



**DeKalb County
Department of Purchasing and Contracting**

November 14, 2022

REQUEST FOR VENDOR QUALIFICATIONS (RFVQ) NO. 22-500603

FOR

CEDAR GROVE ROAD BRIDGE REPLACEMENT – DESIGN BUILD

Senior Procurement Agent:

Brenda H. Redus

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(404) 371-4943

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bredus@dekalbcountyga.gov

**Mandatory DeKalb First LSBE
Meeting:**

(Bidders must attend 1 meeting on either
of the dates listed.)

November 16, 2022 and November 23, 2022

Meetings are virtual and held at 10:00 a.m. and 2:00
p.m.; access at the below link:

ZOOM Conference: Utilize the link supplied on
our webpage

[https://www.dekalbcountyga.gov/purchasing-
contracting/dekalb-first-lsbe-program](https://www.dekalbcountyga.gov/purchasing-contracting/dekalb-first-lsbe-program)

Pre-Proposal Conference:

November 22, 2022 at 10:00 a.m.

Virtual Meeting: ZOOM

<https://dekalbcountyga.zoom.us/j/9333908091>

Deadline for Submission of Questions:

5:00 P.M. ET, November 29, 2022

Deadline for Receipt of Proposals:

3:00 P.M. ET, December 15, 2022

THE RESPONSIBILITY FOR SUBMITTING A RESPONSE TO THIS RFP TO THE
DEPARTMENT OF PURCHASING AND CONTRACTING OF DEKALB COUNTY
GOVERNMENT ON OR BEFORE THE STATED DATE AND TIME WILL BE SOLELY AND
STRICTLY THE RESPONSIBILITY OF THE RESPONDER.

TABLE OF CONTENTS

Section	Title	Page
I.	Introduction.....	3
II.	Scope of Services.....	4
III.	Proposal Format (Phase I – Statement of Qualifications).....	5
IV.	Proposal Format (Phase II – Technical and Financial Proposals).....	9
V.	Criteria for Evaluation (Phase I – Statement of Qualifications).....	12
VI.	Criteria for Evaluation (Phase II – Technical and Financial Proposals).....	12
VII.	Contract Administration.....	13
	A. Submittal Instructions for Phase I.....	13
	B. Submittal Instructions for Phase II.....	13
	C. Preproposal Conference and Site Visit.....	14
	D. Questions.....	14
	E. Acknowledgement of Addenda.....	14
	F. Proposal Duration.....	14
	G. Project Director/Contract Manager.....	14
	H. Expenses of Preparing Responses to this RFVQ.....	15
	I. Georgia Open Records Act.....	15
	J. First Source Jobs Ordinance.....	15
	K. Business and Professional Licenses.....	15
	L. Proposal (Bid) Bond.....	16
	M. Insurance.....	16
	N. Ethics Rules.....	18
	O. Right to Audit.....	18
	P. Required Signatures.....	19
	Q. Sample Standard County Contract.....	19
VIII.	Contract Award.....	19
	List of Attachments.....	20
	Attachment A. Statement of Work.....	21
	Attachment B. Cost Proposal.....	22-23
	Attachment C. Proposal Cover Sheet.....	24
	Attachment D. Contractor Reference and Release Form.....	25
	Attachment E. Subcontractor Reference and Release Form.....	26
	Attachment F. LSBE Information.....	27-35
	Attachment G. Responder/Contractor Affidavit.....	36
	Attachment H. Subcontractor Affidavit.....	37
	Attachment I. Sub-Subcontractor Affidavit.....	38
	Attachment J. First Source Jobs Information Forms.....	39
	Attachment K. Bid Bond Form.....	43
	Attachment L. Sample Standard County Contract.....	45-104
	Attachment M. GDOT Area and Work Class Requirements.....	105

I. INTRODUCTION

A. GENERAL INFORMATION

1. DeKalb County (the County) is soliciting Statement of Qualifications (SOQs) from qualified firm(s) or organization(s) to provide Design and Construction Services for **RFVQ: 22-500603 Cedar Grove Road Bridge Replacement – Design-Build.**

DeKalb County (The County) intends to replace existing Cedar Grove Road Bridge over Norfolk Southern Railway (NS) located within Conley, Georgia. The project scope will include demolition of the existing 3-span bridge (Bridge ID Number 089-5082-0) that spans the NS tracks and construction of a new bridge spanning over existing and future NS tracks and maintenance roadway. The project will also include reconstruction of Cedar Grove Road approaching and departing the bridge. The existing waterline is to be relocated onto the new bridge and must be kept in service for the duration of the project. All other utility relocation to be performed by others. See Attachment A “Statement of Work”.

Firms that respond to the first phase of this RFVQ, that are determined by DeKalb County to be sufficiently qualified, may be deemed eligible, and invited to offer technical and financial proposals for the completion of the project. Shortlisted proposers may be required to present and/or interview for these services. All respondents to this RFVQ are subject to instructions communicated in this document and are cautioned to completely review the entire RFVQ and follow instructions carefully. DeKalb County reserves the right to reject any or all Statements of Qualifications or Proposals, and to waive technicalities and informalities at the discretion of DeKalb County.

2. The County seeks to achieve a high degree of design-build coordination that will lead to a working environment that emphasizes innovation, teamwork, cost savings methodologies, and partnering amongst all project participants.
3. By selecting the design-build delivery method, the County is committed to working in close collaboration with the Contractor(s) during the design phase with an eye towards achieving the County objectives as listed in this RFVQ.

B. REQUIRED DOCUMENTS

The following Required Documents Checklist includes a list of attachments which **must** be completed and returned with Responder’s submittal for Phase I - Statement of Qualifications:

Required Documents	Attachment
Proposal Cover Sheet	C
Notices of Professional Consultant Qualifications and Area Class Summary Forms	
Notice of Contracting Pre-qualifications and Work Class Summary Form	

The following Required Documents Checklist includes a list of attachments which **must** be completed and returned with Responder's submittal for Phase II - Technical and Financial Proposals:

Required Documents	Attachment
Cost Proposal Form (1 page - 1 copy, separate & sealed)	B
Proposal Cover Sheet	C
Contractor Reference and Release Form	D
Subcontractor Reference and Release Form (make additional copies as needed)	E
LSBE Information Forms (Exhibits 1 - 3)	F
Responder/Contractor Affidavit	G
Subcontractor and Sub-subcontractor Affidavit, if applicable	H and I
First Source Jobs Information Forms (Exhibit 1 and 2)	J
Bid Bond Form	K
Exceptions to the Scope of Work or Standard County Contract (if any)	-

Failure to return these attachments may render your proposal non-responsive.

- C. The services shall commence within ten (10) calendar days after acknowledgement of receipt of written notice to proceed and shall be completed within five hundred forty-eight (548) days.
- D. The County's payment terms are Net 30 and payment shall be based upon the procedures described in Article IX of the Sample Standard County Contract.
- E. DEFINITIONS

- **"Lead Designer"** means Engineer of Record for the design.
- **"Lump Sum"** means the total price for the completed design and construction of the Project as provided in the Financial Proposal.
- **"Major Participant"** means an entity, firm or individual that performs or controls more than 10% by value of the proposed construction work or 10% by value of the proposed design work.
- **"Target Construction Period"** means the duration identified by each Vendor for the Substantial Completion of Construction Work.
- **"Target Detailed Design Period"** means the duration identified by each Vendor for the Substantial Completion of the Detailed Design Work.
- **"Vendor"** means the Design/Build contracting entity proposing on this RFVQ.

II. SCOPE OF SERVICES

DeKalb County (The County) intends to replace existing Cedar Grove Rd Bridge over Norfolk Southern Railway (NS) located within Conley, Georgia. The project scope will include final design, coordination, and demolition of the existing 3-span bridge (Bridge ID Number 089-5082-0) that spans the NS tracks and construction of a new bridge spanning over existing and future NS tracks

and maintenance roadway. The project will also include reconstruction of Cedar Grove Road approaching and departing the bridge. To allow for future telecommunication installation, twelve new 4" conduits are to be placed across the structure and through the end walls and under the approach slabs on both sides of the new bridge. The existing waterline is to be relocated onto the new bridge and must be kept in service for the duration of the project. All other utility relocation to be performed by others prior to construction activities. See Attachment A "Statement of Work".

Under the terms of the resulting Agreement, the selected consultant will provide Engineering Design and Construction Services, for **Cedar Grove Road Bridge Replacement-Design Build** the DeKalb County Project identified. The anticipated scope of work for the project/contract is included in Attachment A and is briefly described as follows:

- A. Provide Professional Engineering services, either with its own forces or through a sub-consultant team member, for completion of comprehensive design, coordination, and permitting of the Project necessary to fulfill all engineering services which may arise during the project cycle.
- B. Provide construction management services and oversight of design for work described in Attachment A.
- C. Provide experienced personnel to satisfy the necessary Norfolk Southern requirements.
- D. Provide utility relocation and coordination including, if necessary, temporary water main for the relocation of the existing water main.
- E. Demolition of the existing structure for Cedar Grove Road Bridge over Norfolk Southern.
- F. Construction of a new replacement structure for Cedar Grove Road Bridge over Norfolk Southern.
- G. Design and construction of roadway, drainage, and safety improvements for the completion of Cedar Grove Road in the Project limits.

The successful responder shall provide all things necessary to provide design and build services as described in this RFVQ and Attachment A, *Statement of Work*, attached hereto and included herein by reference.

III. PROPOSAL FORMAT (Phase I – Statement of Qualifications)

A completed Proposal Cover Sheet (Attachment C) must be submitted with the Statement of Qualifications submittal.

A. Administrative Requirements

It is required to submit the information below for each copy of each submittal. This is general information and will not be scored but may be used to determine eligibility for selection. Under Administrative Requirements section, only submit the information requested; additional information will be subject to disqualification of your firm.

Basic company information:

- a. Company name.
- b. Company Headquarter Address.
- c. Contact Information - Name and all contact information (telephone number(s) and e-mail address) of primary proposing contact (this will be the individual with whom the Department will direct all communications).
- d. Company website (if available).
- e. Georgia Addresses - Identify and provide addresses for the offices located in the State of Georgia.
- f. Staff - List the number and disciplines of both contractor and engineering staff members employed in each office in the State of Georgia.
- g. Ownership - Provide form of ownership, including state of residency or incorporation, and number of years in business. Is the Offeror a sole proprietorship, partnership, corporation, limited liability Corporation, or other structure?
- h. State whether the Responder has ever been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any local, state, or federal department or agency.

B. Experience and Qualifications

1. Project Manager - Provide information pertaining to the project manager, including but not limited to:
 - a. Education.
 - b. Registration (if necessary and applicable.)
 - c. Relevant engineering design and construction experience.
 - d. Relevant project management experience for projects of similar complexity, size, scope, and function.
 - e. Relevant experience utilizing GDOT specific processes, manuals, or guidance (Plan Development Process, Design Policy, Environmental Procedures Manual, Standard Specifications for Construction of Transportation Systems, Construction Standards and Details, etc.).

This information is limited to two (2) pages maximum.

2. Key Team Leaders - Provide experience of Key Team Leaders (defined as those individuals who oversee project areas determined as particularly important to the specific project). At a minimum, key team leaders include:
 - a. Project Manager
 - b. Design Manager
 - c. Roadway Design Team Lead
 - d. Bridge Design Team Lead
 - e. Construction Manager
 - f. Construction Superintendent
 - g. Quality Manager
 - h. Safety Manager

For each Key Team Leader identified provide:

- a. Education.
- b. Registration (if necessary and applicable.)
- c. Relevant experience in the applicable resource area of the most relevant projects.
- d. Relevant experience utilizing GDOT specific processes, manuals, or guidance (PDP, Design Policy, Environmental Procedures Manual, Standard Specifications for Construction of Transportation Systems, Construction Standards and Details, etc.) which are specific to the key team leader's area.
- e. Indicate the commitment of all key project team leaders in terms of an estimated percentage of time during each phase of the project.

This information is limited to one (1) page maximum for each Key Team Leader.

3. Major Participant Experience - Provide information on the Major Participants' experience and ability in delivering effective services for projects of similar complexity, size, scope, and function, which demonstrate the firm's capabilities to provide services for DeKalb County. For this project, the following information should be provided:

- a. Client name, project location and dates during which services were performed.
- b. Description of overall project and services performed by your firm.
- c. Duration of project services provided by your firm, and overall project budget.
- d. Client(s) current contact information including contact names, telephone numbers and email address.
- e. Involvement of Key Team Leaders on the projects.

This information is limited to one (1) page maximum per project, maximum of three (3) projects for each Major Participant.

4. Area Class Summary Form and Notice of Professional Consultant Qualifications – Lead Design Consultants and their sub-consultant team members must meet the Area Class requirements listed in Attachment N. In regard to the required Area Classes, respondents should submit a summary form which details the required area classes for the Lead Design Consultant and all sub-consultants or joint venture of consultants on the team listed in the Statement of Qualifications. The area classes and firm's meeting the area classes listed on the summary form must meet all required area classes or the team will be disqualified. If a team member's prequalification will expire prior to the due date of the SOQs, documentation must be provided which shows that the firm has submitted its application for prequalification prior to the SOQ due date. The team must maintain its prequalification certification in order to be considered eligible for award if selected. **Additionally, respondents should submit the Notice of Professional Consultant Qualifications (for the Lead Design Consultant and all sub-consultants for each project) issued by GDOT and attach after the Area Class summary form.**
5. Work Class Summary Form and Notice of Contracting Pre-qualifications - Prime Design Builder is defined as the firm submitting the Statement of Qualifications and the firm with whom DeKalb County will contract. Prime Design Builders must meet the Work Class requirements identified in Attachment N. In regard to the required Work Classes, respondents should submit a summary form which details the required Work classes for the Prime Design Builder and all sub-contractors or joint venture of contractors on the team listed in the

Statement of Qualifications. The Work Classes and firm's meeting the Work Classes listed on the summary form must meet all required Work Classes or the team will be disqualified. If a team member's prequalification will expire prior to the due date of the SOQs, documentation must be provided which shows that the firm has submitted its application for prequalification prior to the SOQ due date. The team must maintain its prequalification certification in order to be considered eligible for award if selected.

C. Resources/Workload Capacity

1. Overall Resources - Provide information regarding the overall resources dedicated to delivering the specific project, including:
 - a. Organizational chart which identifies the project manager, prime, Key Team Leaders, support personnel, and reporting structure. **This chart may be submitted on a 11" x 17" page. (Excluded from the page count)**
 - b. Primary Office - Identify and discuss the primary office which will be responsible for handling the specific project and the number and types of staff within the office and how this office could benefit the project and promote efficiency. **This information to be submitted on one (1) page together with the Contracting Resources information.**
 - c. Contracting Resources – Identify the specific management equipment and material resources that will be available, and how these could benefit the project. **This information to be submitted on one (1) page together with the Primary Office information.**
 - d. Narrative on Additional Resource Areas and Ability – Respondents are to provide information regarding additional resource areas identified as important to the project, to discuss how the key areas will integrate and work together on the project, to discuss any information which is pertinent to these areas, to provide a narrative regarding how the organization of the team, including the PM and Key Team Leaders can deliver the project on schedule given their workload capacity. (DeKalb County recognizes that some individuals may be able to meet the schedule while carrying heavier project loads.) Respondents may discuss the advantages of your team and the abilities of the team members which will enable the project to meet the proposed schedule. **This narrative is to be limited to one (1) page.**

D. References

1. Responder shall provide at least three (3) references for projects completed in the last 10 years that are similar in size and scope to the project specified herein using the *Contractor Reference and Release Form* attached hereto as Attachment D.
2. Responder shall provide at least three (3) references for each subcontractor proposed as a part of the project team. The references shall be for the same or similar types of services to be performed by the subcontractor (including LSBE-DeKalb and LSBE-MSA firms) on projects similar in size and scope to the project outlined in this RFVQ. Use Attachment E, *Subcontractor Reference and Release Form*. Make additional copies as needed.

E. Financial Capabilities

1. Responder must provide financial statements for the last three (3) years that evidences the responder's financial capabilities to perform the scope of work.
2. Audited statements are preferable but a minimum of balance sheet, income statement and cash flow statement must be submitted.
3. Provide the Responder's year of incorporation along with financial information.
4. Provide a letter from the Responder's surety verifying the ability to obtain a design-build bond and/or bonds for faithful performance (performance bond) and payment upon award of the contract for one hundred percent (100%) of the contract award amount.
 - a. Bonds shall be:
 - i. issued by a surety company having received a rating of at least "A" in the latest revision of the A.M. Best Company's Insurance Report authorized to do business in the State of Georgia; and
 - ii. provided by a surety holding a valid certificate of authority to transact surety business in the State of Georgia.
 - b. The Performance Bond and the Payment Bond are each required to be in an amount equal to the value of non-design services for the Project, inclusive of construction, permitting, acceptance testing, and preconstruction services.

IV. PROPOSAL FORMAT (Phase II – Technical and Financial Proposals)

The following information will only be requested of the shortlisted firms. Responders are required to submit their proposals in the following format:

A. Financial Proposal

1. The cost proposal shall be submitted on the *Cost Proposal Form*, Attachment B. A cost-loaded schedule consistent with the cost proposal shall be submitted as part of the financial proposal. The financial proposal shall be submitted in a separate, sealed envelope with the Responder's name and "Financial Proposal for RFVQ No. 22-500603 for Design-Build of Cedar Grove Road Bridge Replacement" on the outside of the envelope. **Responder shall not alter the Cost Proposal Form in any manner.**
2. The sealed envelope containing the financial proposal is requested to be included in the sealed package containing the technical proposal.
3. **Responder shall provide their Lump Sum Price** which must encompass the complete design, construction and commissioning of a satisfactorily functioning project on the day it is handed over to the owner.
4. **Responder shall provide their Target Detailed Design Period and Target Construction Period** which shall be used by County to evaluate proposals and become the dates for Substantial Completion from which liquidated damages and time incentive payments will be

calculated. A period of three months should be allowed in the Responder's schedule for review and approval of the Detailed Design by Norfolk Southern.

5. **DO NOT INCLUDE FEES OR COSTS IN ANY AREA OUTSIDE OF THIS FINANCIAL PROPOSAL.** Including fees or costs in any area outside of the Financial Proposal and its separate, sealed envelope shall result in Responder's proposal being deemed non-responsive.

