the rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7.) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

1.) As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Program, United States Department of Labor, or any person to whom the Director delegates authority;

c.. "Employer identification number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, US. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2.) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3.) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the US. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trade which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in

an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4.) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5.) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications. Executive Order 11246, or the regulations promulgated pursuant thereto.

6.) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7.) The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the

Contractor, this shall be documented in the file with the reasons therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, lay-off, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source. The Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment of minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8.) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through p of those Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9.) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially

disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10.) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race color, religion, sex or national origin.

11.) The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12.) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13.) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.S.

14.) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15.) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO EQUAL
EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1.) The Offerer's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2.) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

<u>Timetable:</u>	<u>Goals for minority participation</u>	<u>Goals for female participation</u>
Until Further Notice	19.5%	6.9%

These goals are applicable to each non-exempt contractor's total on-site construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, Federally assisted or non-Federally related project, contract or sub-contract.

The contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3.) The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4.) As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is *(insert description of the economic area in which the contract will be performed, giving the city, SMSA or non SMSA designation, and a list of the counties included in the economic area).*

Certification of Nonsegregated Facilities

By the submission of this bid, the bidder, offerer, applicant or subcontractor certifies that s/he does not maintain or provide for his/her employees any segregated facility at any of his/her establishments, and that s/he does not permit employees to perform their services at any location, under his/her control, where segregated facilities are maintained. S/He certifies further that s/he will not maintain or provide for employees any segregated facilities at any of his/her establishments, and s/he will not permit employees to perform their services at any location under his/her control where segregated facilities are maintained. The bidder, offerer, applicant or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. S/He further agrees that (except where s/he has obtained identical certifications from proposed subcontractors for specific time periods) s/he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause; that s/he will retain such certifications in his/her files; and that s/he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

FEDERAL LABOR STANDARDS PROVISION
Georgia Community Development Block Grant

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1.(i) **Minimum Wages.** All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR Part 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(a) The contracting officer shall require that any class of laborers or mechanics, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, US. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or

working on the site of the work (or under the United States Housing Act of 1937 for under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) **Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project.) Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable program (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii)(a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), US. Government Printing Office, Washington, DC, 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under 29 CFR Part 5.5(a)(3)(i) and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph A.3(ii)(b) of this section.

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph A.3(i) of this section available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR Part 5.12.

4.(i) Apprentices and Trainees. Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the US. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice

performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeymen's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the US. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journey hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performs. In addition, any trainee performing work on the job site in excess of the ration permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract.

6. **Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as HUD or its designee may be appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounded for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. **Compliance with Davis-Bacon and Related Act Requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. **Disputes concerning labor standards.** Disputes arising out of a labor standards provision of this contract shall to be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the US. Department of Labor, or the employees or their representatives.

10. (i) **Certification of Eligibility.** By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the US. Criminal Code, 18 U.S.C. 1001. Additionally, US. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of ...influencing in any way the action of such Administration...makes, utters or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) **Overtime requirements:** No contractor or subcontractor contracting for any part of the contract work may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation:** liability for unpaid wages, liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) **Withholding for unpaid wages and liquidated damages:** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any money payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) **Subcontracts:** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 (formerly part 1518) and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96).

(3) The Contractor shall include the provisions of this Article in every subcontract so that such provisions will be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

ACCEPTABLE ALTERNATE WORK SHEET FOR CONTRACTOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION (LOWER-TIER PARTICIPANT) FOR HUD PROGRAMS

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower-Tier Covered Transactions pursuant to 24 Code of Federal Regulations, Part 24.510(b).

By signing and submitting this proposal, the prospective lower-tier participant certifies that neither it, its principals nor affiliates, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the Participant provides the certification set out below.

The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that an erroneous certification was rendered, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies.

Further, the Participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the Participant learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

By submitting this proposal, it is agreed that should the proposed covered transaction be entered into, the Participant will not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the agency with which this transaction originated.

It is further agreed that by submitting this proposal, the Participant will include this Certification, without modification, in all lower-tier covered transactions and in all solicitations for lower-tier covered transactions.

Contractor
Name _____ Date _____
Title _____ Address _____
City _____ State _____ Zip _____

NON-CERTIFICATION:

As the perspective lower-tier participant, I am unable to certify to statements in this Certification as explained in the attachment to this proposal.

Contractor
Name _____ Date _____
Title _____ Address _____
City _____ State _____ Zip _____

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

COMPLIANCE WITH CLEAN AIR AND WATER ACTS

The contract is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

In compliance with said regulations:

- 1.) The Contractor shall require of subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 4C CFR 15.20.
- 2.) The Contractor will comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857c-8) and section 308 of the Federal Water Pollution Control Act as amended, (330 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said section 114 and section 308, and all regulations and guidelines issued thereunder.
- 3.) The Contractor will provide prompt notice of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- 4.) The Contract will include or cause to be included the criteria and requirements to paragraph (1) through (4) of this section in every nonexempt subcontract and take such action as the Government will direct as a means of enforcing such provisions.

PERFORMANCE, PAYMENT and BID BONDS

Contract Performance and Payment Bonds issued in the full amount of the contract are required by federal procurement rules if the contract is for \$100,000 or more.

A Bid Bond or other security is required by federal rules whenever the contract is for \$100,000 or more.

Generally these bonds must be issued by a surety company satisfactory to the local government, qualified to do business in Georgia, and in a format meeting the federal and state legal requirements. The bonding company must also appear on the "List of Acceptable Sureties" published annually by the US Department of the Treasury.

DCA recommends that CDBG Recipients be sure to assign responsibility for reviewing construction bonds. This job may be given to the local attorney, the grant administrator, or the project architect/engineer. Specific duties include verification that the agent is licensed by the state and authorized by the bonding company and verification through the Insurance Commissioner that the company is financially sound and licensed in Georgia. The actual bond should also be reviewed and verified as being valid.