B. Technical Proposal

1. Responders should complete Attachment C, *Proposal Cover Sheet*, and include this as the first page of the technical proposal, followed by the Introduction (optional); Technical Approach; Project Management; Qualifications of the Key Project Team Members, References, Organizational Qualifications, Financial Capabilities, and the remaining required documents (See Section I.B. for the list of required documents).
2. The content requirements set forth in this RFVQ represent the minimum content requirements for the technical proposal. It is the Responder's responsibility to include information and documentation within its technical proposal that presents all relevant qualifications and capabilities. The technical proposal **should not contain** standard marketing or other general materials. It is the Responder's responsibility to modify such materials so that only directly relevant information is included within the technical proposal.
3. Technical Approach:
 - a. Provide any unique technical approaches your firm offers relative to addressing anticipated design concepts, use of any alternative methods for delivery (if applicable), and/or management of the project.
 - b. Provide any unique technical approaches relative to construction and describe the benefits they provide the County.
 - c. Identify any unique challenges of the project and how your firm intends to mitigate these challenges, including quality control, quality assurance procedures.
 - d. Provide any specific qualifications, skills, knowledge of the project and project area which may uniquely benefit the firm and project, and your ability and willingness to meet time requirements.
4. Project Management:
 - a. Describe how the overall project will be organized and managed
 - i. At minimum, should address:
 - a) how the company will interact, resolve issues, and coordinate the work with the many stakeholders involved in the project (including how the design and construction teams will interact during concurrent design and construction phase);
 - b) how a collaborative relationship with the County would be established during design development and construction;
 - c) how the design and construction processes will interface (including how constructability issues will be addressed);

- d) the work components critical to the project's success and how these components would be achieved in coordination with Norfolk Southern Railway and utilities;
 - e) how key risk factors will be identified and mitigated;
 - f) project specific safety plan; and
 - g) project specific quality management plan.
 - b. Include a listing of the County's responsibilities and the Responder's responsibilities required to complete the project.
 - c. Provide a detailed project specific schedule at the task level starting with the receipt of the Notice to Proceed and ending with project completion.
 - d. Provide a detailed project specific staffing plan starting with the receipt of the Notice to Proceed and ending with project completion.
 - e. Briefly describe communications plan for this project (with the County and other project stakeholders).
 - f. Provide a detailed risk management plan for this project (including key risk factors based on potential/mitigated impact and probability).
 - g. Describe progress reporting procedures for the project.
 - h. Explain the anticipated role of subcontractors.
 - i. Describe the resources necessary to accomplish the purpose of the project.
 - j. Describe how the company intends to adhere to the project schedule.
5. Qualifications and Capabilities of Key Project Team Members
- a. Identify and describe the roles and qualifications of the individuals who will be part of the design project team.
 - b. Identify and describe the roles and qualifications of the individuals who will be part of the construction project team.
 - c. Identify and describe the roles and qualifications of any outside personnel, such as subcontractors.
 - d. Indicate the commitment of all key project team members in terms of an estimated percentage of time during each phase of the project.
 - e. Provide detailed resumes of all key team members, including subcontractors, who will be directly working on the project.
6. Technical Proposals shall be submitted in a sealed envelope(s) or box(es) with the Responder's name and "Technical Proposal for RFVQ No. 22-500603 Cedar Grove Road Bridge Replacement – Design Build". On the outside of each envelope or box. **DO NOT INCLUDE ANY COSTS OF ANY KIND IN THE TECHNICAL PROPOSAL.**

C. Federal Work Authorization Program Contractor and Subcontractor Evidence of Compliance

- 1. All qualifying contractors and subcontractors performing work with DeKalb County, Georgia must register and participate in the federal work authorization program to verify the work eligibility information of new employees. Successful responder(s) shall be required to register and participate in the federal work authorization program. In order for a Proposal to be considered, it is **mandatory** that the *Responder/Contractor Affidavit*, Attachment G, be completed and submitted with responder's proposal.

2. Qualifying contractors must submit a completed *Subcontractor Affidavit*, and a *Sub-subcontractor Affidavit*, for each subcontractor and sub-subcontractor, if applicable. See Attachments H and I.

V. CRITERIA FOR EVALUATION (PHASE I – STATEMENT OF QUALIFICATIONS)

A. GDOT Area Class (Professional Services) and Work Class (Construction Activities) Requirements and Certification – Prescreen (SOQ Accepted or Rejected without evaluation)

Teams must be prequalified in the indicated GDOT Area and Work Classes specified in Attachment N in order to be evaluated.

B. Project Manager, Key Team Leader(s) and Prime/Major Participants’ Experience and Qualifications – 45%

C. Project Manager, Key Team Leader(s) and Prime/Major Participants’ Resources and Workload Capacity – 45%

D. References – 5%

E. Financial Capabilities – 5%

VI. CRITERIA FOR EVALUATION – PHASE 2 – TECHNICAL AND FINANCIAL PROPOSALS

The following evaluation criteria will be used as the basis for the evaluation of the technical and financial proposals:

Technical Proposal 60 points

- Project management
- Technical approach
- Qualifications and capabilities of key staff

Financial Proposal 40 points

The following evaluation criteria will be used as the basis for the evaluation of the financial proposals:

The lump sum cost proposals will be normalized to a consistent Detailed Design Period and a consistent Construction Period using the shortest Periods submitted by Responders. The normalization will be calculated using the liquidated damages for delay in Substantial Completion defined in the Sample Standard Contract Articles IV E and VI E.

Responders will receive a score calculated as:

Financial Proposal Score = $40 \times \frac{\text{lowest normalized lump sum cost proposal}}{\text{normalized lump sum cost proposal}}$

The optional interview will be used to adjust the score of the Technical Proposal as appropriate and will not be scored separately.

VII. CONTRACT ADMINISTRATION

A. SUBMITTAL INSTRUCTIONS FOR PHASE I – STATEMENT OF QUALIFICATIONS

1. **One (1) original Statement of Qualifications stamped “Original” and RFVQ 22-500603. Five (5) compact discs or flash drives with each containing an identical copy of the Statement of Qualifications must be submitted to the following address no later than 3:00 p.m. on December 15, 2022.**

DeKalb County Department of Purchasing and Contracting
The Maloof Building
1300 Commerce Drive, 2nd Floor
Decatur, Georgia 30030

2. No costs of any kind are to be included in this submittal.
3. It is the responsibility of each responder to ensure that its submission is received by **3:00 p.m.** on the proposal submission date. Be aware that visitors to our offices will go through a security screening process upon entering the building. Responders should plan enough time to ensure that they will be able to deliver their submission prior to our deadline. Late submissions, for whatever reason, will not be evaluated. Responders should plan their deliveries accordingly. Email, telephone, or fax bids will not be accepted.

B. SUBMITTAL INSTRUCTIONS FOR PHASE II – TECHNICAL AND FINANCIAL PROPOSALS

1. **One (1) original Technical Proposal stamped “Original” and RFVQ 22-500603. Five (5) compact discs or flash drives with each containing an identical copy of the Technical Proposal (do not include the Financial Proposal on the discs); and one (1) original Financial Proposal (see Section IV.A. for additional instructions regarding submittal of Financial Proposal) must be submitted to the following address no later than 3:00 p.m. on December 15, 2022.**

DeKalb County Department of Purchasing and Contracting
The Maloof Building
1300 Commerce Drive, 2nd Floor
Decatur, Georgia 30030

2. Proposals may be withdrawn at any time prior to the proposal submittal deadline. After the proposal submittal deadline, withdrawal of proposals shall be based upon Part III, Section IV, F. within the DeKalb County Purchasing Policy.
3. It is the responsibility of each responder to ensure that its submission is received by **3:00**

p.m. on the proposal submission date. Be aware that visitors to our offices will go through a security screening process upon entering the building. Responders should plan enough time to ensure that they will be able to deliver their submission prior to our deadline. Late submissions, for whatever reason, will not be evaluated. Responders should plan their deliveries accordingly. Email, telephone, or fax bids will not be accepted.

C. PRE-PROPOSAL CONFERENCE (Optional)

A virtual pre-proposal conference will be held at **10:00A.M. EST, November 22, 2022 via ZOOM link: <https://dekalbcountyga.zoom.us/j/89528156116>** . Interested responders must attend and participate in the pre-proposal conference. For information regarding the pre-proposal conference, please contact Brenda Redus, Senior Procurement Agent via email bredus@dekalbcountyga.gov or call (404) 371-4943.

D. QUESTIONS

All questions concerning the RFVQ and requests for interpretation of the Contract may be asked and answered at the pre-proposal conference; however, oral answers are not authoritative. Questions must be submitted **in writing** to Brenda Redus, via email to bredus@dekalbcountyga.gov no later than **5:00 P.M. EST, November 29, 2022**. Questions and requests for interpretation received by the Department of Purchasing and Contracting after this date will not receive a response or be the subject of addenda.

E. ACKNOWLEDGMENT OF ADDENDA

Addenda may be issued in response to changes in the RFVQ. It is the responsibility of the responder to ensure awareness of all addenda issued for this solicitation. Please acknowledge the addenda and submit to the Department of Purchasing and Contracting as requested. Responder may contact Brenda Redus via email bredus@dekalbcountyga.gov or call (404) 371 - 4943 to verify the number of addenda prior to submission. Addenda issued for this project may be found on DeKalb County's website, http://www.dekalbcountyga.gov/purchasing/pc_formal_solicitation_current_bids.html.

F. PROPOSAL DURATION

Proposals submitted in response to this RFVQ must be marked as **valid until April 14, 2023** or for a period of one hundred twenty (**120**) days from proposal submission deadline, if the proposal deadline is extended.

G. PROJECT DIRECTOR/CONTRACT MANAGER

The County will designate a Project Director/Contract Manager to coordinate this project for the County. The successful responder will perform all work required pursuant to the contract under the direction of and subject to the approval of the designated Project Director/Contract Manager. All issues including, payment issues, shall be submitted to the Project Director/Contract Manager for resolution.

H. EXPENSES OF PREPARING RESPONSES TO THIS RFVQ

The County accepts no responsibility for any expenses incurred by the responders to this RFVQ. Such expenses are to be borne exclusively by the responders.

I. GEORGIA OPEN RECORDS ACT

Without regard to any designation made by the person or entity making a submission, DeKalb County considers all information submitted in response to this request to be a public record that will be disclosed upon request pursuant to the Georgia Open Records Act, O.C.G.A. §50-18-70 et seq., without consulting or contacting the person or entity making the submission, unless a court order is presented with the submission. You may wish to consult an attorney or obtain legal advice prior to making a submission.

J. FIRST SOURCE JOBS ORDINANCE

The DeKalb County First Source Jobs Ordinance requires contractors or beneficiaries entering into any type of agreement with the County, including purchase orders, regardless of what they may be called, for the procurement or disposal of supplies, services, construction projects, professional or consultant services, which is funded in whole or part with County funds or County administered funds in which the contractor is to receive \$50,000 or more in County expenditures or committed expenditures and recipient of urban redevelopment action grants or community development block funds administered in the amount of \$50,000 or more make a good faith effort to hire DeKalb County residents for at least 50% of jobs using the First Source Registry (candidate database). The work to be performed under this contract is subject to the provisions of the DeKalb County First Source Jobs Ordinance. For more information on this Ordinance requirement, please contact WorkSource DeKalb at (404) 687-3400 or www.worksourcedekalb.org.

Responder shall complete and submit Attachment J, *First Source Jobs Ordinance Information* forms (Exhibit 1-2) attached to this RFVQ.

K. BUSINESS AND PROFESSIONAL LICENSES

1. Please provide a valid company business license and any required professional license with your proposal. Georgia companies are to submit a valid county or city business license. Contractors that are not Georgia companies are to provide a certificate of authority to transact business in the state of Georgia and a copy of a valid business license issued by its home jurisdiction, if applicable.
2. Any Georgia Utility Systems Contractor's Licenses, Utility Manager's Certificates, and Utility Foreman's licenses and certificates must be issued in the name of the person or entity that will perform the utility work.
3. Any Georgia General Contractor's Licenses must be issued in the name of the responder or in the name of its qualifying agent.
4. Georgia Professional Engineer Licenses (includes reciprocity, if applicable)
5. Any license submitted in response to this RFVQ shall be maintained by the responder for the duration of the contract.

L. PROPOSAL BONDS

1. Each proposal must be accompanied by a proposal guarantee in an amount of not less than ten percent (10%) of the amount of the proposal. The proposal guarantee may be in the form of an official bank check payable to DeKalb County, Georgia or a Bid Bond on the form attached hereto as Attachment K. The Bid Bond shall be issued by a surety company licensed to write bonds in the State of Georgia, listed in the most current U.S. Treasury Circular No. 570, and have a current A.M. Best rating of "A" (Excellent) with a Financial Size Category of XII or better.
2. Within ten (10) days from the date of Notice of Award of this Contract, the Contractor, as Principal, and its surety company shall provide a Contract Performance Bond and a Payment Bond, each for one hundred percent (100%) of the contract amount for the use of all persons doing work or furnishing skills, tools, machinery, or materials under or for the purpose of this Contract, in accordance with the provisions of the law of the State of Georgia including, but not limited to, O.C.G.A. § 13-10-1 and § 36-91-21 et seq. The life of these bonds shall extend through the life of this Contract including a sixty (60) day maintenance period (where applicable) and a twelve-month guarantee period after the completion of work performed under this Contract.

M. INSURANCE

Insurance must meet the County's requirements and will be furnished by the successful responder(s) upon award.

1. Successful responder(s) will advise their insurance agent of the County's requirements as listed below and that they may not proceed with any work until insurance is provided that is in compliance with these requirements.
2. Contractor's insurance company or agent must mail, email, or bring an original certificate of insurance and applicable declarations or endorsements to the DeKalb County address listed within this Insurance provision. Insurance must be from companies able to do business in Georgia and acceptable to the County as follows:
 - a. Certificates must cover:
 - i. *Statutory Workers' Compensation Insurance* of at least \$1,000,000 or proof that Contractor is not required to provide such coverage under State law.
 - a) Employer's liability insurance by accident, each accident \$1,000,000
 - b) Employer's liability insurance by disease, policy limit \$1,000,000
 - c) Employer's liability insurance by disease, each employee \$1,000,000
 - ii. *Professional Liability Insurance* on the Contractor's services in this Agreement with limit of \$3,500,000;
 - iii. *Comprehensive Automobile Liability Insurance* with form coverage provided for all owned, non-owned and hired vehicles with combined single limit of \$1,000,000. Automobile liability insurance shall be written on ISO Business Auto Coverage Form CA 0001 (1990 edition or later), or a substitute form providing equivalent coverage, and shall cover liability for bodily injury and property damage arising from the use or operation of any

automobile, including those owned, hired or otherwise operated or used by or on behalf of Contractor.

- iv. *Commercial General Liability Insurance*
 - a) Each Occurrence for bodily injury and property damage liability - \$1,000,000
 - b) Damage to rented premises (each occurrence) - \$100,000
 - c) Medical Expense - \$10,000
 - d) Personal & Advertising Injury - \$1,000,000
 - e) General Aggregate - \$2,000,000
 - f) Products & Completed Operations - \$2,000,000
 - g) Contractual Liability where applicable
- v. *Umbrella or Excess Insurance* is to be provided with General Liability, Auto Liability and Employers Liability scheduled as underlying policies with limits not less than the following:
 - \$5,000,000 per occurrence
 - \$5,000,000 aggregate
- b. DeKalb County, GA shall be named as Additional Insured under any General Liability, Business Auto and Umbrella Policies. Coverage shall apply as Primary and non-contributory with Waiver of Subrogation in favor of DeKalb County, Georgia. Such additional insured coverage shall be endorsed to Contractor's policy by attachment of ISO Additional Insured Endorsement forms CG 20 10 10 01 (ongoing operations) and CG 20 37 10 01 (products-completed operations), or form(s) providing equivalent coverage.
- c. This insurance for the County as the additional insured shall be as broad as the coverage provided for the named-insured Contractor. It shall apply as primary insurance before any other insurance or self-insurance, including any deductible, non-contributory, and waiver of subrogation provided to the County as the additional insured.
- d. Contractor agrees to waive all rights of subrogation and other rights of recovery against the County and its elected officials, officers, employees or agents, and shall cause each Subcontractor to waive all rights of subrogation for all coverages.
- e. If the Contractor is a joint venture involving two (2) or more entities, then each independent entity will satisfy the limits and coverages specified here or the joint venture will be a named insured under each respective policy specified.
- f. Certificates shall state that the policy or policies shall not expire, be cancelled or altered without at least sixty (60) days prior written notice to the County.
- g. The insurance carrier must have a minimum of not less than "A" (Excellent) with a Financial Size Category of VII or better as determined by the rating firm A.M. Best.
- h. Certificates to contain policy number, policy limits and policy expiration date of all policies issued in accordance with this contract.

- i. Certificates to contain the location and operations to which the insurance applies.
- j. Certificates to contain successful contractor's protective coverage for any subcontractor's operations. If this coverage is included in General Liability, please indicate on the Certificate of Insurance.
- k. Certificates to contain successful contractor's contractual insurance coverage. If this coverage is included in the General Liability, please indicate this on the Certificate of Insurance.
- l. Certificates shall be issued to the County and must identify the "Certificate Holder" as follows:

DeKalb County, Georgia
Director of Purchasing & Contracting
Maloof Administration Building
1300 Commerce Drive, 2nd Floor
Decatur, Georgia 30030

3. The successful contractor shall be wholly responsible for securing certificates of insurance coverage as set forth above from all subcontractors who are engaged in this work.
4. Contractor understands and agrees that the purchase of insurance in no way limits the liability of the Contractor.
5. Contractor is obligated to comply with any revisions to the County's insurance requirements.
6. Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such coverage.

N. ETHICS RULES

Responders are subject to the Ethics provision within the DeKalb County Purchasing Policy; the Organizational Act, Section 22A, the Code of DeKalb County; and the rules of Executive Order 2014-4. Any violations will be addressed, pursuant to these policies and rules.

To the extent that the Organizational Act, Section 22A, the Code of DeKalb County, and the rules of Executive Order 2014-4 allow a gift, meal, travel expense, ticket, or anything else of value to be purchased for a CEO employee by a contractor doing business with the County, the contractor must provide written disclosure, quarterly, of the exact nature and value of the purchase to the Chief Integrity Officer, if created, or the Finance Director or his/her designee. Every contractor conducting business with the County will receive a copy of these ethical rules.

O. RIGHT TO AUDIT

The County shall have the right to audit all books and records, including electronic records, relating or pertaining to this contract or agreement, including but not limited to all financial and performance related records, property, and equipment purchased in whole or in part with

County funds and any documents or materials which support those records, kept under the control of the Contractor, including but not limited to those kept by the Contractor's employees, agents, assigns, successors and subcontractors. The County also has the right to communicate with Contractor's employees related to the audited records.

The Contractor shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this contract and for seven (7) years after termination or expiration, including any and all renewals thereof. The books and records, together with supporting documents and materials shall be made available, upon request to the County or its designee, during normal business hours at the Contractor's office or place of business. In the event that no such location is available, then the books, records, and supporting documents shall be made available for audit at a time and location which is convenient for the County.

P. REQUIRED SIGNATURES

Proposals and the resulting contract must be signed by an officer or agent of the company having the authority to bind the company in contract.

Q. SAMPLE STANDARD COUNTY CONTRACT

1. Attachment L, *Sample Standard County Contract* is the standard contract document which specifically outlines the contractual responsibilities.
2. Responders are cautioned to thoroughly understand and comply with all provisions covered within the County's sample contract. All responders should thoroughly review the document prior to submitting a proposal. **Any proposed revisions to the sample contract must be submitted in writing with the proposal. Since proposed revisions may result in a proposal being rejected if the revisions are unacceptable to the County, responders should review any proposed revisions with an officer of the firm having authority to execute the contract. No alterations can be made to the contract after award is made.**

VIII. CONTRACT AWARD

- A. An evaluation committee will review and score all proposals and shall determine if interviews are necessary.
- B. Interview listed firms may be scheduled for oral presentations to allow firms the opportunity to respond to questions from the evaluation committee relevant to the submitted proposals. Oral presentations shall not exceed one hour in duration.
- C. The evaluation committee will recommend an award to the DeKalb County governing authority for the highest scoring proposal(s). The DeKalb County governing authority will make the final decision as to award of contract.

**D. THE COUNTY RESERVES THE RIGHT TO REJECT ANY AND ALL PROPOSALS, TO
WAIVE INFORMALITIES, AND TO RE-ADVERTISE.**

Sincerely,

Brenda Redus
Senior Procurement Agent
Department of Purchasing and Contracting

Attachment A:	Statement of Work
Attachment B:	Cost Proposal
Attachment C:	Proposal Cover Sheet
Attachment D:	Contractor Reference and Release Form
Attachment E:	Subcontractor Reference and Release Form
Attachment F:	RESERVED
Attachment G:	Responder/Contractor Affidavit
Attachment H:	Subcontractor Affidavit
Attachment I:	Sub-subcontractor Affidavit
Attachment J:	First Source Jobs Information Forms (Exhibit 1-4)
Attachment K:	Bid Bond Form
Attachment L:	Sample Standard County Contract
Attachment M:	Technical Provisions
Attachment N:	GDOT Area and Work Class Requirements
Attachment O:	Reference Information Documents

ATTACHMENT A

STATEMENT OF WORK

The project is located on Cedar Grove Road between Moreland Ave (US 23) and I-675, near Conley, Georgia. Cedar Grove Road is a two-lane minor arterial with posted speed of 45 MPH primarily serving commercial properties. The existing 3-span bridge over Norfolk Southern Rail was closed to the traffic in 2020. The existing bridge also carries: a 12-inch water main, 12 ducts for communications, and a 4-inch high pressure gas main. On the south side adjacent to the County Right of Way are existing overhead electrical transmission and distribution lines.

A preliminary engineering design effort (30%) has been prepared for the Cedar Road Bridge over Norfolk Southern Replacement Project.

The main objectives of the preliminary design included the following:

- Identify Bridge limits
- Identify wall locations
- Initiate coordination with Norfolk Southern
- Identify ROW requirements
- Identify private property impacts
- Identify and coordinate utility conflicts

The clearance envelope for the preliminary design was defined by the Norfolk Southern's Public Project Manual and comments received from initial submissions for the project. The project must allow for one future track and a maintenance roadway for Norfolk Southern.

Preliminary (30%) design plans (Attachment M) were developed to identify the project limits and provide initial coordination with impacted utilities and Norfolk Southern Railway. The roadway profile is proposed to be raised due to the new girder depth required for the longer main span and increased vertical clearance to the high rail over Norfolk Southern Railway. A single span structure is proposed to eliminate the need for columns/walls within the clearance envelop of the railroad. The preliminary bridge limits also consider plans from Norfolk Southern Railway to add a future track.

The proposed work will be to complete the design and construction of the structure, walls, embankment, and roadway improvements as shown in the preliminary design plans to allow a replacement bridge to be opened to traffic as soon as possible. The work will include installation of new 12" water main attached to the replacement bridge and all associated work required to make the new water main operational. To allow for future telecommunication installation, twelve new 4" conduits are to be placed across the structure and through the end walls and under the approach slabs on both sides of the new bridge. The work will include demolition and removal of the existing bridge and phasing of the work to allow water service to continue without prolonged interruption.

Upon completion of the project all plans, in CAD format, and specifications, in Word format, shall be submitted to DeKalb County.

ATTACHMENT B

COST PROPOSAL FORM

(Page 1 of 2)

COSTS OR FEES IN ANY AREA OUTSIDE OF THE COST PROPOSAL SHALL RESULT IN RESPONDER’S PROPOSAL BEING DEEMED NON-RESPONSIVE.

Responder must complete and submit in a **separate, sealed envelope** with the Responder’s name, ‘Request for Vendor Qualifications (RFVQ) No. 22-500603, Cedar Grove Road Bridge Replacement,’ clearly identified on the outside of the envelope.

By signing this page, Responder acknowledges that he has carefully examined and fully understands the Contract, Scope of Work, and other attached documents, and hereby agrees that if his proposal is accepted, he will contract with DeKalb County according to the Request for Vendor Qualification documents.

_____	_____
Print Name of Authorized Signer	Business Entity Street Address
_____	_____
Title of Authorized Signer	Business Entity City, State and Zip Code
_____	_____
Authorized Signature	Contact Person’s Phone Number
_____	_____
Name of Business Entity Submitting Bid	Contact Person’s Fax Number
_____	_____
Business Entity County	Contact Person’s E-Mail Address

COST PROPOSAL FORM

(Page 2 of 2)

ITEM	DESCRIPTION	TOTAL PRICE
1	Lump Sum Price	\$ _____ _____ Total Price in words
2	Target Detailed Design Period	_____ days after Notice to Proceed _____ Number of days in words
3	Target Construction Period	_____ days after Commencement Date _____ Number of days in words

ATTACHMENT C

PROPOSAL COVER SHEET

NOTE: By signing this page, Responder acknowledges that he has carefully examined and fully understands the Contract, Scope of Work, and other attached documents, and hereby agrees that if his proposal is accepted, he will contract with DeKalb County in accordance with the Request for Vendor Qualification documents.

Please complete and include this cover sheet with your technical proposal.

Company Name		Federal Tax ID#	
Complete Primary Address	City	State	Zip Code
Mailing Address (if different)	City	State	Zip Code
Are you a DeKalb County Firm? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Contact Person Name and Title		Telephone Number (include area code)	
Email Address		Fax Number (include area code)	
Company Website Address		Type of Organization (check one) <input type="checkbox"/> Corporation <input type="checkbox"/> Joint Venture <input type="checkbox"/> Proprietorship <input type="checkbox"/> Government	
<p>Request for Vendor Qualifications No. 22-500603 for Cedar Grove Road Bridge Replacement described herein will be received in the Purchasing & Contracting Department, Maloof Building, 1300 Commerce Drive, 2nd Floor, Decatur, Georgia 30030 <u>until 3:00 P.M. EST, December 15, 2022.</u></p> <p>CAUTION: The Decatur Postmaster will not deliver certified or Special Delivery Mail to specific addresses within DeKalb County Government. When sending bids or time sensitive documents, you may want to consider a courier that will deliver to specific addresses.</p> <p>Proposal Cover Sheet should be signed by a representative of Proposer with the authority to bind Proposer to all terms, conditions, services, and financial responsibilities in the submitted Proposal.</p>			
Authorized Representative Signature(s)		Title(s)	
Type or Print Name(s)		Date	

ATTACHMENT D**CONTRACTOR REFERENCE AND RELEASE FORM**

You must submit **three (3) viable references with direct contact information for whom you have provided comparable work and who can provide verification of your experience and ability to perform the type of services listed in the solicitation.** Failure to submit references with direct contact information may cause your proposal to be deemed non-responsive

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

REFERENCE CHECK RELEASE STATEMENT

You are authorized to contact the references provided above for purposes of this RFVQ.

Signed _____ Title _____
(Authorized Signature of Proposer)

Company Name _____ Date _____

ATTACHMENT E**SUBCONTRACTOR REFERENCE AND RELEASE FORM**

You must submit **three (3) viable references with direct contact information for whom you have provided comparable work and who can provide verification of your experience and ability to perform the type of services listed in the solicitation.** Failure to submit references with direct contact information may cause your proposal to be deemed non-responsive

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

Company Name	Contract Period		
Contact Person Name and Title	Telephone Number (include area code)		
Complete Primary Address	City	State	Zip Code
Email Address	Fax Number (include area code)		
Project Name	Services/Materials Provided		

REFERENCE CHECK RELEASE STATEMENT

You are authorized to contact the references provided above for purposes of this RFVQ.

Signed _____ Title _____
(Authorized Signature of Proposer)

Company Name _____ Date _____

ATTACHMENT F

LSBE INFORMATION DEKALB FIRST LSBE INFORMATION WITH EXHIBITS A – B

SCHEDULE OF LOCAL SMALL BUSINESS ENTERPRISE PARTICIPATION OPPORTUNITY TRACKING FORM

The Chief Executive Officer and the Board of Commissioners of DeKalb County believe that it is important to encourage the participation of small and local businesses in the continuing business of County government; and that the participation of these types of businesses in procurement will strengthen the overall economic fabric of DeKalb County, contribute to the County's economy and tax base, and provide employment to local residents. Therefore, the Chief Executive Officer and the Board of Commissioners have made the success of local small businesses a permanent goal of DeKalb County by implementing the DeKalb First Local Small Business Enterprise Ordinance.

PROVISIONS OF DEKALB FIRST LOCAL SMALL BUSINESS ENTERPRISE (LSBE) ORDINANCE

Amount of LSBE Participation Required
5% of Total Award

Certification Designation	Request for Vendor Qualifications (RFVQ)
LSBE Within DeKalb (LSBE-DeKalb)	Ten (10) Preference Points
LSBE Outside DeKalb (LSBE-MSA)	Five (5) Preference Points
Demonstrated GFE	Two (2) Preference Points

Certified Local Small Business Enterprises (LSBEs) located within DeKalb County and prime contractors utilizing LSBEs that are locally-based inside DeKalb County shall receive ten (10) points in the initial evaluation of their response to any Request for Vendor Qualification. Certified LSBEs located outside of DeKalb County but within the nine (9) County Metropolitan Statistical Area (MSA) consisting of Cherokee, Clayton, Cobb, Douglas, Fayette, Fulton, Gwinnett, Henry and Rockdale Counties shall receive five (5) points in the initial evaluation of their response to any Request for Vendor Qualification. Prime Contractors who demonstrate sufficient good faith efforts in accordance with the requirements of the ordinance shall be granted two (2) points in their initial evaluation of responses to any Request for Vendor Qualification. Pro-rated points shall be granted where a mixture of LSBE-DeKalb and LSBE MSA firms are utilized. Utilization of each firm shall be based upon the terms of the qualified sealed solicitation.

Prime Contractor(s) deemed responsible and remains responsive to an Invitation to Bid (ITB) because they are either a certified LSBE-DeKalb or LSBE-MSA firm or has obtained 20% participation of an LSBE-DeKalb or LSBE-MSA firm, submits the lowest bid price shall be deemed the lowest, responsive and responsible bidder.

Prime Contractor(s) deemed responsible and remains responsive to an Invitation to Bid (ITB) and documented good faith efforts, submits a lower bid price than a Prime Contractor that achieved 20% LSBE participation, or otherwise required benchmark, then the Prime Contractor who actually met the benchmark will be given the opportunity to match the lowest bid price of the Prime Contractor who only

made good faith efforts. Prime Contractor(s) who choose **not** to match the lowest bid price, then the Prime Contractor who made the good faith efforts will be deemed the lowest, responsive and responsible bidder.

For all qualified sealed solicitations, the Director of Purchasing and Contracting, DeKalb County Government, shall determine if the bidder/proposer has included written documentation showing that at least five percent (5%) of the total contract award will be performed by a certified LSBE. This written documentation shall be in the form of a notarized Schedule of LSBE Participation (Attached hereto as "Exhibit A".) For all contracts, a signed letter of intent from all certified LSBEs describing the work, material, equipment and/or services to be performed or provided by the LSBE(s) and the agreed upon dollar value shall be due with the bid or proposal documents and included with "Exhibit A". The certified vendor list establishes the group of Certified LSBE's from which the bidder/proposer must solicit subcontractors for LSBE participation. This list can be found on our website <http://www.dekalbcountyga.gov/purchasing-contracting/about-purchasing-and-contracting> or obtained from the Special Projects LSBE Program team.

Prime Contractors failing to meet the LSBE benchmark must document and demonstrate Good Faith Efforts in accordance with the attached "Checklist for Good Faith Efforts" portion of "Exhibit A." The notarized Schedule of LSBE Participation shall be due and submitted with each bid or proposal. Failure to achieve the LSBE benchmark or demonstrate good faith efforts shall result in a bid or proposal being rejected. Prime Contractors that fail to attend the mandatory LSBE meeting in person or via video conference shall mean that the Prime Contractor has not demonstrated sufficient good faith efforts and its bid or proposal if submitted, shall be deemed non-responsive without any further review.

Upon award, Prime Contractors are required to submit a report detailing LSBE Sub-Contractor usage with each request for payment and not less than on a monthly basis. Prime Contractors shall ensure that all LSBE sub-contractors have been paid within seven (7) days of the Prime's receipt of payment from the County. Failure to provide requested reports/documentation shall constitute a material breach of contract, entitling the County to terminate the Contract for default or pursue other remedies. LSBE sub-contractors must confirm payments received from the Prime(s) for each County contract they participate in.

For eligible bids/proposals valued over \$5,000,000.00, the Mentor-Protégé provision of the Ordinance shall apply. Prime Contractors must agree to become mentors and take on an LSBE protégé in an effort to enhance the potential of future LSBEs. Qualifying projects shall be performed by both Mentor and Protégé through a subcontract between both parties. This requirement is in addition to all other applicable sections of the DeKalb First Ordinance. Please review the ordinance, section 2-214 or contact the LSBE Program Representative for detailed information regarding this initiative.

EXHIBIT A

**SCHEDULE OF DEKALB FIRST LOCAL SMALL BUSINESS ENTERPRISE PARTICIPATION
OPPORTUNITY TRACKING FORM**

As specified, Bidders and Proposers are to present the details of LSBE participation below:

PRIME BIDDER/PROPOSER _____

SOLICITATION NUMBER: **22-500603**

TITLE OF UNIT OF WORK – CEDAR GROVE ROAD BRIDGE REPLACEMENT – DESIGN BUILD

1. My firm, as the prime bidder/proposer on this unit of work, is a certified (check all that apply):
____LSBE-DeKalb ____LSBE-MSA
2. If you are a Certified LSBE-DeKalb or MSA, please indicate below the portion of work (including the percentage of the amount bid/proposal) that your firm will carry out directly:
_____.
3. If the prime bidder/proposer is a joint venture, please describe below the nature of the joint venture and level of work and financial participation to be provided by the LSBE-DeKalb or MSA joint venture firm.

4. List the LSBE-DeKalb or MSA subcontractors and/or firms (including suppliers) to be utilized in of this contract, if awarded. No changes can be made in the subcontractors listed below without the prior written approval of the County. Please attach a signed letter of intent from all certified LSBEs describing the work, materials, equipment or services to be performed and/or provided and the agreed upon dollar value. A Letter of Intent form is attached hereto as “Exhibit B”.

Name of Company	
Address	
Telephone	
Fax	
Contact Person	
Indicate certification status and attach proof of certification: LSBE-DeKalb/LSBE-MSA	
Description of services to be performed	
Percentage of work amount to be performed	

Name of Company	
Address	

Telephone	
Fax	
Contact Person	
Indicate certification status and attach proof of certification: LSBE-DeKalb/LSBE-MSA	
Description of services to be performed	
Percentage of work amount to be performed	

Name of Company	
Address	
Telephone	
Fax	
Contact Person	
Indicate certification status and attach proof of certification: LSBE-DeKalb/LSBE-MSA	
Description of services to be performed	
Percentage of work amount to be performed	

Name of Company	
Address	
Telephone	
Fax	
Contact Person	
Indicate certification status and attach proof of certification: LSBE-DeKalb/LSBE-MSA	
Description of services to be performed	
Percentage of work amount to be performed	

Please attach additional pages, if necessary.

EXHIBIT A, CONT'D**DEKALB COUNTY**
CHECKLIST FOR GOOD FAITH EFFORTS

A bidder/proposer that does not meet the County's LSBE participation benchmark is required to submit documentation to support all "Yes" responses as proof of "good faith efforts." Please indicate whether or not any of these actions were taken:

	Yes	No	Description of Actions
1.			Prime Contractors shall attend a MANDATORY LSBE Meeting in person or via video conference within two-weeks of advertisement of the solicitation.
2.			Provide a contact log showing the company's name, contact person, address, email and contact number (phone or fax) used to contact the proposed certified subcontractors, nature of work requested for quote, date of contact, the name and title of the person making the effort, response date and the amount of the quoted price if one was obtained.
3.			Provide interested LSBEs via email, of any new relevant information, if any, at least 5 business days prior to submission of the bid or proposal.
4.			Efforts made to divide the work for LSBE subcontracting areas likely to be successful and to identify portions of work available to LSBEs consistent with their availability. Include a list of divisions of work not subcontracted and the corresponding reasons for not including them. The ability or desire of a bidder/proposer to perform the contract work with its own organization does not relieve it of the responsibility to make good faith efforts on all scopes of work subject to subcontracting.
5.			Efforts were made to assist potential LSBE subcontractors meet bonding, insurance, or other governmental contracting requirements. Where feasible, facilitating the leasing of supplies or equipment when they are of such a specialized nature that the LSBE could not readily and economically obtain them in the marketplace.
6.			Communication via email or phone with DeKalb First Program Staff seeking assistance in identifying available LSBEs. Provide DeKalb First Program Staff representative name and title, and date of contact.
7.			For all contracts, a signed letter of intent from all certified LSBEs describing the work, materials, equipment or services to be performed or provided by the LSBE(s) and the agreed upon LSBE participation percentage and dollar value shall be due with the bid or proposal documents.
8.			Other Actions, to include Mentor/Protégé commitment for solicitations \$5M and above (specify):

Please explain all "no" answers above (by number):

This list is a guideline and by no means exhaustive. The County will review these efforts, along with attached supporting documents, to assess the bidder/proposer's efforts to meet the County's LSBE Participation benchmark. If you require assistance in identifying certified, bona fide LSBEs, please contact the Purchasing and Contracting Department - DeKalb First Program Representatives, at DeKalbFirstLSBE@dekalbcountyga.gov or (404) 371-4770.

EXHIBIT A, CONT'D

**DEKALB FIRST LOCAL SMALL BUSINESS ENTERPRISE SCHEDULE OF
PARTICIPATION
OPPORTUNITY TRACKING FORM**

Bidder/Proposer Statement of Compliance

Bidder(s)/Proposer(s) hereby state that they have read and understand the requirements and conditions as set forth in the objectives and that reasonable effort were made to support the County in providing the maximum practicable opportunity for the utilization of LSBEs consistent with the efficient and economical performance of this contract. The Bidder and any subcontractors shall file compliance reports at reasonable times and intervals with the County in the form and to the extent prescribed by the Director of DeKalb County Purchasing and Purchasing and Contracting Department. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of Contractors and their subcontractors.

1. Non-Discrimination Policy

- a. During the performance of this agreement, Contractor agrees to conform to the following Non-Discrimination Policy adopted by the County.
- b. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or disability. The Contractor will take action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex, national origin, or disability. Such action shall include, but not be limited to, the following:
 - (1) 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. Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth provisions of this non-discrimination clause.
 - (2) Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or disability.
- c. Without limiting the foregoing, Contractor shall not discriminate on the basis of disability in the admission or access to, or treatment or employment in, the programs and activities, which form the subject of the contract. The Contractor will take action to ensure that applicants for participation in such programs and activities are considered without regard to disability. Such action shall include, but not be limited to, the following:
 - (1) Contractor agrees to post in conspicuous places available to participants in its programs and activities notices to be provided setting forth the provisions of this non-discrimination clause.
 - (2) Contractor shall, in all solicitations or advertisements for programs or activities, which are the subject of the contract, state that all qualified applicants will receive consideration for participation without regard to disability.

2. Commitment

The undersigned certifies that he/she has read, understands, and agrees to be bound by the bid specifications, including the accompanying Exhibits and other terms and conditions of the Invitation to Bid and/or Request for Vendor Qualification regarding LSBE utilization. The undersigned further certifies that he/she is legally authorized by the bidder or responder to make the statements and representations in Exhibit A and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreement(s) with the LSBE(s) listed in this Exhibit A, which are deemed by the owner to be legitimate and responsible LSBEs. Said agreement(s) shall be for the work and contract with the Prime Contractor. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder knowing them to be false, or if there is a failure of the successful Bidder (i.e., Contractor) to implement any of the stated agreements, intentions, objectives, goals and commitments set forth herein without prior approval of the County, then in any such events the contractor's act or failure to act, as the case may be, shall constitute a material breach of contract, entitling the County to terminate the Contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the County may have for other defaults under the Contract. Additionally, the Contractor will be subject to the loss of any future contract awards by the County for a period of one year.

Firm Name (Please Print):

Firm's Officer:

(Authorized Signature and Title Required)

Date

Sworn to and Subscribed to before me this ____ day of _____, 201__.

Notary Public

My Commission Expires: _____

EXHIBIT B

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR
PROVIDING MATERIALS OR SERVICES**

Instructions:

1. Complete the form in its entirety and submit with bid documents.
2. Attach a copy of the LSBE's current valid Certification Letter.