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with Murray County, Georgia has registered with, is authorized to use and is participating in a federal work authorization program* [any of the electronic verification work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The user identification number and the date of authorization for the affiant are set forth below. The undersigned contractor is using and will continue to use the federal work authorization program throughout the contract period.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with Murray County, Georgia, that undersigned shall require as a condition of such employment or contract that contractor or subcontractor registers and participates in a federal work authorization program to verify information of all newly hired employees. In addition, contractor will secure from such contractor(s) or subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a notice of identity of such contractor or subcontractor together with a copy of each such verification to Murray County, Georgia within five (5) business days after the time the contractor(s) or subcontractor(s) is retained to perform such service.

E-Verify* User identification Number

Date of Authorization for Contractor

Company Name

By: Authorized Officer or Agent

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME THIS
____ DAY OF _____, _____.

Notary Public: _____
My Commission expires: _____

(SEAL)

**As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is "E-Verify" operated by the U.S. Citizenship and Information Services Bureau of the U.S. department of Homeland Security, in conjunction with the Social Security Administration (SSA).*

SUBCONTRACTOR AFFIDAVIT

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 as a subcontractor for _____, the contractor which has a contract with _____ Georgia, has registered with, is authorized to use and is participating in a federal work authorization program* [any of the electronic verification work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91. The user identification number and the date of authorization for this subcontractor to use the federal work authorization program are set forth below. The undersigned subcontractor is using and will continue to use the federal work authorization program throughout the contract period.

E-Verify* User identification Number

Date of Authorization for Subcontractor

Company Name

By: _____
Authorized Officer or Agent of
Subcontractor

Date of signing this Affidavit

Title of Authorized Officer or Agent of Subcontractor

Printed Name of Authorized Officer or Agent of Subcontractor

SUBSCRIBED AND SWORN BEFORE ME THIS
____ DAY OF _____, _____.

Notary Public: _____
My Commission expires: _____

(NOTARY SEAL)

**As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is "E-Verify" operated by the U.S. Citizenship and Information Services Bureau of the U.S. department of Homeland Security, in conjunction with the Social Security Administration (SSA).*

SECTION K

Brian P. Kemp
Governor

Christopher Nunn
Commissioner



August 30, 2023

The Honorable Liz Ordiales
Mayor, City of Hiawassee
P.O. Box 1720
Gainesville, GA 30501

Re: 22-arc-020 / GA-20948
Wage Decision Number GA20230172 MOD 0

Dear Mayor Ordiales:

In response to your request, enclosed is the Wage Decision applicable to the CDBG Project referenced above. It must be incorporated into the construction contract specifications before release to prospective bidders. The specifications must also include the Federal Labor Standards Provisions and other applicable contract clauses. These clauses can be obtained from the Office of Grant Administration upon request.

This Wage Decision is effective until a change or modification is issued by the US Department of Labor (DOL). If the change or modification is published by DOL less than 10 days before the bid opening, the requirement to use the modification may be waived if you find there is not sufficient time to notify all bidders of the modification, and a report of that finding is made part of the contract solicitation file. Please note that modifications or changes will not be automatically issued. You or your grant administrator must contact our Office 10 days prior to the bid opening to verify that the Wage Decision is still valid. Our Office will issue the appropriate Wage Decision, if needed, at that time.

Also enclosed are posters from the US Department of Labor and the US Occupational Safety and Health Administration. These posters, along with the subject Wage Decision, must be conspicuously displayed at the job site for review by workers at the site. Weekly payrolls and certifications must be submitted by the General Contractor and reviewed by your local contract administrator to verify that all laborers and mechanics engaged in the construction, including those employed by subcontractors, have been paid not less than the wage rates (including fringe benefits) required by the applicable Wage Decision.

Before the award of the construction contract, the contractor must be cleared by this Office to verify eligibility for an award of a federally assisted contract. Please return the enclosed "Notice of Contract Action" to this Office to advise us when the contract is awarded, or construction started. Failure to submit the form may affect construction drawdowns.

If you have any questions or need additional assistance, please contact your CDBG Program Representative or I may be reached at (404) 679-3168.

Sincerely,

A handwritten signature in blue ink that reads "Nina Abbas".

Nina Abbas, Federal Compliance and Reporting Consultant
Office of Community Development

Enclosures

Cc: Ashley Russell
Brittany Pittman

60 Executive Park South, NE | Atlanta, GA 30329-2231 | 404-679-4940
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Georgia Department of Community Affairs
 Office of Grant Administration
 60 Executive Park South, NE
 Atlanta, Georgia 30329

Request for Determination and Response to Request
 (Davis-Bacon Act as amended and Related Statutes)

Wage Determination under the Davis-Bacon and related act.
 (This decision is effective from the date of publication in the
 Federal Register without limitation as to time.)

Name, Address and Phone Number to Which a Copy of This Determination is to be Mailed (Other than Grant Recipient)		City of Hiwassee	22-arc-020 / GA-20948
Ashley Russell, GMRC Grants Administration		CDBG Recipient (City/County) Liz Ordiales	Grant Number
Name P.O. Box 1720		Name Mayor	Hiwassee Boardwalk
Street/Box Gainesville, GA 30501		Title (Mayor/County Commissioner) 50 River Street	Project Name Towns
City/State/Zip arussell@gmrc.ga.gov		Street/Box Hiwassee, GA 30546	County 09/06/2023
E-mail Address/T/telephone Number 770-538-2612		City/State/Zip 706-896-2202	Date of this Request
Area Code/Phone Number			
Check Type of Work	Estimated Cost	Estimated Advertising Date:	Estimated Date of Bid Opening:
<input type="checkbox"/> Water/Sewer		09/18/2023	10/18/2023
<input type="checkbox"/> Drainage			
<input type="checkbox"/> Street			
<input checked="" type="checkbox"/> Buildings		Estimated Date of Contract Award: 11/01/2023	Estimated Construction Start Date: 12/01/2023
Estimated Total Cost	690,148.00		
To Be Completed by Georgia Department of Community Affairs			
Approving DCA Representative: <u>Nina Abbas</u>			
Wage Decision Number (s): <u>GA20230104 MOD 1</u>			

"General Decision Number: GA20230104 02/03/2023

Superseded General Decision Number: GA20220104

State: Georgia

Construction Type: Building

Counties: Banks, Chattooga, Elbert, Greene, Hart, Lumpkin, Rabun, Stephens and Towns Counties in Georgia.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none">Executive Order 14026 generally applies to the contract.The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none">Executive Order 13658 generally applies to the contract.The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/06/2023
1	02/03/2023

BOIL0026-001 01/01/2021

	Rates	Fringes
BOILERMAKER.....	\$ 30.49	23.13

* ELEV0032-004 01/01/2023

BANKS, ELBERT, GREENE, HART, LUMPKIN, STEPHENS, & TOWNS

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 47.74	37.335+a+b

PAID HOLIDAYS:

a. New Year's Day, Memorial Day, Independence Day, Labor Day, Vetern's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years' service.