To: _____
(Name of Prime Contractor Firm)

From: _____ **☐ LSBE –DeKalb ☐ LSBE –MSA**
(Name of Subcontractor Firm) **(Check all that apply)**

RFVQ Number: **22-500603**

Project Name: **CEDAR GROVE ROAD BRIDGE REPLACEMENT**

The undersigned subcontractor is prepared to perform the following described work or provide materials or services in connection with the above project (specify in detail particular work items, materials, or services to be performed or provided).

Description of Materials or Services	Project/Task Assignment	% of Contract Award

Prime Contractor

Sub-contractor

Signature: _____ **Signature:** _____

Title: _____ **Title:** _____

Date: _____ **Date:** ____

ATTACHMENT G

RESPONDER/CONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned verifies its compliance with O.C.G.A. § 13-10-91, as amended, stating affirmatively that the responder submitting a bid to DEKALB COUNTY, GA, a political subdivision of the State of Georgia, has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States 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, as amended].

Company Name

Federal Work Authorization Enrollment Date

Authorized Officer or Agent Signature

Title of Authorized Officer or Agent of Bidder
Identification Number

Federal Work Authorization

Printed Name of Authorized Officer or Agent

Address (*do not include a post office box)

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE

_____ DAY OF _____, 20__

Notary Public

My Commission Expires: _____

ATTACHMENT H

SUBCONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91

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 under a contract with _____ (insert name of Contractor) on behalf of DEKALB COUNTY, GEORGIA has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the Subcontractor with the information required by O.C.G.A. § 13-10-91. Additionally, the undersigned Subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the Contractor within five business days of receipt. If the undersigned Subcontractor receives notice that a sub-subcontractor has received an affidavit from any other contracted sub-subcontractor, the undersigned Subcontractor must forward, within five business days of receipt, a copy of the notice to the Contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor

CEDAR GROVE ROAD BRIDGE REPLACEMENT
Name of Project

DeKalb County, GA
Name of Public Employer

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

Executed on _____, 2016 in _____ (city), _____ (state).

By: _____
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: _____

ATTACHMENT I

SUB-SUBCONTRACTOR AFFIDAVIT UNDER O.C.G.A. § 13-10-91

By executing this affidavit, the undersigned sub-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 under a contract for _____ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract) and _____ (name of Contractor) on behalf of DEKALB COUNTY, GEORGIA has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. § 13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to _____ (name of Subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to _____ (name of Subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number

Date of Authorization

Name of Subcontractor

CEDAR GROVE ROAD BRIDGE REPLACEMENT
Name of Project

DeKalb County
Name of Public Employer

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

Executed on _____, 2016 in _____ (city), _____ (state).

By: _____
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: _____

ATTACHMENT H

FIRST SOURCE JOBS ORDINANCE INFORMATION **(WITH EXHIBITS 1 – 4)**

EXHIBIT 1

First Source Jobs Ordinance Acknowledgement

Contract No. _____

The DeKalb County First Source Ordinance requires contractors or beneficiaries of eligible projects entering into any type of agreement with the County, including purchase orders, regardless of what they may be called, for the procurement or disposal of supplies, services, construction projects, professional or consultant services, which is funded in whole or part with County funds or County administered funds in which the contractor is to receive \$50,000 or more in County expenditures or committed expenditures and recipient of urban redevelopment action grants or community development block funds administered in the amount of \$50,000 or more to make a good faith effort to hire DeKalb County residents for at least 50% of jobs created using the First Source Registry (candidate database) within one hundred twenty (120) days of contract execution. The work to be performed under this contract is subject to the provisions of the DeKalb County First Source Jobs Ordinance. All contractors will be asked to submit an ***Employment Roster*** and/or copies of active payroll registers on a monthly basis to verify compliance. The undersigned acknowledges and agrees to comply with the provisions of the DeKalb County First Source Jobs Ordinance.

CONTRACTOR OR BENEFICIARY INFORMATION:

Contractor or Beneficiary Name (Signature)

Contractor or Beneficiary Name (Printed)

Title

Telephone

Email

Name of Business

Please answer the following questions:

1. How many job openings do you anticipate filling related to this contract? _____
2. How many incumbents/existing employees will retain jobs due to this contract?
DeKalb Residents: _____ Non-DeKalb Residents: _____
3. How many work hours per week constitutes Full Time employment? _____

**Please return this form to WorkSource DeKalb, (404)687-3900 or email to
fkadkins@dekalbcountyga.gov**

FIRST SOURCE JOBS ORDINANCE INFORMATION
EXHIBIT 2

NEW EMPLOYEE TRACKING FORM

Name of Bidder _____

Address _____

E-Mail _____

Phone Number _____

Fax Number _____

Do you anticipate hiring from the First Source Candidate Registry? Y or N (Circle one)

If so, the approximate number of employees you anticipate hiring: _____

Type of Position (s) you anticipate hiring: (List position title, one position per line) Attach job description per job title:	The number you anticipate hiring:	Timeline

**Please return this form to WorkSource DeKalb, fax (404) 687-4099 or email to
FirstSourceJobs@dekalbcountyga.gov.**

FIRST SOURCE JOBS ORDINANCE INFORMATION
EXHIBIT 3

BUSINESS SERVICE REQUEST FORM

note: We need one form completed for each position that you have available.

FEDERAL TAX ID:

COMPANY NAME:

WEBSITE:

ADDRESS:

(WORKSITE ADDRESS IF DIFFERENT):

CONTACT NAME:

CONTACT PHONE:

CONTACT FAX:

CONTACT E-MAIL ADDRESS:

Are you a private employment agency or staffing agency? ☐ **YES** ☐ **NO**

JOB DESCRIPTION: (PLEASE INCLUDE A COPY OF JOB DESCRIPTION)

POSITION TITLE:

NUMBER OF POSITIONS AVAILABLE: _____ **TARGET START DATE:** _____

WEEKLY WORK HOURS: 20-30 hours ☐ 30-40 hours ☐ Other ☐

SPECIFIC WORK SCHEDULE:

SALARY RATE(OR RANGE):

PERM ☐ **TEMP** ☐ **TEMP-TO-PERM** ☐ **SEASONAL** ☐

PUBLIC TRANSPORTATION ACCESSIBILITY **YES** ☐ **NO** ☐

IF SCREENINGS ARE REQUIRED, SELECT ALL THAT APPLY:

☐ **CREDIT** ☐ **DRUG** ☐ **MVR** ☐ **BACKGROUND** ☐ **OTHER** _____

Please return form to: Business Solutions Unit (First Source)

774 Jordan Lane Bldg. #4

Decatur, Ga. 30033

Phone: (404) 687-3400

FirstSourceJobs@dekalbcountyga.gov

EMPLOYMENT ROSTER

DeKalb County

[illegible]

ATTACHMENT K
BID BOND FORM

Attached hereto is Bid Bond made by _____

_____, a surety company listed in the most recent US Treasury Circular No. 570 and licensed to write surety bonds in the State of Georgia, payable to DeKalb County, Georgia (or an official bank check), in the amount of ten percent (10%) of the above Bid, to-wit: \$_____.

If this Bid shall be accepted by DeKalb County and the undersigned shall fail to execute a satisfactory contract in the form of said proposed Contract, give satisfactory Performance and Payment Bonds, or furnish satisfactory proof of the insurance required, as stated in the Instructions to Bidders within ten (10) days from the Notice of Award of the Contract, then the County may at its option, determine that the undersigned abandoned the Contract and thereupon this Bid shall be null and void, and the sum stipulated in the attached Bid Bond (or an official bank check) shall be forfeited to the County as liquidated damages.

Bidder declares his intent to subcontract the portion of the Work as below stated. Bidder understands and agrees that the use of any Subcontractor not listed below shall be strictly prohibited without prior written approval from the County. *(List names of all subcontractors and the work to be provided by the subcontractor on the lines provided below.)*

Bidder further declares that the full names and residence addresses of all persons and parties interested in the foregoing Bid as principals are as follows:

Signed, sealed, and dated this _____ day of _____, 20____.

By: _____ (SEAL)
Signature

Print Name of Signer

Title of Signer

Name of Business Entity Submitting Bid

Bidder's Street Address

Bidder's City, State and Zip Code

Bidder's Phone Number

Bidder's Fax Number

Bidder's E-Mail Address

ATTACHMENT L

SAMPLE STANDARD COUNTY CONTRACT DESIGN/BUILD AGREEMENT

DESIGN AND CONSTRUCTION AGREEMENT BETWEEN OWNER AND DESIGN/BUILDER

This DESIGN AND CONSTRUCTION AGREEMENT (the “**Agreement**” or “**Contract**”) is by and between DEKALB COUNTY, GEORGIA, a political subdivision of the State of Georgia, (hereinafter referred to as the “Owner” or “County”) and _____, a _____ of the State of _____, with offices in _____ County, _____ (hereinafter referred to as the “**Design/Builder**” or “**Contractor**”). This Agreement is for the design and construction of a Project identified as: (the “**Project**”).

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Owner and Design/Builder agree as follows:

ARTICLE I THE CONTRACT AND THE CONTRACT DOCUMENTS

A. The Contract: The Contract between Design/Builder and Owner, of which this Agreement is a part, consists of the Contract Documents. The Contract shall be effective on the date this Agreement is executed by all parties (Owner and Design/Builder).

The Contract Documents: The Contract Documents consist of this Agreement and all attachments and exhibits attached hereto and incorporated herein, the proposal document package – RFVQ 22-500603 CEDAR GROVE ROAD BRIDGE REPLACEMENT dated _____, any Special Conditions issued herewith, all Design Documents hereafter prepared by Design/Builder and approved by Owner in accordance with this Agreement, Change Orders and Field Orders issued in accordance with this Agreement, any other written amendments executed by Owner and Design/Builder, as well as the following:

(list if any)

all of which are hereby incorporated herein by reference and made a part hereof.

C. Enumerated Documents Form Entire Contract: Documents not specifically enumerated in Article I, B. of this Agreement are not Contract Documents.

D. Complete Agreement: The Contract, together with Design/Builder’s and Surety’s performance and payment bonds for the Project, if required, constitute the entire and exclusive agreements between Owner and Design/Builder with reference to the Project. The Contract supersedes any and all prior documents, discussions, communications, representations, understandings, negotiations or agreements by and between the parties.

E. Contract Interpreted as a Whole: The Contract is intended to be an integral whole and shall be interpreted as internally consistent. Work required by any page, part, or portion of the Contract shall be required.

F. Provision of All Things Required: Anything that may be required, implied or inferred by the Contract Documents which make up this Contract, or any one or more of them, shall be provided by Design/Builder for the Contract Price.

G. Privity Only with Design/Builder: Nothing contained in the Contract shall create, nor be interpreted to create, privity or any other relationship whatsoever between Owner and any person except Design/Builder.

H. Agreed Interpretation of Contract Terms: When a word, term, or phrase is used in this Contract, it shall be interpreted or construed first, as defined herein; second, if not defined, according to its generally accepted meaning in the construction industry; and third, if there is no generally accepted meaning in the construction industry, according to its common and customary usage. Headings are used herein solely for convenience.

I. Term “Include” Intended to Be Encompassing: “Include”, “includes”, or “including”, as used in the Contract, shall be deemed in all cases to be followed by the phrase, “without limitation”.

J. Use of Singular and Plural: Words or terms used as nouns in the Contract shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires a contrary meaning.

K. Definition of Material Breaches Not Exhaustive: The specification herein of any act, failure, refusal, omission, event, occurrence or condition as constituting a material breach of the Contract shall not imply that any other, non-specified act, failure, refusal, omission, event, occurrence or condition shall be deemed not to constitute a material breach of the Contract.

L. Order of Precedence: In the event of any conflict, discrepancy, or inconsistency among any of the Contract Documents which make up this Contract, the following shall control:

1. As between figures given on plans and scaled measurements, the figures shall govern;
2. As between large scale plans and small scale plans, the large scale plans shall govern;
3. As between plans and specifications, the requirements of the specifications shall govern;
4. As between this Agreement and the plans or specifications, this Agreement shall govern.

ARTICLE II **DESIGN/BUILDER'S REPRESENTATIONS**

A. Specific Representations: In order to induce Owner to execute this Agreement and recognizing that Owner is relying thereon, Design/Builder, by executing this Agreement, and without superseding, limiting, or restricting any other representation or warranty set forth elsewhere in this Agreement or the Contract, or implied by operation of law, makes the following express representations to Owner:

1. Design/Builder is professionally and fully qualified to act as the design professional and the general contractor for the Project and is, and will remain, licensed to practice engineering and architecture, utility contracting, and general contracting by all public entities having jurisdiction over Design/Builder or the Project;
2. Design/Builder will maintain all necessary licenses, permits or other authorization necessary to act as Design/Builder for the Project until Design/Builder's duties hereunder have been fully satisfied;
3. Design/Builder has the expertise, experience, and knowledge as well as the necessary plant, personnel and financial capability to perform the Design Services and the Work in accordance with the terms of the Contract;
4. Prior to the execution of this Agreement, Design/Builder has visited and inspected the Project site and the local conditions under which the Project is to be designed, constructed and operated, and Design/Builder has performed such tests, if any, as are necessary to determine the surface and sub-surface conditions under which the Work will be performed, and Design/Builder accepts the conditions of the Work site and has taken those conditions into account in entering into the Contract;
5. Design/Builder assumes full responsibility to Owner for the improper acts and omissions of its Subcontractors or others employed or retained by Design/Builder in connection with the Project.

ARTICLE III
REGULATORY GUIDELINES, REQUIREMENTS AND STANDARDS

A. Generally: Design/Builder shall perform all Design Services described in, contemplated by, inferable from, or necessary or desirable to achieve the objectives stated in the Design Scope Specification and the Contract, including all Design Services necessary for the Project to be properly constructed by Design/Builder and used, operated and maintained by Owner in accordance with all applicable guidelines, requirements and standards. "Design Services" means any and all architectural, engineering and design services required to be performed by Design/Builder pursuant to the Contract and all labor, materials, supervision, equipment, computers, documents, and all other things necessary for the performance of such services. The Design / Build Services shall be performed within the time provided by the Design Schedule.

B. Owner's Review of Design Services: Subject to Article XIII, G. of this Agreement, Design/Builder shall submit all documents produced as part of the Design Services to Owner's Representative for review and approval in accordance with the terms of the Contract. However, any such review or approval by Owner or Owner's Representative shall not relieve Design/Builder of or otherwise diminish its obligations under the Contract. Owner may direct Design/Builder to make changes to any such documents in order to conform such documents to Owner's objectives. Any such changes by Design/Builder ordered by Owner shall not relieve Design/Builder of its obligations hereunder unless, and only to the extent that, Design/Builder notifies Owner in writing within seven (7) days of receipt of Owner's directive to make such changes of any adverse impact on schedules, budgets, operational costs, operational performance, satisfaction of regulatory requirements, or other adverse impact that may result from such changes. Failure of Design/Builder to submit its notice within said seven (7) day period shall constitute a waiver by Design/Builder of any claim for an adjustment to the Design Schedule or the Contract Time.

C. Preparation of Site Information: Design/Builder shall prepare, as necessary, surveys and topographic information including aerial photographs needed to establish line and grade of sewers, location of property lines and easements. Sewer easements, both construction and permanent, shall be referenced to property lines by field surveys, and plans shall include the location of any improvement as it relates to property lines.

D. Retention of Geotechnical Consultants: In preparing the Design Documents, Design/Builder shall, if needed, retain an experienced, qualified geotechnical consultant to evaluate all geotechnical considerations relating to the design and construction of the Project. Design/ Builder shall be responsible for designing the Project in accordance with the analysis and recommendations of its geotechnical consultant.

E. Quality of Design Services: Design/Builder shall be responsible for the professional quality, completeness, accuracy, and coordination of Design Documents. Design/Builder shall provide Design Services that will result in an operationally cost-efficient and economical facility that meets all environmental and regulatory requirements as of the date hereof, and uses the most appropriate available technology. Design/Builder shall provide for all testing and inspections required by sound professional architectural and engineering practices and by governmental authorities having jurisdiction over the Project.

F. Coordination with County's Separate Contractors: Design Builder acknowledges that the County intends to engage separate contractors to perform work adjacent and connected to the Project Work. Design/Builder shall cooperate with the County to ensure the efficient coordination with County's separate contractors. Such cooperation shall include, but is not limited to, attending coordination meetings, sharing of schedule and layout information, as well as further reasonably requested integration functions.

G. Compliance with Laws and Regulatory Requirements: In providing Design Services, Design/Builder shall comply with the lawful requirements of all federal, state, and local authorities having lawful jurisdiction over the Project. Design/Builder shall design the Project to meet all

applicable requirements of building control laws and regulations in relation to the design, construction, occupation, and operation of the Project, including, without limitation, environmental standards, fire and safety regulations, and requirements and compliance with all other applicable standards and codes.

H. Laws and Regulations: The Design/Builder's attention is directed to the fact that all applicable Federal, State, and County laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project, shall apply to the Contract throughout, and they will be deemed to be included in the Contract Documents the same as though herein written out in full. The Design/Builder shall keep himself fully informed of all laws, ordinances, and regulations of the Federal, State, and County in any manner affecting those engaged or employed in the Work or the materials used in the Work or in any way affecting the conduct of the Work and of all orders and decrees of bodies or tribunals having any jurisdiction or authority over same. If any discrepancy or inconsistency should be discovered in this Contract, or in the Drawings or Specifications herein referred to, in relation to any such law, regulation, ordinance, order, or decree, Design/Builder shall herewith report the same, in writing, to the Owner. Design/Builder shall at all times observe and comply with all such laws, ordinances, and regulations, and shall protect and indemnify the County and its agents against any such law, ordinance, regulation, order, or decree, whether by Design/Builder or by Design/Builder's employees.

I. Applicable Requirements: The work shall comply with the Contract Documents and with all applicable codes, laws, and regulations of the County, State, or Federal agencies which may have cognizance of any part of the Work. In the event of any conflict between the terms of this Contract and such codes, laws, and regulations, the codes, laws, and/or regulations shall prevail. If the Design/Builder performs any work knowing it to be contrary to such codes, laws, or regulations, and without such notice to the County, Design/Builder shall assume full responsibility therefor and shall bear any and all costs necessary to correct the Work.

J. Duty to Correct Errors: Design/Builder shall, without additional compensation, immediately correct any errors, omissions or deficiencies in its Design Services and Design Documents.

K. Schedule of Design Services: Design/Builder shall submit for Owner's approval the Design Schedule for the performance of Design/Builder's Design Services which shall include allowance for reasonable time required for Owner's review of submissions and for approvals of authorities having jurisdiction over the Project. The Design Schedule, when approved by Owner, shall not, except for good cause, be exceeded by Design/Builder. Should Design/Builder at any time during the course of performing the Contract, have any reason to believe that it will be unable to meet any completion date in accordance with the Design Schedule, it shall immediately notify Owner's Representative in writing. In such notice, Design/Builder shall state the reason for the delay including the party responsible, if any, and the steps being taken to remedy or minimize the impact of the delay. Failure of Design/Builder to submit such notice shall constitute a waiver by Design/Builder of any claim for an adjustment to the Contract Price, the Design Schedule, or the Contract Time. All extensions of time shall be governed by Articles XVI and XVII of this Agreement. Subject to the provisions of Article XIII, G. of this Agreement, Owner shall review and approve, where appropriate, the Design Schedule, or any portion thereof.

ARTICLE IV

DETAILED DESIGN

A. Time For Preparation: The Design/Builder shall prepare and submit to Owner the complete Detailed Design with the Target Detailed Design Period after Owner has issued a Notice to Proceed to the Design/Builder. The number of Calendar Days between the Notice to Proceed and the Scheduled Detailed Design Substantial Completion Date is the Target Detailed Design Period.