* ELEV0093-003 01/01/2023

CHATTOOGA COUNTY

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 48.42	37.335+a+b

PAID HOLIDAYS:

a. New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years' service.

* ELEV0135-004 01/01/2023

RABUN COUNTY

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 46.83	37.335+a+b

PAID HOLIDAYS:

a. New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day.

b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years' service.

ENGI0926-034 07/01/2020

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Crane.....	\$ 32.63	13.83

PLUM0072-024 08/01/2018

	Rates	Fringes
PIPEFITTER (Including Installation of HVAC Pipe, HVAC Unit, & HVAC Electrical /Temperature Controls).....	\$ 28.48	15.91

* SUGA2012-023 08/11/2012

	Rates	Fringes
CARPENTER.....	\$ 18.91	3.37
CEMENT MASON/CONCRETE FINISHER...\$	12.89 **	0.00
ELECTRICIAN.....	\$ 23.34	3.70
IRONWORKER, REINFORCING.....	\$ 17.72	0.00
IRONWORKER, STRUCTURAL.....	\$ 16.75	0.00
LABORER: Common or General.....	\$ 11.46 **	0.00
LABORER: Pipelayer.....	\$ 15.50 **	0.00
OPERATOR: Backhoe/Excavator.....	\$ 14.00 **	0.00
OPERATOR: Oiler.....	\$ 12.00 **	0.00
PAINTER: Brush, Roller and Spray.....	\$ 14.77 **	0.27
PLUMBER, Excludes Installation of HVAC Pipe, HVAC Unit, and HVAC Electrical/Temperature Controls.....	\$ 17.54	1.27
ROOFER.....	\$ 13.62 **	0.00
SHEET METAL WORKER (HVAC Duct Installation Only).....	\$ 24.89	9.09
SHEET METAL WORKER, Excludes HVAC Duct Installation.....	\$ 15.77 **	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave

for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates

the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISIO"

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.





OSHA[®]
Occupational Safety
and Health Administration

Job Safety and Health

All workers have the right to:

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate (or have your representative participate) in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days (by phone, online or by mail) if you have been retaliated against for using your rights.
- See any OSHA citations issued to your employer.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

This poster is available free from OSHA.

Contact OSHA. We can help.

Employers must:

- Provide employees a workplace free from recognized hazards. It is illegal to retaliate against an employee for using any of their rights under the law, including raising a health and safety concern with you or with OSHA, or reporting a work-related injury or illness.
- Comply with all applicable OSHA standards.
- Notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation, or loss of an eye.
- Provide required training to all workers in a language and vocabulary they can understand.
- Prominently display this poster in the workplace.
- Post OSHA citations at or near the place of the alleged violations.

On-Site Consultation services are available to small and medium-sized employers, without citation or penalty, through OSHA-supported consultation programs in every state.



DERECHOS DEL EMPLEADO BAJO LA LEY DAVIS-BACON

PARA OBREROS Y MECÁNICOS EMPLEADOS EN PROYECTOS DE CONSTRUCCIÓN FEDERAL O CON ASISTENCIA FEDERAL

SALARIOS PREVALECIENTES

No se le puede pagar menos de la tasa de pago indicada en la Decisión de Salarios Davis-Bacon fijada con este Aviso para el trabajo que Ud. desempeña.

SOBRETIEMPO

Se le ha de pagar no menos de tiempo y medio de su tasa básica de pago por todas las horas trabajadas en exceso de 40 en una semana laboral. Existen pocas excepciones.

CUMPLIMIENTO

Se pueden retener pagos por contratos para asegurarse que los obreros reciban los salarios y el pago de sobretiempo debidos, y se podría aplicar daños y perjuicios si no se cumple con las exigencias del pago de sobretiempo. Las cláusulas contractuales de Davis-Bacon permiten la terminación y exclusión de contratistas para efectuar futuros contratos federales hasta tres años. El contratista que falsifique los registros certificados de las nóminas de pago o induzca devoluciones de salarios puede ser sujeto a procesamiento civil o criminal, multas y/o encarcelamiento.

APRENDICES

Las tasas de aprendices sólo se aplican a aprendices correctamente inscritos bajo programas federales o estatales aprobados.

PAGO APROPIADO

Si Ud. no recibe el pago apropiado, o precisa de información adicional sobre los salarios aplicables, póngase en contacto con el Contratista Oficial que aparece abajo:

o póngase en contacto con la División de Horas y Salarios del Departamento de Trabajo de los EE.UU.



DIVISIÓN DE HORAS Y SALARIOS
DEPARTAMENTO DE TRABAJO DE LOS EE.UU.

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd





OSHA[®]
Administración de
Seguridad y Salud
Ocupacional

Seguridad y Salud en el Trabajo ¡ES LA LEY!

Todos los trabajadores tienen el derecho a:

- Un lugar de trabajo seguro.
- Decir algo a su empleador o la OSHA sobre preocupaciones de seguridad o salud, o reportar una lesión o enfermedad en el trabajo, sin sufrir represalias.
- Recibir información y entrenamiento sobre los peligros del trabajo, incluyendo sustancias tóxicas en su sitio de trabajo.
- Pedirle a la OSHA inspeccionar su lugar de trabajo si usted cree que hay condiciones peligrosas o insalubres. Su información es confidencial. Algún representante suyo puede comunicarse con OSHA a su nombre.
- Participar (o su representante puede participar) en la inspección de OSHA y hablar en privado con el inspector.
- Presentar una queja con la OSHA dentro de 30 días (por teléfono, por internet, o por correo) si usted ha sufrido represalias por ejercer sus derechos.
- Ver cualesquieras citaciones de la OSHA emitidas a su empleador.
- Pedir copias de sus registros médicos, pruebas que miden los peligros en el trabajo, y registros de lesiones y enfermedades relacionadas con el trabajo.