B. The Detailed Design: The Detailed Design shall include all Design Documents which shall describe with specificity all elements, details, components, materials, and other information necessary for the complete construction of the Project and the rendering of the Project fully operational for its intended purposes, including satisfaction of all testing, permitting, qualifications, certifications, validations, and obtaining regulatory approvals by all applicable regulatory authorities required to render the Project and all its components operational and functionally and legally usable for their intended purpose. Subject to the provisions of Article XIII, G. of this Agreement, Owner shall review and approve, where appropriate, the Design Documents, or any portion thereof.

C. Design Documents: Design Documents means all the design documents provided by Design/Builder and approved by Owner pursuant to the Contract including, without limitation, those for use in constructing the Project, performing the Work, and the rendering of the Project fully integrated, operational, and shall include, without limitation, detailed plans, drawings, specifications, manuals, and related materials prepared by or on behalf of Design/Builder.

D. Schedule of Design Services: The Design Schedule for the performance of Design/Builder's Design Services shall be that submitted as part of the RFVQ Proposal. The Design Schedule shall include allowance for reasonable time required for Owner's review of submissions in accordance with the Technical Provisions. Approvals of other authorities having jurisdiction over the Project are excluded from the Design Schedule. Should Design/Builder at any time during the course of performing the Contract, have any reason to believe that it will be unable to meet any completion date in accordance with the Design Schedule, it shall immediately notify Owner's Representative in writing. In such notice, Design/Builder shall state the reason for the delay including the party responsible, if any, and the steps being taken to remedy or minimize the impact of the delay. Failure of Design/Builder to submit such notice shall constitute a waiver by Design/Builder of any claim for an adjustment to the Contract Price, the Design Schedule, or the Contract Time. All extensions of time shall be governed by Articles XVI and XVII of this Agreement. Subject to the provisions of Article XIII, G. of this Agreement, Owner shall review and approve, where appropriate, any modifications to the Design Schedule, or any portion thereof.

E. Liquidated Damages for Delay in Submittal of Detailed Design: Design/Builder shall pay Owner the sum of five hundred dollars and NO/100th (\$500.00) per day for each day the Project remains out of compliance for submission of Detailed Design after the Scheduled Detailed Design Period. Any sums due and payable hereunder by Design/Builder shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. Such liquidated damages shall apply regardless of whether Design/Builder has been terminated by Owner prior to submission of Detailed Design so long as Design/Builder's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Design/Builder's performance hereunder for matters other than delays in submission of Detailed Design.

F. Incentive Payment for Early Submittal of Detailed Design: Owner shall pay Design/Builder the sum of five hundred dollars and NO/100th (\$500.00) per day for each day the submission of the Detailed Design is in advance of the completion of the Scheduled Detailed Design

Period. The Detailed Design shall be complete at the time of submittal, have no significant outstanding comments, and be suitable for immediate submittal to Norfolk Southern.

ARTICLE V

CONSTRUCTION SERVICES

A. General Intent: Design/Builder shall perform all Construction Work necessary to construct the Project in accordance with the Contract and to render the Project and all its components operational, functional and legally usable for their intended purpose.

B. Work Defined: The term “Construction Work” shall mean whatever is done by or required of Design/Builder to perform and complete its duties relating to the construction of the Project under the Contract, including, without limitation, the following:

1. Construction of the whole and all parts of the Project in full and strict conformity with the Contract;
2. The provision and furnishing, and prompt payment therefor, of all labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, fuel, heat, light, cooling, other utilities and things required for the construction of the Project;
3. The procurement and furnishing of all necessary building permits and other permits required for the construction of the Project;
4. The creation and submission to Owner of detailed as-built drawings depicting all as-built construction;
5. The furnishing of any required surety bonds and insurance as required by the Contract;
6. The furnishing of all equipment and product warranties, manuals, test results and user guides required by the Contract or otherwise reasonably available to Design/Builder;
7. The furnishing of all other services and things required or reasonably inferable from the Contract Documents, including the provisions of Article 9 below.

ARTICLE VI

TIME FOR CONSTRUCTION: THE CONTRACT TIME

A. Notice of Commencement: After Owner has approved the Design Documents for the Detailed Design, Owner shall issue a notice to commence the Work directing Design/Builder to proceed with the Work on the date indicated in the notice (the “Commencement Date”). The notice to commence Work shall be issued at least ten (10) days prior to the Commencement Date.

B. Time for Completion: Design/Builder shall commence the Construction Work on the Commencement Date, and the Work shall be carried out regularly and without interruption. Design/Builder shall substantially complete the Work within the Target Construction Period or such other date as may by Change Order be designated (the “Scheduled Substantial Completion Date”). The number of calendar days between the Commencement Date and the Scheduled Substantial Completion Date is the Target Construction Period. Design/Builder shall achieve Final Completion of the Work no later than ___ calendar days after the date of Substantial Completion.

C. Contract Term: This Contract shall terminate in accordance with the termination provisions of this Contract, and terminate absolutely, with no renewals, on _____ unless extended by Change Order adopted and approved by the DeKalb County Governing Authority and the Contractor in accordance with the terms of this Contract.

D. Design/Builder's Schedule of Construction: Design/Builder, within fifteen (15) days after the Commencement Date, shall submit to Owner, for its information, and comply with, Design/Builder's Schedule of Construction for completing the Work by the Scheduled Completion Date. The Schedule of Construction shall reflect the performance of all Work on week days and non-holidays. The Schedule of Construction shall be a detailed critical path (CPM) schedule in a form acceptable to Owner. The Schedule of Construction shall be revised at least monthly and shall be revised to reflect conditions encountered from time to time and shall be related to the entire Project. Each such revision shall be furnished to Owner. Strict compliance with the requirements of this Paragraph shall be a condition precedent for payment to Design/Builder, and failure to strictly comply with said requirements shall constitute a material breach of the Contract.

E. Liquidated Damages For Delay In Substantial Completion: Design/Builder shall pay Owner the sum of six hundred thirty-eight dollars and NO/100th (\$1,000.00) per day for each and every calendar day of unexcused delay in achieving Substantial Completion beyond the Scheduled Completion Date. Any sums due and payable hereunder by Design/Builder shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. Such liquidated damages shall apply regardless of whether Design/Builder has been terminated by Owner prior to Substantial Completion so long as Design/Builder's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Design/Builder's performance hereunder for matters other than delays in Substantial Completion. When Owner reasonably believes that Substantial Completion will be unexcusably delayed, Owner shall be entitled, but not required, to withhold from any amounts otherwise due to Design/Builder an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Design/Builder overcomes the delay in achieving Substantial Completion, or any part thereof, for which Owner has withheld payment, Owner shall promptly release to Design/Builder those funds withheld, but no longer applicable as liquidated damages.

F. Incentive Payment for Early Substantial Completion: Owner shall pay Design/Builder the sum of one thousand dollars and NO/100th (\$1000.00) per day for each day that Substantial Completion is achieved in advance of the Scheduled Substantial Completion Date.

G. Liquidated Damages for Delay In Final Completion: If Design/Builder fails to achieve Final Completion within 90 calendar days from the Substantial Completion date, Design/Builder shall pay Owner the sum of _____ (\$XXX.XX) per day for each and every calendar day of unexcused delay in achieving Final Completion beyond the date set forth herein for Final Completion of the Work. Any sums due and payable hereunder by Design/Builder shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by Owner, estimated at the time of executing this Agreement. Such liquidated damages shall apply regardless of whether Design/Builder has been terminated by Owner prior to Final Completion so long as Design/Builder's actions or inactions contributed to the delay. Such liquidated damages shall be in addition to and not in preclusion of the recovery of actual damages resulting from other defects in Design/Builder's performance hereunder for matters other than delays in Final Completion. When Owner reasonably believes that Final Completion will be inexcusably delayed; Owner shall be entitled, but not required, to withhold from any amounts otherwise due to Design/Builder an amount then believed by Owner to be adequate to recover liquidated damages applicable to such delays. If and when Design/Builder overcomes the delay in achieving Final Completion, or any part thereof, for which Owner has withheld payment, Owner shall promptly release to Design/Builder those funds withheld, but no longer applicable as liquidated damages.

H. Time Is of The Essence: All limitations of time set forth herein are material and time is of the essence of the Contract.

Time for Completion and Liquidated Damages:

1. It is hereby understood and mutually agreed, by and between the Design/Builder and the County, that the date of beginning, rate of progress, and the time for completion of the Work are essential conditions of this Contract; and it is further mutually understood and agreed that the Work embraced in this Contract shall be commenced on a date to be specified in the Notice to Proceed.
2. The Design/Builder agrees that said work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed, by and between the Design/Builder and the County, that the time for the completion of the Work described herein is a reasonable time for the completion of the same, taking into consideration the average climate range and usual industrial conditions prevailing in this locality.
3. If the said Design/Builder shall neglect, fail or refuse to complete the Work within the time herein specified, then the Design/Builder does hereby agree, as a part consideration for the awarding of this Contract, to pay to the County, the amount specified herein, not as a penalty, but as liquidated damages.
4. It is further agreed that time is of the essence of each and every portion of this Contract and of the Specifications wherein a definite portion and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be the essence of this Contract. Provided, that the Design/Builder shall not be charged with liquidated damages or any excess cost when the delay in completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the Design/Builder, including but not restricted to, acts of God, or to the public enemy, acts of the County, acts of another contractor in the performance of the contract with the County, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather exceeding the average climatic conditions in the area of the Work.
5. Provided further, that the Design/Builder shall within seven (7) days from the beginning of such delay, notify the County, in writing, of the causes of the delay, who shall ascertain the facts and extent of the delay and notify the Design/Builder within a reasonable time of its decision in the matter.
6. Where the County has beneficial occupancy of a usable facility prior to the expiration of the specified Contract Time, but where contract work items remain outstanding, the County, at its option, may, in lieu of all or a portion of liquidated damages owed by the Design/Builder, charge the Design/Builder for actual cost of administering the Contract for the period subsequent to expiration of the Contract completion date.

ARTICLE VII

ADDITIONAL DUTIES AND RESPONSIBILITIES OF DESIGN/BUILDER

A. Examination of Work by Design/Builder: It is understood and agreed that the Design/Builder has, by careful examination, satisfied itself as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the facilities needed preliminary to and during the prosecution of the Work, the general and local conditions, and all other matters which can in any way affect the Work or the cost thereof under this Contract. No verbal agreement or conversation with any officer, agent, or employee of the County, either before or after the execution of the Contract, shall affect or modify any of the terms or obligations herein contained.

B. Materials, Services, and Facilities:

1. The Design/Builder shall at all times employ sufficient labor and equipment for prosecuting the Work to full completion in the manner and time specified. Failure of the Design/Builder to provide adequate labor and equipment may result in default of

the Contract. The labor and equipment to be used in the Work by the Design/Builder shall be sufficient to meet the requirements of the Work and shall be such as to produce a satisfactory quality of work, in accordance with accepted industry practices within the time specified in the Contract.

2. Materials and equipment shall be so stored and handled as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection. No product which has in any way become unfit for the intended purpose shall be incorporated into the Work.
3. Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, cleaned, tested and commissioned as directed by the manufacturer.
4. Materials, supplies, and equipment to be incorporated into the Work shall be new and unused unless otherwise specifically stated in the Contract Documents. The source of supply for all such products shall be submitted to the Owner, together with detailed descriptions thereof in the form of samples, Shop Drawings, tests, or other means necessary to adequately describe the items proposed. If, after trial, it is found that sources of supply, even though previously approved by the Owner, have not furnished products meeting the intent of the Contract Documents, the Design/Builder shall thereafter furnish products from other approved sources, and shall remove completed Work incorporating products which do not meet Contract requirements.

C. Design/Builder to Perform All Work Required by the Contract: The intent of the Contract is to require complete, correct and timely execution of the design and the Work. Any and all Work that may be required, reasonably implied or reasonably inferred by the Contract, or any part of it, as necessary to produce the intended result shall be provided by Design/Builder in accordance with Article X of this Agreement for the Contract Price.

D. Design/Builder's Obligations: The Design/Builder shall, in good workmanlike manner, do and perform, all work and furnish all supplies and materials, machinery, equipment, facilities, and means, except as herein otherwise expressly specified, necessary, or proper to perform and complete all the Work required by this Contract, within the time herein specified, in accordance with the provisions of this Contract and said Specifications and in accordance with the Drawings of the Work covered by this Contract and any and all supplemental drawings of the Work covered by this Contract. Design/Builder shall furnish, erect, maintain, and remove such construction, plants, and such temporary works as may be required. Design/Builder alone shall be responsible for the safety, efficiency, and adequacy of Design/Builder's plants, appliances, and methods, and for any damage which may result from their failure or their improper construction, maintenance, or operation. The Design/Builder shall observe, comply with, and be subject to all terms, conditions, requirements and limitations of the Contract and Specifications, local ordinances, and State and Federal laws; and shall do, carry on, and complete the entire Work.

E. Strict Compliance with The Contract Documents: All Work performed by Design/Builder shall be in strict compliance with the Contract. "Substantial Compliance" is not strict compliance. Any Work not in strict compliance with the Contract is defective.

F. Supervision of the Work: The Work shall be strictly supervised and directed using Design/Builder's best and highest skill and effort, Design/Builder bearing full responsibility for any and all acts or omissions of those engaged in the Work on behalf of Design/Builder.

G. Warranty of Workmanship and Materials: Design/Builder warrants and guarantees to Owner that all labor furnished to progress the Work under the Contract will be competent to perform the tasks undertaken and is the best quality obtainable, that the product of such labor will yield only first-class results in strict compliance with the Contract, that materials and equipment furnished will be of high quality and new unless otherwise permitted by the Contract, and that the Work will be of high quality, free from faults and defects and in strict conformance with the Contract. Any and all

Work not strictly conforming to these requirements shall be considered defective and shall constitute a breach of Design/Builder's warranty.

H. Commencement of Guarantee and Warranty: Special or specific guarantees and warranties which are required by the Contract to run for a fixed period of time shall commence running on the date of Substantial Completion of all Work.

I. Record Copy of Contract Documents: Design/Builder shall continuously maintain at the site, for the benefit of Owner, an updated copy of the Contract, including one record copy of the Contract Documents marked to record on a current basis changes, selections and modifications made during construction. Additionally, Design/Builder shall maintain at the site, for the benefit of Owner, a copy of all Shop Drawings, Product Data, Samples, and other Submittals. Upon Final Completion of the Work, and/or upon Owner's request, all of the documents described in this Paragraph shall be finally updated and delivered to Owner and shall become the property of Owner.

J. Review and Approval of Submittals: Design/Builder shall review, study, and approve, or take other necessary action upon all Shop Drawings, Product Data, Samples, and other Submittals to ensure that the Project will be constructed in a timely fashion in strict compliance with the Contract.

K. Owner's Option to Review Submittals: Owner shall, in its discretion, have the right to review and approve Submittals, and if Owner so elects, Design/Builder shall not perform any portion of the Work as to which Owner has required Submittal and review until such Submittal has been approved by Owner's Representative. Approval by Owner, however, shall not be evidence that Work installed pursuant thereto conforms to the requirements of the Contract nor shall such approvals relieve Design/Builder of any of its responsibilities or warranties under the Contract. If Owner elects to review Submittals, Design/Builder shall maintain a Submittal log which shall include, at a minimum, the date of each Submittal, the date of any resubmittal, the date of any approval or rejection, and the reason for any approval or rejection. Design/Builder shall have the duty to carefully review, inspect and examine any and all Submittals before submission of same to Owner. Shop Drawings and other Submittals from Design/Builder do not constitute a part of the Contract.

L. Procurement and Review of Warranties: Design/Builder shall procure from all Subcontractors and Suppliers and shall transmit in writing to the Owner, all warranties required by the Contract. Design/Builder shall review all such warranties and shall certify to Owner that the warranties are in strict compliance with the requirements of the Contract.

M. Procurement of Operations and Maintenance Documentation: Design/Builder shall prepare or procure and shall transmit to Owner all documentation required by the Contract regarding the operation and recommended maintenance programs relating to the various elements of the Work.

N. As-Built Drawings: Design/Builder shall prepare and provide to Owner a complete set of all as-built drawings which shall be complete and, except as specifically noted, shall reflect performance of the Work in strict compliance with the requirements of the Contract. The Design/Builder shall, upon completion of the Work, furnish a marked set of Drawings showing the field changes, as actually installed and as specified under sections of the Specifications, and deliver them to the Owner.

O. Compliance with Labor Laws: Design/Builder shall assume all labor responsibility for all personnel assigned to or contracted for the performance of the Work and agrees to strictly comply with all its obligations as employer with respect to said personnel under all applicable labor laws.

P. Inspection and Testing of Materials: Unless otherwise specifically provided for, the inspection and testing of materials and finished articles to be incorporated in the Work at the site shall be made by bureaus, laboratories, or agencies approved by the Owner. The cost of such inspection and testing shall be paid by the Design/Builder. The Design/Builder shall furnish evidence satisfactory to the Owner that the material and finished articles have passed the required tests prior to the incorporation of such materials and finished articles in the Work.

Q. Inspection of Work:

1. The Design/Builder shall, at all times, permit and facilitate inspection of the Work by authorized representatives of the Owner and public authorities having jurisdiction in connection with the Work of this Contract. The presence or observations of the Owner or its representative at the site of the Work shall not be construed to, in any manner, relieve the Design/Builder of this responsibility for strict compliance with the provisions of the Contract Documents.
2. If the specifications, County's instructions, laws, ordinances, or a public authority require any work to be specially tested or approved, the Design/Builder shall give the Owner timely notice of its readiness for observation or inspection. If the inspection is by another authority, then the Owner shall be advised of the date fixed for such inspection. Required certificates of inspection shall be secured by the Design/Builder. Design/Builder having secured all certificates of inspection will deliver same to the Owner upon completion. If any work should be covered up without approval or consent of the Owner, it shall, if required by the Owner, be uncovered for examination at the Design/Builder's expense.
3. Should any disagreement or difference arise as to the estimate, quantities, or classifications or as to the meaning of the Drawings or Specifications, or any point concerning the character, acceptability, and nature of the several kinds of work, any materials and construction thereof, the decisions of the Owner shall be final and conclusive and binding upon all parties to the Contract.

S. Owner's Regulations and Applicable Laws: Design/Builder shall, during the course of the Work, comply with any regulations or guidelines prescribed by Owner. Design/Builder warrants that it will comply with all public laws, ordinances, rules and regulations applicable to the services to be performed under the Contract, including without limitation, those relating to the terms and conditions of the employment of any person by Design/Builder in connection with the Work to be performed under the Contract.

T. Compliance with Construction Regulations: Design/Builder shall perform the Work in accordance with all construction codes, laws, ordinances or regulations applicable to the design and execution of the Work. Any fine or penalty which may be imposed as consequence of any violation of this provision shall be paid by Design/Builder, and Design/Builder shall indemnify and hold Owner harmless from all loss, damages, and expense, including attorney's fees, resulting from any such violation or alleged violation.

U. Permits, Licenses and Notices: All construction and building permits, licenses and authorizations necessary for the construction of the Project shall be secured and paid for by Design/Builder. Design/Builder shall notify Owner's Representative when it has received said permits, licenses and authorizations and upon receipt shall supply Owner with copies of same. The originals of said permits, licenses and authorizations shall be delivered to Owner upon completion of the Work, and receipt of such documents by Owner shall be a condition precedent to final payment. Design/Builder shall also give and maintain any and all notices required by applicable laws pertaining to the construction of the Work. The County will not charge the Design/Builder for permits and inspections obtained from the County.