Este cartel está disponible de la OSHA para gratis.

Llame OSHA. Podemos ayudar.

Los empleadores deben:

- Proveer a los trabajadores un lugar de trabajo libre de peligros reconocidos. Es ilegal discriminar contra un empleado quien ha ejercido sus derechos bajo la ley, incluyendo hablando sobre preocupaciones de seguridad o salud a usted o con la OSHA, o por reportar una lesión o enfermedad relacionada con el trabajo.
- Cumplir con todas las normas aplicables de la OSHA.
- Reportar a la OSHA todas las fatalidades relacionadas con el trabajo dentro de 8 horas, y todas hospitalizaciones, amputaciones y la pérdida de un ojo dentro de 24 horas.
- Proporcionar el entrenamiento requerido a todos los trabajadores en un idioma y vocabulario que pueden entender.
- Mostrar claramente este cartel en el lugar de trabajo.
- Mostrar las citaciones de la OSHA acerca del lugar de la violación alegada.

Los empleadores de tamaño pequeño y mediano pueden recibir ASISTENCIA GRATIS para identificar y corregir los peligros sin citación o multa, a través de los programas de consultación apoyados por la OSHA en cada estado.



1-800-321-OSHA (6742) • TTY 1-877-889-5627 • www.osha.gov

SECTION L

Georgia Department of Community Affairs Mandatory Section 3 Solicitation Package

This mandatory solicitation package has been developed in accordance with DCA's Section 3 Policy for Covered HUD Funded Activities. DCA encourages all recipients, sub-recipients, contractors, and sub-contractors to review this policy prior to completion of the solicitation package. For those awards that meet the applicable Section 3 thresholds, this package must be returned in accordance with the applicable instructions to the contracting entity prior to award **or at the time of submission of a bid/proposal in order to claim a Section 3 preference**. The Section 3 Clause, required forms, and instructions are included in this package. All Recipients and Sub-recipients of Section 3 covered Assistance (including but not limited to contractors, sub-contractors, developers, grantees, CHDOs, non-profits, and local government entities) are subject to compliance with regulations in 2 Part 75.

Additional provisions for Housing and Community Development Financial Assistance.

§75.19 Requirements.

(a) Employment and training.

- (1) To the greatest extent feasible and consistent with existing federal state and local laws and regulations recipients covered by this subpart shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.
- (2) Where feasible priority for opportunities and training described in paragraph (a)(1) of this section should be given to:
 - (i) Section 3 workers residing within the service area or the neighborhood of the project and
 - (ii) Participants in YouthBuild programs.

(b) Contracting

- (1) To the greatest extent feasible and consistent with existing, Federal, state, and local laws and regulations recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.
- (2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:
 - (i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and
 - (ii) YouthBuild programs.

Any bid/proposal claiming a preference must include the completed and signed Section 3 Self-Certification and Action Plan and the Section 3 Business Concern Self Certification and be submitted by the bid/proposal deadline.

The following Section 3 forms must be completed and returned prior to contract execution:

- Section 3 Self Certification and Action Plan
- Previous Section 3 Compliance Certification
- Assurance of Compliance Certification

Additionally, if the contractor is claiming certification as a 51% owned by low or very low-income residents or is certifying as a 75% workforce the Resident Self-Certification and Skills Data Form must be returned for all employees who meet the low- or very low-income requirement as well as the appropriate Section 3 Business Certification.

Section 3 Solicitation Overview and Instructions for Contractors

The DCA Section 3 Policy requires that, when the **Section 3 regulation is triggered**, every effort within the contractor's disposal must be made, to the greatest extent feasible, to offer all available employment and contracting opportunities to Section 3 residents and Section 3 businesses based on the compliance methods below.

All Contracts and All Contractors must meet Section 3 compliance by:

- A. Giving notice of any and all opportunities for employment and contracting to residents of the local Public Housing Authority (PHA), and other low and very low income area residents and businesses, by posting the opportunity in community sources generally available to low income residents and the general public. Exercising a ***minimum of three (3)*** of the following listed sources must be completed prior to offering employment to anyone not covered by Section 3 requirements:
1. The local community newspaper
 2. The most widely distributed newspaper
 3. Company or agency website
 4. The management office of the local housing authority/homeless service agency/local low income housing community
 5. Local Workforce Board (i.e., Department of Labor)
 6. Local office of the Georgia Division of Family and Children Services
 7. Dodge Room <http://www.construction.com/dodge/dodge.asp>
 8. Other locations as approved by DCA
- B. The recipient, sub-recipient or contractor must check the HUD Section 3 Business Registry to determine if there are any Section 3 businesses in the County where the work will be performed. If there are Section 3 businesses in the County that may be able to perform the work, the recipient, sub-recipient or contractor must provide a copy of the contracting opportunity(ies) (e.g., bid notices) to the Section 3 businesses. See the HUD Section 3 Business Registry at: <https://hudapps.hud.gov/OpportunityPortal/>.
- C. Clearly stating in notices that the position is a "Section 3 covered position under the HUD Act of 1968 and that Section 3 Residents and Business Concerns are encouraged to apply."
- D. Placing the Section 3 Clause provided in Appendix A in ALL solicitations.
- E. When possible, other activities may be done to demonstrate effort to comply with the Safe Harbor Limits. These other efforts are listed in the appendix to part 75 of the Code of Federal Regulations—24 CFR Part 75 and include:

Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.

- 1) Provided training or apprenticeship opportunities.
- 2) Provided technical assistance to help Section 3 workers compete for jobs (e.g.,

- resume assistance, coaching).
- 3) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
 - 4) Held one or more job fairs.
 - 5) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
 - 6) Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
 - 7) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
 - 8) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
 - 9) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
 - 10) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
 - 11) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
 - 12) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
 - 13) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act
- F. Linking residents or businesses to local resources that may be available to help prepare them for applying for and achieving the opportunity.
- G. Working with DCA, the recipient, sub-recipient or contractor as applicable in developing a communication and follow up process to track and report all Section 3 applications and hiring activities to ensure the reporting of compliance efforts, and that contracting and sub- contracting are accurate. Provide preference in hiring and contracting to Section 3 applicants and contractors when employment or contracting opportunities are offered and all requirements are met and remain equal. Contractors must:
1. Provide this package to all sub-contractors when soliciting bids for all contracts or sub- contracts;
 2. Meet all the same processes in A-E; and
 3. Provide Preference to all sub-contractors meeting the definitions as stated in Section VI of DCA's Section 3 Policy for Covered HUD Funded Activities.
- H. In order for Preference as a Section 3 Contractor to be factored into the award decision, all elements of the solicitation criteria must be equal between contracts. This means price and all other factors must be equal. Then the contractors that elect Preference on the Certification and Action Plan form that meet that Preference criterion will be provided Preference in the award of the contract as provided in Part VI., Preferences and Eligibility of DCA's Section 3 Policy for Covered HUD Funded Activities.

Example:

Bill's electrical and Sue's Electrical bid a job where the housing authority has a budget of \$500,000. Bill bids \$480,000 and elects a Preference as a Section business concern because he qualifies as a Section 3 Business concern. Sue bids \$450,000 but does not elect any Preference. Both companies met all the other requirements. Sue will be awarded the contract because Bill's bid was higher.

Important items to remember about receiving Preferences in contract award:

All contractors and/or subcontractors that elect a Preference and are awarded a contract must be in compliance prior to the issuance of a Notice to Proceed by DCA, the recipient, sub-recipient, or the contractor based on the policies established for the applicable DCA funding program. The contractor and/or subcontractor must maintain the elected Preference standard during the entire contract or risk having the contract terminated for failure to comply. **See Appendix B for further details.**

When a contractor and/or subcontractor that elected a Preference is unable to identify a Section 3 resident or a Section 3 business for employment or contracting opportunities, the contractor then **must** offer employment related training to the Section 3 residents in the county. The training must be provided according to Part VII – Other Economic Opportunities in DCA's Section 3 Policy.

Appendix A Section 3 Clause

Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 75)

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of Section 3 apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

(f) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

Appendix B

Section 3 Contract Non-Compliance Cure /Termination Processes

This language is a component of contract compliance with the work to which you are responding in this solicitation. The full requirements are provided in the Section 3 Clause found elsewhere in this package and in DCA's Section 3 Policy for Covered HUD Funded Activities.

Any recipient, sub-recipient or contractor claiming Preference **must be in compliance prior to issuance of a notice to proceed by DCA, recipient, sub-recipient, or contractor based on the policies established for the applicable DCA funding program. This preference can be met by any of the three qualifications (meets criteria within the past 6 months):**

1. 51% or more owned and controlled by low or very-low income persons
2. 75% or more of the labor hours are performed by Section 3 workers or YouthBuild Participants
3. 51% or more owned by current residents of Public Housing

The recipient, sub-recipient or contractor must maintain compliance throughout the life of the contract. The contractor understands and agrees that a compliance management firm may be used to conduct routine and certified payroll reviews to ensure compliance. The Contractor agrees to provide the payroll data in an Excel or Word format each time the payroll is processed throughout the contract.

Failure to meet the Section 3 requirements will result in penalties up to and including contract termination. Any contractor triggering the regulation by doing any hiring or contracting once they are awarded the contract through execution must comply with the Section 3 requirements by executing the efforts on their Certification and Action Plan in accordance with DCA's Section 3 Policy.

DCA, the recipient, sub-recipient or contractor shall execute these remedies to achieve compliance in this order:

NON-COMPLIANCE CURE PROCESS

- A. Based on the first observation or report of non-compliance with Section 3, the recipient, sub-recipient or contractor will be sent an e-mail by the compliance manager notifying them of their non-compliance issue. The recipient, sub-recipient or contractor will have until the next payroll or 10 business days, whichever is less, to bring the contract into compliance and/or justify in writing why they cannot meet compliance requirements.

- B. DCA, the recipient, sub-recipient or contractor must render a response to the violating party within 10 business days of receipt of the violating party's letter of reason for non-compliance. If DCA, the recipient, sub-recipient, or the contractor deems the reason to be unacceptable, at its option, DCA, the recipient, sub-recipient, or the contractor can extend the response period one time for up to 5 business days to allow the violating party to identify and secure other compliance options.

NON-COMPLIANCE TERMINATION PROCESS

If the violating party fails to take any corrective action to bring the contract into compliance within the allotted time, or DCA, the recipient, sub-recipient, or the contractor rejects any of the corrective plans and justifications for non-compliance, DCA, the recipient, sub-recipient, or the contractor will either terminate the contract immediately or impose liquidated damages equal to \$100 a day for every day out of compliance. At DCA's determination, any liquidated damages received must be paid to the recipient, sub-recipient or DCA, at DCA's determination, and be used to promote economic opportunities for Section 3 Residents and Business Concerns.

DCA, the recipient, sub-recipient, or the contractor will hold **all funds due to the violating party until such time that a financial workout is completed.**

Additionally, the violating party may be banned by DCA, the recipient, sub-recipient, and the contractor on future HUD funded projects.

Appendix C Section 3 Forms

Georgia Department of Community Affairs

Required Submittal - Section 3 Self-Certification and Action Plan

All firms and individuals intending to do business with DCA, its recipients, sub-recipients and contractors MUST complete and submit this Action Plan and submit it with the bid, offer, or proposal in order to claim a preference on any contract or prior to award of a contract when **projects** involve more than \$200,000 in CDBG funds.