V. Conditions to Site Access: While on Owner's property, all Design/Builder's employees and Subcontractors shall confine themselves to areas designated by Owner's Representative and will be subject to Owner's badge and pass requirements, if any, in effect at the site of the Work.

W. Protection of Work, Property, and Persons:

1. The Design/Builder will be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work, including those required by Norfolk Southern Railway. Design/Builder will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or

loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, lakes, drainage ways, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

2. The Design/Builder will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. Design/Builder will erect and maintain, as required by the conditions and progress of the Work, all necessary warning, safeguards for devices and safety and protection of the Work, the public, and adjoining property. Design/Builder will notify owners of adjacent utilities when prosecution of the Work may affect them. The Design/Builder will remedy all damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the Design/Builder, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.
3. The Design/Builder shall, prior to commencing other on-site work, accurately locate utilities within the structure and above and below ground utilities and structures which may be affected by the Work, using whatever means may be appropriate. The Design/Builder shall mark the location of existing utilities and structures, not otherwise readily visible, with flagging, stakes, barricades, or other suitable means, and shall preserve and protect all utilities and structures not designated for removal, relocation, or replacement in the course of construction. Design/Builder shall notify the Owner promptly on discovery of any conflict between the Contract Documents and any existing facility.
4. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, or unanticipated conditions where delay would substantially impact the time or cost of work, the Design/Builder, upon notification to the Owner, shall act to prevent threatened damage, injury, or loss. Any claim for compensation or extension of time by the Design/Builder due to such extra work shall be submitted to the Owner, in writing, within ten (10) days of the date of performing such work or deviations in the manner prescribed for a Change Order.
5. All existing utilities, both public and private, including sewer, gas, water, electrical, and telephone services, etc., shall be protected and their operation shall be maintained through the course of the Work. Any temporary shutdown of an existing service shall be arranged between the Design/Builder and the responsible agency. The Design/Builder shall assume full responsibility and hold the County harmless from the result of any damage that may occur as a result of the Design/Builder's activities.

X. Repair of Collateral Damages: Unless otherwise instructed by Owner, Design/Builder shall repair and return to original condition all buildings, streets, curbs, sidewalks, utilities or other facilities affected by Design/Builder's performance of the Work.

Y. Cleaning Up: The Design/Builder shall at all times keep the premises free from accumulation of waste materials or rubbish caused by Design/Builder's employees or work. Upon completion of the Work, the Design/Builder shall remove all Design/Builder's plants, tools, materials, and other articles from the property of the County.

Z. Access to Work: The County shall at all times have access to the Work wherever it is in preparation or progress and the Design/Builder shall provide proper facilities for such access without formality or other procedures.

AA. Decisions Regarding Aesthetic Effect: Owner's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of the Contract.

BB. Design/Builder to Remain an Independent Contractor: In the performance of the Contract, Design/Builder's status as an independent contractor shall not be modified or diminished by reason of any instructions issued by Owner or Owner's Representative to Design/Builder or any of Design/Builder's employees, Subcontractors, or representatives.

CC. Assignments: The Design/Builder shall not assign the whole or any part of this Contract or any monies due or to become due hereunder without written consent of the County.

ARTICLE VIII **CONTRACT PRICE**

Contract Price: Owner shall pay, and Design/Builder shall accept, as full and complete payment for the Design Services, the performance of all Construction Work required by the Contract, and the performance of all requirements of this Agreement, the Contract Price. The Contract Price shall be a sum in the amount of XXXXXXXXX dollars and XX/100th (\$XXXX.XX)

ARTICLE IX **PAYMENT OF THE CONTRACT PRICE**

A. Payment Procedure: Owner shall pay the Contract Price to Design/Builder in accordance with the procedures set forth in this Article IX.

Partial payments to the Design/Builder shall be made monthly, based on the value of the Design Services and Construction Work completed as provided in the Contract Documents and detailed in the Schedule of Values.

Payment to the Design/Builder shall be made within thirty (30) days of submission by the Design/Builder of a duly certified and approved invoice of work performed during the preceding calendar month, less the amount of retainage. The invoice shall be submitted on or before the fifteenth (15th) day following the month in which the Work was performed. The amount of retainage shall be as follows:

1. ____ (%) percent of each progress payment shall be withheld as retainage until the value of ____ (%) percent of the Contract Price, including change orders and other authorized additions provided in the Contract is due;
2. When ____ (%) percent of the contract value, as described above, becomes due and the manner of completion of the contract work and its progress are reasonably satisfactory to the County, the withholding of retainage shall be discontinued. If after discontinuing the retention, the County determines that the Work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level.
3. When the Work is substantially complete (operational or beneficial occupancy) and the County determines the Work to be reasonably acceptable, the Design/Builder shall submit an invoice or other documents as may be required and receive payment thereof within thirty (30) days. If there are any remaining incomplete minor items, an amount equal to _____ (%) percent of the value of each item, as determined by the County, shall be withheld until such items are completed.
4. This Contract is governed by O.C.G.A. § 13-10-80, which requires that the Design/Builder, within ten (____) days of receipt of retainage from DeKalb County, pass through payments to Subcontractors and reduce each Subcontractor's retainage accordingly. The Code provision also requires Subcontractors to pass through payments to Lower Tier Subcontractors and reduce each lower tier contractor's retainage. Therefore, DeKalb County, in its discretion, may require the Design/Builder to submit satisfactory evidence that all payrolls, material bills, or other indebtedness connected with the Work have been paid before making any payment. Within sixty (60) days after the Work is fully completed and accepted by the County, the balance

due hereunder shall be paid; provided, however, that final payment shall not be made until said Design/Builder shall have completed all work necessary and reasonably incidental to the Contract, including final cleanup and restoration.

5. Owner shall be entitled to rely upon the accuracy and completeness of the information furnished by Design/Builder in connection with its request for payment. Owner shall have the right, however, upon demand, to make a detailed examination, audit or inspection of Design/Builder's books and records for the purpose of verifying the accuracy and completeness of such information. In the event Owner determines that Design/Builder has been paid any sums not due Design/Builder, same shall be reimbursed by Design/Builder to Owner within forty-eight (48) hours of demand by Owner.
6. Notwithstanding any other provision in the Contract Documents, final payment shall not be made to Design/Builder until Design/Builder has fully performed all of its obligations under the Contract and the Design Services and the Work are fully complete.

B. Owner's Review of Pay Requests: Owner shall have the right to review all pay requests and the Design Services and the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work and the Design Services is as represented in the pay request and as required by the Contract.

C. Conditions Precedent To Payment: In addition to all other conditions precedent contained herein, it shall be a condition precedent to payment of any pay request that Design/Builder have submitted updated schedules for the performance of its Work and Design Services as required by this Agreement and that Design/Builder shall have furnished to Owner properly executed waivers of lien, in a form acceptable to Owner, from all Subcontractors, materialmen, Suppliers or others having lien rights, wherein they shall acknowledge receipt of all sums due pursuant to all prior pay requests and waive and relinquish any liens or lien rights relating thereto.

D. Title Passes Upon Payment: Design/Builder warrants and represents that upon payment of any pay request submitted by Design/Builder, title to all Work covered by the pay request shall immediately pass to Owner. All equipment, materials, and work covered by progress payments shall, upon payment thereof, become the sole property of the County, but this provision shall not be construed as relieving the Design/Builder from the sole responsibility for the care and protection of materials and work upon which payments have been made, or the restoration of any damaged work.

E. Payment Not a Waiver or Acceptance: No payment to Design/Builder, nor any use or occupancy of the Project by Owner, shall be interpreted or construed to constitute acceptance of any Work not in strict compliance with the Contract, and Design/Builder expressly accepts the risk that defective Work may not be detected (1) during any inspection by Owner, (2) prior to making of any payment to Design/Builder, or (3) before Owner's occupancy of the Project.

F. Withholding of Payment: Owner shall have the right to refuse to make payment and, if necessary, may demand the return of a portion or all of the amount previously paid to Design/Builder in an amount then believed by Owner to be adequate to cover the penalties, damages, and potential losses resulting or likely to result from:

1. The quality of a portion, or all, of Design/Builder's Work not being in accordance with the requirements of this Contract;
2. The quantity of Design/Builder's Work not being as represented in Design/ Builder's pay request, or otherwise;
3. Design/Builder's rate of progress being such that, in Owner's opinion, Substantial Completion, Final Completion, or both, may be inexcusably delayed;
4. Design/Builder's failure to use Contract funds, previously paid Design/Builder by Owner, to pay Design/Builder's Project-related obligations including, but not limited to, Subcontractors, laborers and material and equipment Suppliers;

5. Evidence that the balance of the Work cannot be completed in accordance with the Contract for the unpaid balance of the Contract Price;
6. Claims made, or likely to be made, against Owner or its property;
7. Loss caused by Design/Builder; Design/Builder's failure or refusal to perform any of its obligations to Owner. In the event that Owner makes written demand upon Design/Builder for amounts previously paid by Owner as contemplated in this Article XI, H., Design/Builder shall promptly comply with such demand.

G. Unexcused Failure to Pay: If Owner, without cause or basis hereunder, fails to pay Design/Builder any amounts due and payable to Design/Builder within thirty (30) days after the date established herein for payment of such amounts, then Design/Builder may suspend its Design Services or, as applicable, the Work until payment is made, provided that Design/Builder first gives ten (10) days' written notice to Owner of its intent. Any payment due hereunder which is not made within thirty (30) days after the date due shall bear interest at the rate of 7 percent (7%) per annum.

H. Payments to Design/Builder: Cost Breakdown - The Design/Builder shall be prepared to submit a cost breakdown immediately after the opening of Bids. Cost breakdown shall be based on values of parts of the Work as divided according to sections of the Specifications and shall be further subdivided into labor and materials.

ARTICLE X

SUBSTANTIAL AND FINAL COMPLETION

A. Substantial Completion: "Substantial Completion" means that stage in the progression of the Work, as approved by Owner in writing, when the Project is sufficiently complete in accordance with the Contract that Owner can enjoy beneficial use or occupancy of the entire Project and can utilize it for all of its intended purposes. A condition precedent to Substantial Completion is the receipt by Owner of all necessary certificates of occupancy or other authorizations for the use and occupancy of the Project required by any governmental or regulatory authority. Owner reserves the right to occupy and use any part, phase or system of the Project when such part, phase or system is substantially completed, but such partial use or occupancy of the Project shall not result in the Project being deemed substantially complete, and such partial use or occupancy shall not be evidence of Substantial Completion.

B. Determination of Substantial Completion: When Design/Builder believes that the Work is substantially complete, Design/Builder shall notify Owner in writing and shall submit to Owner a list of items remaining to be completed or corrected. Owner will perform an inspection and if the Work is substantially complete in the opinion of Owner, Owner will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion. The Certificate of Substantial Completion shall state the responsibilities of Owner and Design/Builder for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the date, 30 days hence, within which Design/Builder shall complete any items of incomplete or defective Work. The Certificate of Substantial Completion shall be submitted to Design/Builder for its written acceptance of the responsibilities assigned to it in such certificate.

C. Final Completion: "Final Completion" means the completion of all Design Services and all Work required by, and in strict compliance with, the Contract, including Design/Builder's provision to Owner of all documents and things required to be provided by the Contract.

D. Determination of Final Completion: When Design/Builder believes that all of the Work is finally complete, and Design/Builder is ready for a final inspection, Design/Builder shall so notify Owner in writing. Owner will then make final inspection of the Work and, if the Work is complete in strict accordance with the Contract, and the Contract has been fully performed, then Owner will issue a Certificate for Final Payment, providing for payment of the remainder of the Contract Price, less any amount withheld pursuant to the Contract.

E. Conditions Precedent to Final Payment: Prior to being entitled to receive final payment, and as a condition precedent thereto, Design/Builder shall furnish Owner, in the form and manner required by Owner, the following:

1. An affidavit that all of Design/Builder's obligations to Subcontractors, laborers, equipment or material Suppliers, or other third parties in connection with the Project, have been paid or otherwise satisfied;
2. If required by Owner, separate releases of lien or lien waivers from each Subcontractor, lower tier subcontractor, laborer, Supplier or other person or entity who has, or might have a claim against Owner or Owner's property;
3. If applicable, consent(s) of Surety to final payment;
4. A complete set of the as-built drawings and the record set of Contract Documents;
5. All product warranties, operating manuals, instruction manuals and other record documents, drawings and things customarily required of a contractor, or expressly required herein, as a part of or prior to Project closeout.

F. Acceptance of Final Payment a Waiver: Acceptance by Design/Builder of final payment shall constitute a waiver and release of all claims against Owner by Design/Builder except for those claims previously made in writing against Owner by Design/Builder, pending at the time of final payment and specifically identified on Design/Builder's pay request for final payment as unsettled at the time it submits its pay request.

G. Final Payment:

1. Before final payment to the Design/Builder of the percentage retained by the County, the following requirements shall be complied with:
 - a. Final Inspection: Upon notice from the Design/Builder that Design/Builder's work is completed, the Owner shall make a final inspection of the Work, and shall notify the Design/Builder of all instances where Design/Builder's work fails to comply with the Drawings and Specifications, as well as any defects Design/Builder may discover. The Design/Builder shall immediately make such alterations as are necessary to make the Work comply with the Drawings and Specifications. Failure of the Owner to notify the Design/Builder of any defect or deficiency in the Work and/or failure of the Work to comply with the Drawings and Specifications shall not release or discharge the Design/Builder from any of its duties or obligations under this Agreement.
 - b. Final Payment: When the Work under this Contract is completed, a final payment request shall be submitted representing the original Contract Price and Change Orders to the Contract. The final payment shall not be due until the Design/Builder shall have completed all work necessary and reasonably incidental to the Contract, including final clean-up.
2. Acceptance of the Work and the making of final payment shall not constitute a waiver of any claims by the County. Payments otherwise due the Design/Builder may be withheld by the County because of defective work not remedied and unadjusted damage to others by the Design/Builder or Subcontractors, vendors, or laborers.
3. Requests for final payment must be submitted within sixty (60) days after the Work has been completed and accepted by the County. All requests for final payment are subject to final approval and audit by the Board of Commissioners of DeKalb County.

ARTICLE XI
OWNER'S DUTIES, OBLIGATIONS, AND RESPONSIBILITIES

In addition to payment, Owner shall undertake to perform the following:

A. Provide Project Information: Owner shall provide Design/Builder with information regarding Owner's requirements for the Project including any desired or required design or construction schedule.

B. Review of Documents: Owner shall review any documents submitted by Design/Builder requiring Owner's decision, and shall render any required decisions pertaining thereto.

C. Provide Notice of Defects: In the event Owner knows of any material fault or defect in the Work, nonconformance with the Contract, or of any errors, omissions or inconsistencies in the Design Documents, then Owner shall give prompt notice thereof to Design/Builder.

D. Access to the Site and the Work: Owner shall provide Design/Builder access to the site and to the Work, and shall provide Design/Builder with such information, existing and reasonably available, necessary to Design/Builder's performance of the Contract as Design/Builder may request.

E. Cooperation to Secure Permits, Licenses, Approvals, and Authorizations: Owner shall cooperate with Design/Builder in securing any necessary licenses, permits, approvals or other necessary authorizations for the design, construction and certification of the Project.

F. Timely Performance: Owner shall perform the duties set forth in this Article 13 in a reasonably expeditious fashion so as to permit the orderly and timely progress of Design/Builder's Design Services and of the Work.

G. Owner's Reviews, Inspections, Approvals, And Payments Not a Waiver: Owner's review, inspection, or approval of any Work, Design Documents, Submittals, or pay requests by Design/Builder shall be solely for the purpose of determining whether such Work and such documents are generally consistent with Owner's construction program and requirements. No review, inspection, or approval by Owner of such Work or documents shall relieve Design/Builder of its responsibility for the performance of its obligations under the Contract or the accuracy, adequacy, fitness, suitability, or coordination of its Design Services or the Work. Approval by any governmental or other regulatory agency or other governing body of any Work, Design Documents, or Contract Documents shall not relieve Design/Builder of responsibility for the strict performance of its obligations under the Contract. Payment by Owner pursuant to the Contract shall not constitute a waiver of any of Owner's rights under the Contract or at law, and Design/Builder expressly accepts the risk that defects in its performance, if any, may not be discovered until after payment, including final payment, is made by Owner.

H. Delay or Forbearance Not Waiver: Owner's agreement not to exercise, or its delay or failure to exercise, any right under the Contract or to require strict compliance with any obligation of Design/Builder under the Contract shall not be a waiver of the right to exercise such right or to insist on such compliance at any other time or on any other occasion.

I. Documents Requested by Design/Builder: Owner shall furnish to Design/Builder, prior to the execution of this Agreement, any and all written and tangible material knowingly in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to Design/Builder only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, Owner does not represent, warrant, or guarantee its accuracy or completeness either in whole or in part, and shall have no liability therefor. If Design/Builder requests in writing, Owner shall also furnish surveys, legal limitations, and utility locations (if known), and a legal description of the Project site.

J. Approvals and Easements: Owner shall obtain all easements required for construction, and shall pay for necessary assessments and charges required for use and occupancy of the Work.

Design/Builder shall render such assistance as Owner may request in obtaining such easements, certificates of occupancy, and the like.

K. Right to Stop Work: In the event Design/Builder fails or refuses to perform the Work in strict accordance with the Contract, or is otherwise in breach of this Contract in any way, Owner may, at its option, instruct Design/Builder to cease and desist from performing further Work, or any part thereof. Upon receipt of such instruction from Owner in writing, Design/Builder shall immediately cease and desist as instructed by Owner and shall not proceed further until the cause for Owner's instructions has been corrected, no longer exists, or Owner instructs that the Work may resume.

L. Owner's Right to Perform Work: In the event Owner issues such instructions to stop Work, and in the further event that Design/Builder fails and refuses within seven (7) days of receipt of same to provide adequate assurance to Owner that the cause of such instructions will be eliminated or corrected, then Owner shall have the right to carry out the Work with its own forces, or with the forces of other contractors, and Design/Builder shall be fully responsible for the costs incurred in correcting any defective or deficient Work. The rights set forth in Article XI, K. and this Article XI, L. are in addition to, and without prejudice to, any other rights or remedies Owner may have against Design/Builder, including the rights to terminate or withhold payment as provided herein.

M. Owner's Representative: "Owner's Representative" means the individual named by Owner, in writing, to act on Owner's behalf in the administration of the Contract.

ARTICLE XII

PROJECT DOCUMENTATION

A. Maintenance of Project-Related Records: Design/Builder shall maintain and protect all records relating in any manner whatsoever to the Project (the "Project Records") for no less than seven (7) years after Final Completion of the Project, and for any longer period of time as may be required by law or good management practice.

B. Availability of Project-Related Records to Owner: All Project Records which are in the possession of Design/Builder or Design/Builder's Subcontractors shall be made available to Owner for inspection and copying upon Owner's request at any time. Additionally, such records shall be made available upon request by Owner to any state, federal or other regulatory authorities, and any such authority may review, inspect and copy such records. The Project Records include, without limitation, all drawings, plans, specifications, Submittals, correspondence, logs, minutes, memoranda, photographs, tape or videotape recordings, or other writings or things which document the Project, its design, or its construction. Said records include those documents reflecting the cost of design and construction to Design/Builder.

ARTICLE XIII

PERSONNEL, SUBCONTRACTORS AND SUPPLIERS

A. Subcontractor Defined: A "Subcontractor" means an entity which has a direct contract with Design/Builder to perform a portion of the Work or the Design Services. For purposes of the Contract, Subcontractors shall also include those furnishing specially fabricated equipment and materials for the Project. The Design/Builder understands and agrees that it shall be a breach of this Contract to subcontract any portion of the Work on this Project unless the Work and the contractor proposed to perform it have been declared in the Proposal to the Contract; or the Design/Builder shall have obtained written approval from the County.