Business Name:			
D.B.A. (if different from above):			
Address:		City:	State/Zip:
Business Phone: ()		Fax: ()	
E-Mail:		Business Website:	
Federal Employer Identification Number:		Owner Social Security Number (if no EIN):	
Contact Person & Title:		Contact Phone:	
Trade Description: <input type="checkbox"/> Carpentry <input type="checkbox"/> Heating (HVAC) <input type="checkbox"/> Electrical <input type="checkbox"/> Painting <input type="checkbox"/> Masonry Restoration <input type="checkbox"/> Asbestos <input type="checkbox"/> Plumbing <input type="checkbox"/> Roofing <input type="checkbox"/> Lead (Abatement) <input type="checkbox"/> General Contractor <input type="checkbox"/> Concrete <input type="checkbox"/> Ironwork <input type="checkbox"/> Carpet/Flooring <input type="checkbox"/> Rubbish Removal/Hauling <input type="checkbox"/> Appraisal Services <input type="checkbox"/> Landscaping <input type="checkbox"/> Demolition <input type="checkbox"/> Other:			
Date Business was established (MM/DD/YYYY): _____			
Type of Business (Check One): Corporation Partnership Sole Proprietorship <input type="checkbox"/> Limited Liability Corporation (LLC) <input type="checkbox"/> Limited Liability Partnership (LLP) <input type="checkbox"/> Joint Venture <input type="checkbox"/> Other (Describe):			
Number of employees: Full-time: _____ Part-time: _____ Contract: _____ Total: _____			
Section 3 workers: Full-time: _____ Part-time: _____ Contract: _____ Total: _____			

I am Certifying as a Section 3 Business Concern and requesting Preference accordingly (Select only One Option):

Option 1

- A business claiming status as 51% or more owned and controlled by low or very-low income persons

Option 2

- Over 75% of the labor hours performed for the business over the prior six-month period are performed by Section 3 workers

Option 3

- 51% or more owned and controlled by current residents of public housing or Section 8-assisted housing

Business Concern Affirmation

I, affirm that the above statements of this form in its entirety are true complete and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to insert name of recipient/grantee may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. Thereby certify under penalty of law that the following information is correct to the best of my knowledge.

Signature:

Date:

.Print name:

Certification expires within six (6) months of the date of signature

Information regarding Section 3 Business Concerns can be found at 2 Part 75.5

FOR ADMINISTRATIVE USE ONLY

- Yes the business a Section 3 business concern based upon their certification

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.

I am NOT Requesting Preference under Section 3:

- I am **NOT** certifying as a qualified Section 3 Business Concern and I am not requesting a preference. However, if I do trigger the regulation by doing any sub-contracting or hiring, I will comply by meeting all requirements of DCA's Section 3 policy and I am committing to do the outreach as specified below.

Check all methods you will employ to secure Section 3 Residents/Businesses

Posting the position/contract opportunity in community sources that are generally available to low income residents and Section 3 Businesses and the general public is a standard requirement. **Check at least three**

(3) methods you will employ:

- The local community newspaper
- The most widely distributed newspaper
- Company or agency website
- The management office of the local housing authority, or homeless service agency, or local low income housing community
- Local Workforce Board (i.e., Department of Labor)
- Local office of the Georgia Division of Family and Children Services
- Local office of the Georgia Department of Public Health
- Dodge Room <http://www.construction.com/dodge/dodge.asp>
- Other locations identified below and subject to DCA approval:

_____ Initial here to confirm selection of this option

Signature: _____

Printed/Typed Name: _____

Title: _____

Date: _____

Notarial Affidavit

Sworn to and subscribed before me this _____ day of _____, 20_____.

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration Date: _____

(Notarial Seal)

Georgia Department of Community Affairs
Required Submittal - Previous Section 3 Compliance Certification

Name of Business: _____

Address of Business: _____

Type of Business (Check One): Corporation Partnership
 Sole Proprietorship Other

Business Activity: _____

All firms and individuals intending to do business with DCA, its recipients, sub-recipients, or contractors **MUST** complete and submit this certification of prior compliance prior to award of any contract for a **project** involving \$200,000 or more in CDBG assistance. Please check the appropriate line box below and sign and date the form.

1. I am certifying that I have complied with the HUD Section 3 Regulations, when triggered by new hiring or contracting opportunities, in my past contracts **when required** by the recipient, sub-recipient or contractor by either:
- i. Certifying as a Section 3 Business Concern because at least 51 percent of the business is owned and controlled by low- or very low-income persons;
 - ii. Certifying as a Section 3 Business Concern because over 75 percent of the labor hours performed for the business over the prior six-month period are performed by Section 3 workers;
 - iii. Certifying as a Section 3 Business Concern because at least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing;
 - iv. Hiring or contracting to the "greatest extent feasible" with Section 3 Residents or Section 3 Businesses.

Check this box

2. I have never done any HUD funded contracting.

Check this box

3. I completed HUD Section 3 covered contracts in the past three years but the regulation was not triggered because either there were no new hires on the contract(s) and/or I did not do any new contracting or subcontracting.

Check this box

Signature: _____

Print Name: _____ Title: _____

**Required Submittal - Assurance of
Compliance Certification Section 3
Action Plan
Housing and Urban
Development Act of 1968
(12 U.S.C. 1701 U)**

Contract/Solicitation Name or Number:

DCA Funding Program: _____

Entity Receiving DCA Funding Award: _____

Purpose: To ensure that regulations promulgated under 24 CFR Part 75 Employment Opportunities for Businesses and Lower Income Persons in Connection with Assisted Projects and the Section 3 Policy of DCA, its recipients, sub-recipients and contractors to the greatest extent feasible is adhered to, and to serve as the “assurance of compliance” certification and action plan as required in the bid documents, supplemental general conditions, and required forms for the contract for any HUD work funded by DCA.

Description of the project’s work detail: The project work will be as listed in the final scope of work in the contract with DCA, its recipients, sub-recipients and contractors including any change orders. List all known subcontractors below:

Subcontractor(s): _____

Use an additional sheet if required.

Note: If subcontractors are unknown at this time, print UNKNOWN on the line above. Also, the contractor must notify DCA or recipient or sub-recipient if subcontractors are added or changed during the contract. Any changes to this certification require a resubmission of this form to DCA or recipient or sub-recipient.

Preliminary Statement for Work Force Needs:

DCA intends to meet Section 3 compliance at the highest level, and it is our intent to identify any short-term and long-term employment or contracting opportunities for qualified Section 3 workers and Business Concerns during the course of the contract funded by DCA via its recipients or sub-recipients and contractors. Please list the status of all planned employment positions and opportunities for this contract. **Preference for all opportunities must be given to low and very low-income residents if they qualify. If awarded a contract, regardless of whether your firm has elected a preference, you are required to provide a list of your aggregate workforce on this project. Any changes to that workforce during the project will constitute NEW hires. You must notify DCA, its recipient, sub-recipient or contractor (respectively) overseeing your contract of any new hire opportunities that arise during the life of your contract.** The *anticipated workforce list may be provided on a separate sheet or in a different format.*

<u>List All Employees</u>	<u>Date Hired</u>	<u>Section 3 Worker (Yes/No)</u>	<u>Job Title/Trade</u>	<u>Salary Range</u>
Name: Address: City, ZIP:				
Name: Address: City, Zip Code:				
Name: Address: City, Zip Code:				
Name: Address: City, Zip Code:				

Use additional pages as needed.

“To the Greatest Extent Feasible”:

The Contractor has identified # _____ of **OPEN** positions with respect to this contract. The positions are filled by the _____(Position title) of the Contractor.

Should the scope of work or duties of the contractor change to a degree requiring a modification of the work force needs, the contractor shall put forth a reasonable effort to fill vacant positions with eligible Section 3 workers.

Documentation of “To the Greatest Extent Feasible”:

The contractor will work with DCA, its recipients, sub-recipients, and contractors staff to notify residents of any opportunities afforded under the contract. The contractor will partner with DCA, its recipients, sub-recipients, and contractors by giving preference of any employment opportunities to the Section 3 persons or businesses.

The contractor shall recruit or attempt to recruit from the Section 3 service area the necessary number of low-income and very low-income residents and Section 3 businesses, as applicable. The contractor must also document their recruiting efforts and any impediments to compliance with DCA’s Section 3 policy and the requirements of this solicitation package. This documentation must be submitted to the recipient or sub-recipient.

1. DCA, its sub-recipients and contractors shall: Maintain a list of all low-income area residents who have applied, either on their own or from referral from any source and employ such person if otherwise eligible and if a trainee vacancy exists.
2. Conduct solicitation in accordance with DCA’s Section 3 policy and the requirements outlined in the solicitation package.

The contractor shall review all employment applications and determine if low-income and very low-income residents or Section 3 businesses meet minimum hiring or contracting qualifications. If these applicants meet such minimum qualifications but are not hired due to lack of employment opportunities or for other reasons, they will be placed on a priority list and offered positions/contracts upon the occurrence of the first available appropriate opening.

Utilization of Section 3 Businesses Located Within the service area or neighborhood of the project:

The recipient, sub-recipient or contractor does ___ does not ___ intend to subcontract any of the work identified in the scope of work cited in the bid specifications, scope of work or General Conditions. Should the scope of work or needs of the contractor change, the contractor shall, to the greatest extent feasible, shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

Record Keeping:

The recipient, sub-recipient, contractor or subcontractor, as applicable, shall maintain on file all records related to employment and job training of low-income and very low-income residents or other such records, advertisements, legal notices, brochures, flyers, publications, assurances of compliance from sub-contractors, etc., in connection with this contract. If a report is needed in the future, the recipient,

sub-recipient, contractor or subcontractor, as applicable, agrees to provide all records upon request. The contractor shall, upon request, provide such records or copies of records to HUD, DCA, their recipients, sub-recipients, contractors, staff, or agents. Records shall be maintained for at least three (3) years after the close of the contract.

Reports:

The recipient, sub-recipient or contractor shall provide reports as required in connection with the contractor specifications. All certified and regular payrolls shall clearly detail which employees qualify under Section 3. The U.S. Department of Housing and Urban Development (HUD) requires that recipients of federal funds capture record and report the total number of labor hours the total amount of Section 3 worker hours and the total amount of Section 3 Target worker hours.

Certification:

The recipient, sub-recipient or contractor will certify that any vacant employment positions, including training positions that filled:

- 1) After the recipient, sub-recipient or contractor is selected but before the contract is executed, and
- 2) With persons other than those to who the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the subcontractor's obligations under 24 CFR Part 75.

Grievance and Compliance:

The recipient, sub-recipient, contractor or subcontractor hereby acknowledges that they understand that any low-income and very low-income resident of the project area, for him/her or as representatives of persons similarly situated, seeking employment or job training opportunities in the project area, or any eligible business concerns seeking contract opportunities may file a grievance if efforts to the greatest extent feasible were not executed. The grievance must be filed with HUD not later than one hundred eighty (180) calendar days from the date of the action (or omission) upon which the grievance is based.

I attest that the information on the preceding pages is true and correct.

Signature

Date

Print Name

Resident Section 3 Self Certification and Skills Data Form

The purpose of this form is to comply with HUD Section 3 administration and certification regulations.
Certification for Section 3 Workers or other Low-Income Persons Seeking Employment, Training or Contracting

I, _____, am a legal resident of the United States and meet the income eligibility and federal guidelines for a Section 3 Resident as defined within this Certification.

My home address is: _____
 Must be a **Street** address not a P O Box # Apt Number

City	State	Zip	Home #	Cell #
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County of Residence _____

Graduated High School or GED (month/year): _____ I Read and Speak English Fluently: Yes or No

Attended College, Trade, or Technical School: Yes or No

Graduated? Yes or No Year Graduated: _____

Check the Skills, Trades, and/or Professions in which you have been employed or contracted to do for others:

<input type="checkbox"/> Drywall Hanging <input type="checkbox"/> Drywall Finishing <input type="checkbox"/> Interior Painting <input type="checkbox"/> HVAC <input type="checkbox"/> Electrical <input type="checkbox"/> Interior Plumbing <input type="checkbox"/> Exterior Plumbing <input type="checkbox"/> Cabinet hanging <input type="checkbox"/> Heavy Equipment Operator	<input type="checkbox"/> Stucco <input type="checkbox"/> Window/Door Replacement <input type="checkbox"/> Construction Cleaning <input type="checkbox"/> Exterior Framing <input type="checkbox"/> Landscaping <input type="checkbox"/> Fencing <input type="checkbox"/> Concrete/ Asphalt Work	<input type="checkbox"/> Siding <input type="checkbox"/> Door Replacement <input type="checkbox"/> Trim /Carpentry <input type="checkbox"/> Roofing <input type="checkbox"/> Welding <input type="checkbox"/> Metal/Steel Work <input type="checkbox"/> Other
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I am certifying as a Section 3 worker: **Person seeking Training** **or** **Person seeking employment**

(Check all that apply):

A low or very-low income resident Employed by a Section 3 Business Concern YouthBuild Participant

I live in the service area or neighborhood -one-mile radius of project site or if fewer than 5,000 people a radius of project containing 5,000 people.