THE DESIGN/BUILDER FURTHER UNDERSTANDS AND AGREES THAT ANY WORK ON THIS PROJECT WHICH THE DESIGN/BUILDER SECURES IN VIOLATION OF THIS PROVISION SHALL BE DEEMED A GRATUITY FROM THE DESIGN/BUILDER FOR WHICH DEKALB COUNTY SHALL NOT BE OBLIGATED TO PAY.

Nothing contained in this Contract shall create any contractual relation between any Subcontractor and the County.

B. Supplier Defined: A “Supplier” means an entity providing only equipment or materials for the performance of the Work.

C. Objections to Subcontractors: Design/Builder shall furnish Owner, in writing, the names of persons or entities proposed by Design/Builder to act as Subcontractors on the Project. Design/Builder shall provide such information regarding such proposed Subcontractors as Owner deems necessary. Design/Builder shall not enter into a subcontract with an intended Subcontractor with reference to whom Owner objects. Any consent or failure to reject by Owner shall in no way relieve Design/Builder of any of its duties or warranties under the Contract.

D. Terms of Subcontracts: All subcontracts and purchase orders with Subcontractors shall afford Design/Builder rights against the Subcontractor which correspond to those rights afforded to Owner against Design/Builder herein, including those rights of Contract suspension, termination, and stop Work orders as set forth herein. It is expressly agreed that no relationship of agency, employment, contract, obligation or otherwise shall be created between Owner and any Subcontractor of Design/Builder and a provision to this effect shall be inserted into all agreements between Design/Builder and its Subcontractors.

E. Design/Builder Responsible For Acts of Its Subcontractors: Should Design/Builder subcontract all or any part of the Work, such subcontracting of the Work shall not relieve Design/Builder from any liability or obligation under the Contract or under any applicable policy, law or regulation, and Design/Builder shall be responsible for all and any acts, defaults, omissions or negligence of its Subcontractors, Suppliers, and consultants.

F. Removal of Subcontractors and Personnel: If, at any time during the course of the Project, Owner reasonably determines that the performance of any Subcontractor or any member of Design/Builder’s staff working on the Project is unsatisfactory, Owner may require Design/Builder to remove such Subcontractor or staff member from the Project immediately and replace the staff member at no cost or penalty to Owner for delays or inefficiencies the change may cause.

G. Design/Builder’s Personnel:

1. The Design/Builder will supervise and direct the Work. Design/Builder will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. An experienced Superintendent and necessary assistants competent to supervise the particular types of work involved shall be assigned to the Project by the Design/Builder, and shall be available at all times when work is in progress. The name of the Superintendent shall be submitted with qualifications of same prior to start of the Work and shall be approved by the Owner prior to start of the Work. The Superintendent so named by the Design/Builder shall be employed by the Design/Builder and shall have served in a supervisory capacity on at least one Project of like description and size performed by the Design/Builder during the previous twelve months. Under no circumstances shall an employee of any Subcontractor serve as Project Superintendent. The Superintendent shall represent the Design/Builder, and all directions given to the Superintendent shall be as binding as if given to the Design/Builder.
2. Only persons skilled in the type of work which they are to perform shall be employed. The Design/Builder shall, at all times, maintain discipline and good order among Design/Builder’s employees, and shall not employ on the Work any unfit person or persons or anyone unskilled in the work assigned him.

ARTICLE XIV
CHANGES AND EXTENSIONS OF TIME

A. Definition of Change Order: “Change Order” shall mean a written order to the Design/Builder authorizing an addition, deletion, or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time, as approved by the DeKalb County Board of Commissioners, or the Chief Executive Officer, if exempted from Governing Authority adoption and approval in accordance with the express terms of this Contract. The County’s Chief Executive Officer or his/her designee shall have authority to approve a change order in a total amount less than \$100,000.00.

Design/Builder acknowledges that Change Orders may require the approval of the DeKalb County Board of Commissioners. Design/Builder agrees that Owner may have no less than thirty-one (31) days in which to seek approval by said Board of any proposed or required Change Order. In no event, and under no circumstances, shall Design/Builder make any claim for delay, acceleration, interference, or other claim for damages, cost or expense arising out of, or relating to, the time required to secure the approval or rejection of any Change Order, so long as said approval or rejection is made by the Board within thirty-one (31) days after submission of a proposed Change Order by Design/Builder.

B. Changes in the Work:

1. The County may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an adjustment may be authorized by Change Order.
2. The Owner, also, may at any time, by issuing a Field Order make changes in the details of the Work. The Design/Builder shall proceed with the performance of any changes in the Work so ordered by the Owner unless the Design/Builder believes that such Field Order entitles Design/Builder to a change in Contract Price or Time, or both, in which event Design/Builder shall give the Owner written notice thereof within fifteen days after the receipt of the ordered change, and the Design/Builder shall not execute such changes pending the receipt of an executed Change Order or further instruction from the County.
3. The Contract Price may be changed only by a Change Order. The value of any work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below.
 - a. Unit prices previously approved.
 - b. An agreed sum.
 - c. The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the Work. In addition, there shall be added an amount agreed upon but not to exceed fifteen percent of the actual cost of such work to cover the cost of general overhead and profit.

C. Modification: This Agreement may be modified or amended by the County to reduce the scope of work or Project description upon seven (7) days written notice; the written notice shall be sent to the Design/Builder addressed as follows:

Attn:

All notices shall be sent via (a) registered or certified United States mail, return receipt requested, postage prepaid, (b) personal delivery, or (c) overnight courier service. All notices sent to the Design/Builder's address shall be binding upon the Design/Builder unless said address is changed by the Design/Builder in writing to the County.

D. Continuing Duty to Perform Work and Make Payment: In the event the parties are unable to agree on the terms of a Change Order, then Design/Builder shall continue to diligently perform the Design Services and the Work, including any change directed by Owner by Change Order, and shall keep thorough records of the cost of performance of such Change Order.

E. Changes in Unit Prices: If unit prices are provided in the Contract, and if the quantities contemplated are changed in a proposed Change Order such that an application of the unit prices to the quantities of Work proposed will cause substantial inequity to Owner or to Design/Builder, the applicable unit prices may be equitably adjusted.

F. Minor Changes: Owner shall have authority to order minor changes in the Work not involving a change in the Contract Price nor extension of the Contract Time and not inconsistent with the intent of the Contract. Such minor changes shall be made by written Field Order, and Design/Builder shall promptly carry out such written Field Orders.

G. Effect of Executed Change Order: The execution of a Change Order by Design/Builder shall constitute conclusive evidence of Design/Builder's agreement to the ordered changes in the Design Services or the Work and the Contract Time, if any, as thus amended.

H. Consent of Surety: Design/Builder shall notify and obtain the consent and approval of Design/Builder's surety with reference to all Change Orders if such notice, consent or approvals are required by Owner, Design/Builder's surety or by law. Design/Builder's execution of the Change Order shall constitute Design/Builder's warranty to Owner that the surety has been notified of, and consents to, such Change Order and the surety shall be conclusively deemed to have been notified of such Change Order and to have expressly consented thereto.

I. Fiduciary Relationship: Design/Builder recognizes and accepts a fiduciary relationship of trust and confidence hereby established between Design/Builder and Owner and agrees that it shall at all times in good faith use its best efforts to advance Owner's interests and agrees to perform the Design Services and the Work in the best professional manner.

ARTICLE XV **CLAIMS BY DESIGN/BUILDER**

A. Terms and Conditions of Claims: Claims by Design/Builder against Owner are subject to the terms and conditions of this Article XVII, and strict compliance herewith shall be a condition precedent to any liability of Owner therefor.

B. Notice of Claim: All Design/Builder claims, disputes and other matters in question against Owner arising out of or related to the Contract or the breach thereof, including without limitation claims in respect of changes in the Contract Price or Contract Time, shall be initiated by a written notice of claim submitted to Owner. Such written notice of claim shall be received by Owner no later than seven (7) days after the event, or the first appearance of the circumstances, causing the claim, and same shall set forth in detail all known facts and circumstances supporting the claim including the amount claimed. Design/Builder agrees and acknowledges that its failure to provide written notice of a claim as set forth herein shall constitute a waiver of any claim for additional compensation or time extension related thereto.

C. Documentation in Support of Claims: Upon discovering an event or condition forming the basis of a claim for an increase in the Contract Price or an extension of the Contract Time, Design/Builder shall, until the claim is resolved, commence to maintain separate records evidencing all costs and delays incurred in connection with the event or condition forming the basis for the claim.

Formal Written Claim: No later than thirty (30) days after the date of the written notice of claim, Design/Builder shall submit a formal written claim which shall include at least the following information: (1) a concise statement of the occurrence(s) supporting the claim, dispute or other matter, and the relief sought; (2) identification of the facts giving rise to the claim dispute or other matter; (3) the date Design/Builder discovered the occurrence(s); (4) a detailed schedule identifying all costs resulting from the claim, dispute or other matter; (5) documentation supporting the schedule; (6) identification of any impact the claim, dispute or other matter has on the critical path schedule; and (7) all correspondence, internal memoranda, progress notes, and other documentation relating to the events which form the basis of the claim, dispute or other matter. The claim shall be verified as to its truthfulness and accuracy, under oath, by an officer of the Design/Builder. Other information or documents shall be submitted to Owner within ten (10) days after written request by Owner. The failure to provide a claim as set forth herein, or the failure to provide such other documents or information requested by Owner within ten (10) days after the written request shall constitute a waiver of any claim for additional compensation or time extension related thereto.

D. Continuous Duty to Provide Documentation: Design/Builder shall provide, and continue to provide, to Owner all such documentation, including cost and time records, as and when Owner may request so that Owner may evaluate Design/Builder's claim.

E. Duty to Continue Performance: Design/Builder and Owner shall continue their performance hereunder regardless of the existence of any claims submitted by Design/Builder.

F. Claims for Increase in Contract Price: In the event Design/Builder seeks to make a claim for an increase in the Contract Price, as a condition precedent to any liability of Owner therefor, Design/Builder shall strictly comply with the requirements of Article XV, B. above and such notice shall be given by Design/Builder before proceeding to execute any additional or changed Work. Failure of the condition precedent to occur shall constitute a waiver by Design/Builder of any claim.

G. Limit of Owner's Liability for Increased Costs: In connection with any claim by Design/Builder against Owner for compensation in excess of the Contract Price, any liability of Owner shall be strictly limited to the Cost of the Work and Services as defined and allowed in Article VIII, A hereinabove and shall in no event include, indirect, consequential, impact or other costs, expenses or damages of Design/Builder or its Subcontractors. Owner shall not be liable to Design/Builder for claims of third parties, including Subcontractors, for acts, omissions, events, or conditions for which Owner would not be liable to Design/Builder under the terms of the Contract. As a condition precedent to Owner's liability to Design/Builder for any loss or damage resulting from claims of third parties, including Subcontractors, such third parties must have complied with all conditions contained in their agreements with Design/Builder and such claims must have been submitted to Owner by Design/Builder in strict compliance with all the requirements of this Article XV. Owner shall not be liable to Design/Builder for claims of third parties including Subcontractors, unless and until the liability of Design/Builder therefor has been established in a court of competent jurisdiction.

H. Claims for Increase in Contract Time: If Design/Builder is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by Owner or someone acting in Owner's behalf, or by changes ordered in the Design Services or the Work, unusually bad weather not reasonably anticipatable, fire or other Acts of God, then the date for achieving Substantial Completion, or, as applicable, Final Completion, shall, subject to the provisions of Article XV, J. below, be appropriately adjusted by Owner upon the written notice and claim of Design/Builder to Owner for such reasonable time as Owner may determine. A task is critical within the meaning of this Article XV, I. if, and only if, said task is on the critical path of the Project schedule so that a delay in performing such task will delay the ultimate completion of the Project. As a condition precedent to any right to an extension of time, Design/Builder shall strictly comply with the requirements of Article XV, B. above and such notice shall be given by Design/Builder before proceeding to execute any additional or changed Design

Services or Work. If Design/Builder fails to give such notice, any claim for an extension of time shall be waived. In the event the delay to Design/Builder is a continuing one, only one notice and claim for additional time shall be necessary, provided the continuing nature of the delay is indicated in the notice and claim.

I. Owner's Right to Order Acceleration and to Deny Claimed and Appropriate Time Extensions, in Whole or in Part: Design/Builder acknowledges and agrees that Substantial Completion of the Work by or before the Scheduled Completion Date is of substantial importance to Owner.

1. Owner shall accordingly have the right in its sole discretion to order Design/Builder to accelerate its progress in such a manner as to achieve Substantial Completion on or before such date as Owner may reasonably direct and, upon receipt, Design/Builder shall comply with such order.
2. In the event that Design/Builder is otherwise entitled to an extension of Contract Time and has made claim therefor in accordance with Article XV , I. above, Owner shall have the right in its sole discretion to deny all, or any part, of such extension of Contract Time by written notice to Design/Builder provided within seven (7) days of receipt of Design/Builder's claim. Should Owner deny Design/Builder's claim for an extension of Contract Time under this Subparagraph (2), either in whole or in part, Design/Builder shall proceed to prosecute the Work in such a manner as to achieve Substantial Completion on or before the then existing Scheduled Completion Date.

J. Claims Resolved By Change Order: The resolution of any claim under this Article XVII shall be reflected by a Change Order executed by Owner and Design/Builder.

ARTICLE XVI **UNCOVERING AND CORRECTING WORK**

A. Design/Builder not to Cover Work Contrary to Requirements: If any of the Work is covered, concealed or obscured contrary to the written request of Owner, or contrary to any provision of the Contract, said Work shall, if required by Owner, be uncovered for inspection and shall be properly replaced at Design/Builder's expense without change in the Contract Time.

B. Owner's Right to Order Uncovering of Any Work: If any of the Work is covered, concealed or obscured in a manner not inconsistent with Article XVI, A. above, it shall, if required by Owner, be uncovered for inspection. If such Work conforms strictly to the Contract, the cost of uncovering and proper replacement shall be charged to Owner. If such Work does not strictly conform to the Contract, Design/Builder shall pay the cost of uncovering and proper replacement.

C. Guarantee and Correction of Work: The Design/Builder shall guarantee all work to have been accomplished in conformance with the Contract Documents. Neither the final certificate of payment nor any provision of the Contract Documents, nor partial or entire occupancy or use of the Work by the County, shall constitute an acceptance of any part of the Work not done in accordance with the Contract Documents, or relieve the Design/Builder of liability for incomplete or faulty materials or workmanship. The Design/Builder shall promptly remedy any omission or defect in the Work and pay for any damage to other Replacement or facilities resulting from such omission or defect which shall appear within a period of twelve (12) months from the date of final completion, unless a longer period is elsewhere specified. In the event that the Design/Builder should fail to make repairs, adjustments, or other remedy that may be made necessary by such defects, the County may do so and charge the Design/Builder the cost thereby incurred. The Performance Bond shall remain in full force and effect through all warranties contained in the Contract Documents.

D. Duty To Correct Defective Work Discovered After Completion: In addition to its warranty obligations set forth elsewhere herein, Design/Builder shall be specifically obligated to correct at its cost and expense any and all defective or nonconforming Work for a period of twelve

(12) months following Final Completion upon written direction from Owner. This obligation shall survive final payment by Owner and termination of the Contract.

E. No Period of Limitation Established: Nothing contained in Article XVI, C. and XVI, D. shall establish any period of limitation with respect to other obligations which Design/Builder has under the Contract. Establishment of the twelve (12) month time period in Article XVI, C. or XVI, D. above relates only to the duty of Design/Builder to specifically correct the Work.

F. Owner's Option to Accept Defective Work: Owner may, but shall in no event be required to, choose to accept defective or nonconforming Work. In such event, the Contract Price shall be reduced by the reasonable costs of removing and correcting the defective or nonconforming Work. Owner shall be entitled to such reduction in the Contract Price regardless of whether Owner has, in fact, removed and corrected such defective Work. If the unpaid balance of the Contract Price, if any, is insufficient to compensate Owner for the acceptance of defective or nonconforming Work, Design/Builder shall, upon written demand from Owner, pay Owner such additional compensation for accepting defective or nonconforming Work.

ARTICLE XVII

SUSPENSION AND TERMINATION

A. Suspension of Performance: Owner may for any reason whatsoever suspend performance under the Contract. Owner shall give written notice of such suspension to Design/Builder specifying when such suspension is to become effective.

B. Ceasing Performance upon Suspension: From and upon the effective date of any Suspension ordered by Owner, Design/Builder shall incur no further expense or obligations in connection with the Contract, and Design/Builder shall cease its performance. Design/Builder shall also, at Owner's direction, either suspend or assign to Owner any of its open or outstanding subcontracts or purchase orders.

C. Claim for Costs of Suspension: In the event Owner directs a suspension of performance under this Article XVII, through no fault of Design/Builder, and provided Design/Builder submits a proper claim as provided in this Agreement, Owner shall pay Design/Builder as full compensation for such suspension Design/Builder's reasonable costs, actually incurred and paid, of:

1. Demobilization and remobilization, including such costs paid to Subcontractors;
2. Preserving and protecting Work in place;
3. Storage of materials or equipment purchased for the Project, including insurance thereon;
4. Performing in a later, or during a longer, time frame than that contemplated by this Contract.

D. Resumption of Work after Suspension: If Owner lifts the suspension it shall do so in writing, and Design/Builder shall promptly resume performance of the Contract unless, prior to receiving the notice to resume, Design/Builder has exercised its right of termination as provided herein.

E. County's Right to Suspend or Terminate:

1. If the Design/Builder is adjudged bankrupt or insolvent, or if Design/Builder makes a general assignment for the benefit of Design/Builder's creditors, or if a trustee or receiver is appointed for the Design/Builder or for any of Design/Builder's property, or if Design/Builder files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or applicable laws, or if Design/Builder repeatedly fails to supply sufficient skilled workers or suitable materials or equipment, payments to Subcontractors or for labor, materials or equipment, or if Design/Builder disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the Work, or if Design/Builder otherwise violates any provision of the Contract Documents, then the County may, without prejudice to any other right or remedy and

after giving the Design/Builder and Design/Builder's surety a maximum of seven days from delivery of a written notice, declare the Contract in default, take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Design/Builder, and call upon the surety to finish the Work by whatever method deemed expedient.

2. Where Design/Builder's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Design/Builder then existing or which may therefore accrue. Any retention or payment of moneys due Design/Builder by Owner will not release Design/Builder from liability. If the Design/Builder can establish or it is otherwise determined that the Design/Builder was not in default or that the failure to perform is excusable a termination for default will be considered to have been a termination for the convenience of the Owner and the rights and obligations of the parties governed accordingly.
3. Upon seven days' written notice to Design/Builder, Owner may, for its own convenience and at its sole option, without cause and without prejudice to any other right or remedy of Owner, elect to terminate the Contract. In such case, Design/Builder shall be paid (without duplication of any items):
 - a. For completed and acceptable work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such work;
 - b. For expenses sustained in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with Uncompleted Work;
 - c. For amounts paid in settlement of terminated contracts with Subcontractors and Suppliers;
 - d. Reasonable expenses directly attributable to termination including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals, and court costs;
 - e. Design/Builder shall not be paid on account of anticipatory profits or overhead or consequential damages.

F. Termination of Agreement: The County may unilaterally terminate this Agreement, in whole or in part, for the County's convenience, or because of failure of the Design/Builder to fulfill the obligations of this Agreement in any respect. The County shall terminate by delivering to the Design/Builder, with at least thirty (30) days' notice, a Notice of Termination specifying the nature, extent, and effective date of termination. If terminated by the County, the written notice shall be sent to the Design/Builder via (a) registered or certified United States mail, return receipt requested, postage prepaid, (b) personal delivery, or (c) overnight courier service, addressed as follows:

Attn:

All notices sent to the above address shall be binding upon the Design/Builder unless said address is changed by the Design/Builder in writing to the County. If this Agreement is so terminated, the Design/Builder shall be paid as provided in this Article XVII.