My total annual income is \$ _____

I certify that all of the information given on this Certification is true and correct. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual which may be grounds for termination of training, employment, or contracts that resulted from this certification. I attest under penalty of perjury that my income annually is at or below the income amount at the time of this document is being signed and notarized. I understand that proof of this statement may be requested in the future.

 Signature Date

Printed Name: _____

Purpose:

The purpose of Section 3 of the Housing and Urban Development of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic and business opportunities generated by HUD Financial Assistance shall be directed to the Authority Residents and other low- and very low-income persons, particularly those who are recipients of government housing assistance and to business concerns which provide economic opportunities to low- and very low-income persons and YouthBuild participants.

A Section 3 worker as defined by §75.5 is any worker who currently fits or when hired within the past five years fit at least one of the following criteria:

- (1) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (2) The worker is employed by a Section 3 business concern.
- (3) The worker is a YouthBuild participant.

A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>.

(§75.21) A Targeted Section 3 worker for housing and community development financial assistance means a Section 3 worker who is:

- (1) A worker employed by a Section 3 business concern or
- (2) A worker who currently fits or when hired fit at least one of the following categories as documented within the past five years:
 - (i) Living within the service area or the neighborhood of the project as defined in 75.5 or
 - (ii) A YouthBuild participant.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or if fewer than 5,000 people live within one mile of a Section 3 project within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

HUD income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>.

Please indicate the Household income \$_____

Resident Section 3 Self-Certification and Skills Data Form Affidavit

STATE OF _____

County of _____

I, _____, a Notary Public of the City/County of _____,
State of _____, do hereby certify that, _____,
whose name is signed to the writing above bearing date on the ___ Day of _____, 20_.

has acknowledged the same before me in my State aforesaid.

Given under my hand and official seal, this the ___ day of _____, 20_.

Signature of Notary Public

Printed Name of Notary Public

Commission Expiration Date: _____

(Notarial Seal)

SECTION 3 BUSINESS CONCERN SELF CERTIFICATION

The Georgia Department of Community Affairs (DCA) is seeking to extend the benefits of and to promote compliance with Section 3 by identifying Section 3 Business Concerns and targeting Section 3 Business Concerns for business opportunities, events and educational programs.

In an effort to comply with Federal Section 3 Regulations which promote contract, employment and training opportunities for State of Georgia residents, DCA has instituted a Section 3 Self Certification process.

Businesses seeking certification must complete and submit the attached Section 3 Business Concern Self Certification forms as follow:

1. If your company is qualified because it is owned (51% or more) by one or more low or very-low- income residents, then complete **Form A, “Section 3 Business Concern – Resident Business Owner(s) Verification”**; **OR**
2. If your company is qualified because over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers, then complete **Form B, “Section 3 Business Concern – 75% + Workforce”**.
OR
3. If at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing, then complete **Form C, “Section 3 Business Concern-Housing Residents”**.

Please answer all questions, sign the completed forms, and notarize the affidavit. Completed packets must be returned to the sub-recipient or contractor as follows:

Name of sub-recipient/contractor: _____

Attn: _____

Mailing Address: _____

If you have any questions or require assistance, please contact:

Name: _____

Phone Number: _____

Email Address: _____

Form A
SECTION 3 BUSINESS CONCERN
Resident Business Owner(s) Verification

A business can be certified as a Section 3 Business Concern if the business is owned (51% or more) by low or very-low-income residents.

Name of Owner: _____

Home Street Address: _____

Home City, County, & Zip Code: _____

Name of Business: _____

Percentage of Ownership: _____%

Low- and very low-income limits are defined in Section 3(b)(2) of the Housing Act of 1937 and are determined annually by HUD. These limits are typically established at 80 percent and 50 percent of the area median individual income. HUD income limits may be obtained from: <https://www.huduser.gov/portal/datasets/il.html>.

Individual Income Limits

FY 20 Income Limit Area	Income Limits Category	FY 202_ Income Limits
	Extremely Low Income Limits	
	Very Low Income Limits (50%)	
	Low Income Limits (80%)	

If the business is owned by more than one low to very-low-income residents, list each owner below and each should submit a separate Resident Business Owner Verification Form (Form A).

Name	Position	% Percentage of Ownership

I certify I am a resident of Georgia and my total income last year was not more than the amount shown above. I further certify the information provided is true and accurate and agree to provide upon request, documents verifying the information submitted to qualify as a Section 3 Business Concern.

Print: _____ Signature: _____ Date: _____

Form B
SECTION 3 BUSINESS CONCERN

75% + Workforce

A business can be certified as a Section 3 Business Concern if over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers. For your firm to be eligible UNDER THIS CRITERIA, you must provide the following information for **all permanent, full-time employees**.

You may attach additional copies of this chart, if necessary.

List All Employees	Date Hired	Section 3 Worker	Job Title/Trade	Salary Range
Name: Address: City/Zip:				
Total Number of Employees:	Full-Time: _____	Part-Time: _____	Contract: _____	
Number of Section 3 workers:				
Section 3 % of Total Workforce:				

I certify that the information provided is true and accurate and agree to provide upon request, any/all documents verifying the information submitted to qualify as a Section 3 Business Concern.

Print:
Date:

Signature:

Form C
SECTION 3 BUSINESS CONCERN
Public Housing Residents

To qualify the business must be at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing

Business Information

Name of Business: _____

Address of Business: _____

Name of Business Owner: _____

Phone Number of Business Owner: _____

Email Address of Business Owner: _____

Preferred Contact Information: _____

Name of Preferred Contact: _____

Phone Number of Preferred Contact: _____

Type of Business (select from the following options):

Corporation Partnership Sole Proprietorship Joint Venture

Percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing: _____%

I certify that the information provided is true and accurate and agree to provide upon request, any/all documents verifying the information submitted to qualify as a Section 3 business concern.

Print Name: _____

Title: _____

Company Name: _____

Signature: _____

Date: _____