ARTICLE XVIII
OWNERSHIP OF DOCUMENTS

A. Ownership of Documents: All documents, including drawings, estimates, specifications, and data are and remain the property of the County. The Design/Builder agrees that the County may reuse any and all plans, specifications, drawings, estimates, or any other data or documents described herein in its sole discretion without first obtaining permission of the Design/Builder and without any payment of any monies to the Design/Builder therefor. However, any reuse of the documents by the County on a different site shall be at its risk and the Design/Builder shall have no liability where such documents are reused. Any documents furnished by Owner shall remain the property of Owner. Design/Builder may be permitted to retain copies of the Design Documents and Contract Documents and any documents furnished by Owner for its records with approval in writing of Owner; provided, however, that in no event shall Design/Builder use, or permit to be used, any portion or all of such documents on other Projects without Owner's prior written authorization.

ARTICLE XIX
INDEMNITY

A. From Personal Injury Or Damage To Tangible Property: Design/Builder shall indemnify and hold Owner and its affiliates, officers, directors and employees harmless from any and all claims, liability, damages, loss, cost and expense of every type whatsoever including, without limitation, attorneys' fees and expenses, in connection with Design/Builder's performance of this Contract, provided that such claims, liability, damage, loss, cost or expense is due to sickness, personal injury, disease or death, or to loss or destruction of tangible property (other than the Work itself), including loss of use resulting therefrom, to the extent caused by Design/Builder or anyone for whose acts Design/Builder may be liable, regardless of whether such liability, claim, damage, loss, cost or expense is caused in part by Owner.

B. From Violations of Laws, Environmental Requirements, Performance Guidelines, and Licensing Requirements: Design/Builder shall indemnify and hold harmless Owner and its affiliates, officers, directors, and employees from and against all claims, liabilities, damages, losses, costs, expenses (including reasonable attorney's fees and expenses, and fees and expenses of experts) for bodily injury, including death, or damage to or loss of property, or any other type or form of loss occurring or sustained or resulting from:

1. Any violation by Design/Builder, its Subcontractors, representatives, employees, and agents of any municipal, state or federal laws, rules, or regulations applicable to the performance of its obligations under the Contract;
2. Environmental violations or contamination from hazardous substances, hazardous wastes and emissions or other substances or chemicals regulated by any applicable environmental laws or regulations and resulting from any willful misconduct, negligent act or omission, or legal violation by Design/Builder, its Subcontractors, Suppliers, representatives, employees, or agents;
3. The failure of any of Design/Builder's employees, agents, representatives, Suppliers, or Subcontractors to obtain and maintain the required skills, licenses, certificates and permits mandated by applicable federal, state or local governing authorities with jurisdiction over construction, fabrication, environmental, health and safety matters on the Project.

C. Hazardous Materials: In the event Design/Builder discovers hazardous or contaminated materials, including but not limited to asbestos, PCBs, petroleum, hazardous waste, or radioactive material, Design/Builder shall stop all Work in connection with such hazardous condition and in any area affected thereby, and notify Owner of the discovery of said condition. Design/Builder shall strictly comply with all applicable laws, regulations, rules or other promulgations by governing

bodies, agencies, authorities or organizations having jurisdiction over the Project or the discovery of said hazardous or contaminated material. Design/Builder shall secure the Work site to prevent access by unauthorized personnel. If Design/Builder fails to comply with this Paragraph 21(C) or contaminated, hazardous or suspected contaminated or hazardous material is transported (either on or off site) without notice to Owner, such materials shall become the property of Design/Builder and Design/Builder shall be solely responsible for all costs and fines associated therewith.

D. Indemnification Agreement: The Design/Builder shall be responsible from the time of signing the Contract, or from the time of the beginning of the first work, whichever shall be the earlier, for all injury or damage of any kind resulting from this work to persons or property, including employees and property of the County. To the fullest extent permitted by law, the Design/Builder shall exonerate, indemnify, and save harmless the County and its affiliates, officers, directors and employees from and against all claims or actions, and all expenses incidental to the defense of any such claims, litigation, and actions, based upon or arising out of damage or injury (including death) to persons or property caused by or sustained in connection with the performance of this Contract or by conditions created thereby or arising out of or any way connected with work performed under this Contract and shall assume and pay for, without cost to the County, the defense of any and all claims, litigations, and actions suffered through any act or omission of the Design/Builder, or any Subcontractor, or anyone directly or indirectly employed by or under the supervision of any of them. The Design/Builder expressly agrees to defend, through legal counsel acceptable to the County, against any claims brought or actions filed against the County, where such claim or action involves, in whole or in part, the subject of the indemnity contained herein, whether such claims or actions are rightfully or wrongfully brought or filed. Notwithstanding any language or provision in this Contract,

1. With respect to any construction, alteration, repair, or maintenance services performed under this contract, Design/Builder shall not be required to indemnify any County Indemnitee against claims, actions, or expenses based upon or arising out of the County Indemnity's sole negligence; and
2. With respect to any engineering, architectural, or land surveying services performed under this contract, Contractor's indemnity obligation extends only to claims, actions, or expenses based upon or arising out of the Contractor's negligence, recklessness, or intentionally wrongful conduct.

ARTICLE XX **INSURANCE**

Insurance must meet the County's requirements and will be furnished by the successful responder(s) upon award.

A. Successful responder(s) will advise their insurance agent of the County's requirements as listed below and that they may not proceed with any work until insurance is provided that is in compliance with these requirements.

B. Contractor's insurance company or agent must mail, email, or bring an original certificate of insurance and applicable declarations or endorsements to the DeKalb County address listed within this Insurance provision. Insurance must be from companies able to do business in Georgia and acceptable to the County as follows:

1. Certificates must cover:
 - a. *Statutory Workers' Compensation Insurance* of at least \$1,000,000 or proof that Contractor is not required to provide such coverage under State law.
 - i. Employer's liability insurance by accident, each accident \$1,000,000
 - ii. Employer's liability insurance by disease, policy limit \$1,000,000
 - iii. Employer's liability insurance by disease, each employee \$1,000,000
 - b. *Professional Liability Insurance* on the Contractor's services in this Agreement with limit of \$3,500,000;

- c. *Comprehensive Automobile Liability Insurance* with form coverage provided for all owned, non-owned and hired vehicles with combined single limit of \$1,000,000. Automobile liability insurance shall be written on ISO Business Auto Coverage Form CA 0001 (1990 edition or later), or a substitute form providing equivalent coverage, and shall cover liability for bodily injury and property damage arising from the use or operation of any automobile, including those owned, hired or otherwise operated or used by or on behalf of Contractor.
- d. *Commercial General Liability Insurance*
 - i. Each Occurrence for bodily injury and property damage liability - \$1,000,000
 - ii. Damage to rented premises (each occurrence) - \$100,000
 - iii. Medical Expense - \$10,000
 - iv. Personal & Advertising Injury - \$1,000,000
 - v. General Aggregate - \$2,000,000
 - vi. Products & Completed Operations - \$2,000,000
 - vii. Contractual Liability where applicable
- e. *Umbrella or Excess Insurance* is to be provided with General Liability, Auto Liability and Employers Liability scheduled as underlying policies with limits not less than the following:
 - \$5,000,000 per occurrence
 - \$5,000,000 aggregate
- f. DeKalb County, GA shall be named as Additional Insured under any General Liability, Business Auto and Umbrella Policies. Coverage shall apply as Primary and non-contributory with Waiver of Subrogation in favor of DeKalb County, Georgia. Such additional insured coverage shall be endorsed to Contractor's policy by attachment of ISO Additional Insured Endorsement forms CG 20 10 10 01 (ongoing operations) and CG 20 37 10 01 (products-completed operations), or form(s) providing equivalent coverage.
- g. This insurance for the County as the additional insured shall be as broad as the coverage provided for the named-insured Contractor. It shall apply as primary insurance before any other insurance or self-insurance, including any deductible, non-contributory, and waiver of subrogation provided to the County as the additional insured.
- h. Contractor agrees to waive all rights of subrogation and other rights of recovery against the County and its elected officials, officers, employees or agents, and shall cause each Subcontractor to waive all rights of subrogation for all coverages.
- i. If the Contractor is a joint venture involving two (2) or more entities, then each independent entity will satisfy the limits and coverages specified here or the joint venture will be a named insured under each respective policy specified.
- j. Certificates shall state that the policy or policies shall not expire, be cancelled or altered without at least sixty (60) days prior written notice to the County.
- k. The insurance carrier must have a minimum of not less than "A" (Excellent) with a Financial Size Category of VII or better as determined by the rating firm A.M. Best.
- l. Certificates to contain policy number, policy limits and policy expiration date of all policies issued in accordance with this contract.
- m. Certificates to contain the location and operations to which the insurance applies.
- n. Certificates to contain successful contractor's protective coverage for any

subcontractor's operations. If this coverage is included in General Liability, please indicate on the Certificate of Insurance.

- o. Certificates to contain successful contractor's contractual insurance coverage. If this coverage is included in the General Liability, please indicate this on the Certificate of Insurance.
- p. Certificates shall be issued to the County and must identify the "Certificate Holder" as follows:

DeKalb County, Georgia
Director of Purchasing & Contracting
Maloof Administration Building
1300 Commerce Drive, 2nd Floor
Decatur, Georgia 30030

C. The successful contractor shall be wholly responsible for securing certificates of insurance coverage as set forth above from all subcontractors who are engaged in this work.

D. Contractor understands and agrees that the purchase of insurance in no way limits the liability of the Contractor.

E. Contractor is obligated to comply with any revisions to the County's insurance requirements.

F. Failure of the County to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the County to identify a deficiency from evidence provided will not be construed as a waiver of the Contractor's obligation to maintain such coverage.

ARTICLE XXI **SURETY BONDS**

Contract Security: The Design/Builder shall furnish a Contract Performance Bond and a Payment Bond, each equal to one hundred percent (100%) of the Contract Price. Bonds given shall meet the requirements of the law of the State of Georgia including, but not limited to, O.C.G.A. §§ 13-10-1 and 36-91-21 et seq. The surety on each Bond shall be a surety company satisfactory to the County and listed in the Federal Register and licensed to write surety insurance in the State of Georgia.

Within ten (10) days from the date of Notice of Award of this Contract, the Design/Builder, as Principal, and [INSERT NAME OF SURETY], a surety company listed in the Federal Register and licensed to write surety insurance in the State of Georgia, as surety, shall give a Contract Performance Bond and a Payment Bond, each in the amount of _____ for the use of all persons doing work or furnishing skills, tools, machinery, or materials under or for the purpose of this Contract, in accordance with the provisions of the law of the State of Georgia including, but not limited to, O.C.G.A. §§ 13-10-1 and 36-91-21 et seq. The life of these bonds shall extend through the life of this Contract including a sixty (60) day maintenance period (where applicable) and a twelve month guarantee period after the completion of work performed under this Contract. The Performance and Payment Bonds are attached hereto as Attachments 6 and 7.

It is further agreed between the parties hereto that if at any time after the execution of this Agreement and the surety bonds for its faithful performance, the County shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover the performance of the Work, the Design/Builder shall, at its expense within five days after the receipt of notice from the County to do so, furnish additional bond or bonds in such form and amount and with such surety or sureties as shall be satisfactory to the County.

In such event no further payment to the Design/Builder shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the Work shall be furnished in manner and form satisfactory to the County.

ARTICLE XXII
MISCELLANEOUS PROVISIONS

A. Georgia Laws Govern: This Agreement shall be governed by and construed and enforced in accordance with the laws of Georgia.

B. Venue: This Agreement shall be deemed to have been made and performed in DeKalb County, Georgia. For the purposes of venue, all suits or causes of action arising out of this Agreement shall be brought in the Superior Court of DeKalb County, Georgia and the Superior Court of DeKalb County, Georgia shall have sole and exclusive jurisdiction.

C. Taxes:

Contractor shall pay all sales, consumer, withholding, use and other similar taxes required to be paid by Design/Builder in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

The Design/Builder shall provide a written tabulation, plus other documentation as may be required, of all taxes, including sales tax, paid by the Design/Builder to assist the County in obtaining sales and/or use tax refunds for eligible machinery and equipment used for the primary purpose of reducing or eliminating air or water pollution as provided for in Chapter 48-8-3 (36) and (37) of the Official Code of Georgia. Such written tabulation shall be included with each partial payment request. The tabulation shall include the major equipment items, as defined in the Major Equipment Schedule, plus any qualifying equipment purchases with a value greater than \$5,000. Additionally, the tabulation shall be documented with copies of invoices indicating the amount of tax paid, with all blanks completed on the invoice, and with a description of the function of the item included in the tabulation. All taxes shall be paid by the Contractor. All refunds will accrue to the County.

D. Accuracy of Work: The Design/Builder shall be responsible for the accuracy of the work and any error and/or omission made by the Design/Builder in any phase of the work under this Agreement.

E. Additional Work: If the Design/Builder is asked by the County to perform work beyond the scope of this Agreement for which payment is desired, Design/Builder shall notify the County in writing, state that the work is considered outside the basic scope of work of this Agreement, give a proposed cost for the additional work, and obtain the approval in writing from the County prior to performing the additional work for which Design/Builder is to be paid. The County shall in no way be held liable for any work performed under this section which has not first been approved in writing by the County. Any claim for additional work must be made in strict accordance with Article XV.

F. Successors and Assigns: The County and the Design/Builder each binds himself and Design/Builder's partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; except as above, the Design/Builder shall not assign, sublet, or transfer Design/Builder's interest in this Agreement without the written consent of the County. Nothing herein shall be construed as creating any personal liability on the part of any officers or agent of the County, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the parties to this Agreement.

G. Notices: Any notice required to be given herein shall be deemed to have been given to the other party if sent via (a) registered or certified United States mail, return receipt requested, postage prepaid, (b) personal delivery, or (c) overnight courier service to the following addresses:

TO OWNER:

ATTN: _____

TO DESIGN/BUILDER:

ATTN: _____

All notices shall be effective upon receipt.

H. Reviews and Acceptance: Work performed by the Design/Builder shall be subject to review and acceptance in stages as required by the County. Acceptance shall not relieve the Design/Builder of Design/Builder's professional obligation to correct, at Design/Builder's own expense, any errors in the Work.

I. County Representative: The County may designate a representative through whom the Design/Builder will contact the County. In the event of such designation, said representative shall be consulted and his written recommendation obtained before any request for extra work is presented to the DeKalb County Board of Commissioners. Payments to the Design/Builder shall be made only upon itemized bill submitted to and approved by said representative.

J. Sole Agreement: This Agreement constitutes the sole agreement between the parties. No representations oral or written not incorporated herein shall be binding on the parties. No amendment or modifications of this Agreement shall be enforceable unless approved in writing by the County.

K. No Third Party Beneficiary: Except as expressly and specifically set forth herein, this Contract shall not be deemed to provide any third-party with any remedy, claim, right of action, or other right.

L. Controlling Provisions: In the event of a conflict between the County's RFVQ No. 22-500603 and the Design/Builder's response thereto, the provisions of the County's RFVQ shall govern. The provisions of this Agreement shall control over any conflicting provisions contained in the County's RFVQ No. 22-500603 or the Design/Builder's response.

M. Publicity: No information relative to the existence or the details of the Design Services or the Work shall be released by Design/Builder, either before or after completion of the Project, for publication, advertising or any commercial purposes without Owner's prior written consent.

N. Severability: In the event that any portion or any portions of this Contract are held to be unenforceable by a court of competent jurisdiction, then the remainder of this Contract shall be enforced as though such portions had not been included, unless to do so would cause this Contract to fail of its essential purposes.

O. Attorneys' Fees: In the event that Design/Builder breaches any provision of this Contract, and in the event Owner retains any attorney to seek enforcement of said Contract, or in the event Owner institutes litigation against Design/Builder arising out of or relating to the Contract, Owner shall be entitled to recover from Design/Builder its reasonable attorneys' fees, court costs, expert witness fees, and other related expenses.

P. Prohibited Interests: No official of the County who is authorized in such capacity and on behalf of the County to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting, or approving any architectural, engineering, inspection, construction, or material supply contract, or any subcontract in connection with the construction of the Project, shall become directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer, or inspector of or for the County who is authorized in such capacity and on behalf of the County to exercise any legislative, executive, supervisory, or other similar functions in connection with the construction of the Project, shall become directly or indirectly interested

personally in this Contract or in any part thereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to the Project.

Q. Weather Conditions: The Design/Builder will be required to protect all work and materials against damage or injury from the weather. If, in the opinion of the Owner, any work or materials shall have been damaged or injured by reason of failure to protect such, all such materials or work shall be removed and replaced at the expense of the Design/Builder.

R. Royalties and Patents: The Design/Builder shall hold and save the County and its officers, agents, servants, and employees, harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the County, unless otherwise specifically stipulated in the Contract Documents.

S. Submittal Period for Products and Substitutions: Substitutions: Where items of equipment or materials are specifically identified herein by a manufacturer's name, model, or catalog number, only such specific item may be used in the Base Bid. If the Design/Builder wishes to use items of equipment or materials other than those named in Design/Builder's Base Bid, the Design/Builder shall apply in writing for the Owner's approval of substitution at least ten (10) days prior to opening of bids, submitting with Design/Builder's request for approval complete descriptive and technical data on the items or item Design/Builder proposes to furnish. Approved substitutions will be listed in the Addendum issued to all Design/Builders prior to opening of bids.

T. Measurements and Dimensions: Before ordering material or doing work which is dependent for proper size or installation upon coordination with conditions, the Design/Builder shall verify all dimensions by taking measurements at the building and shall be responsible for the correctness of same. No consideration will be given any claim based on the differences between the actual dimensions and those indicated on the Drawings.

U. Storage Facilities and Work Areas: The Design/Builder shall cooperate with the County in any required use of its property and arrange for storage of materials on job site in such areas as are mutually agreed upon. The Design/Builder shall allot suitable and proper space to Design/Builder's Subcontractors for the storing of their materials and for the erection of their sheds and tool houses. Should it be necessary at any time to move materials, sheds, or storage platforms, the Design/Builder shall move same as and when directed, at Design/Builder's own expense.

V. Replacement on City or Public Property: Design/Builder shall pay for cost of any pavement or sidewalk repairs necessitated by work under this Contract, and any inspection fees required by local authorities.

W. Manufacturers' Certifications: The Owner may require, and the Design/Builder shall furnish if required to do so, certificates from manufacturers to the effect that the products or materials furnished by them for use in the Work comply with the applicable specified requirements for the materials or products being furnished.

X. Samples: The Design/Builder shall furnish with reasonable promptness all samples as directed by the Owner for approval for conformance with the design concept of the Project and for compliance with the information stated in the Contract Documents. The Work shall be in accordance with approved samples.

Y. Maintenance Manual: Design/Builder shall, prior to completion of Contract, deliver to the Owner two copies of a manual, assembled and bound, presenting for the County's guidance full details for care and maintenance of visible surfaces and of equipment included in Contract. Design/Builder shall, for this manual, obtain from Subcontractors literature of manufacturers relating to equipment, including motors; also furnish cuts, wiring diagrams, instruction sheets and other information pertaining to same that will be useful to the County in over-all operation and maintenance. Where the above-described manuals and data are called for under separate sections of the Specifications, they are to be included in the manual described in this Article.

Z. Definitions of Terms: Wherever used in the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof:

“**Addenda**” shall mean written or graphic instruments issued prior to the execution of the agreement which modify or interpret the Contract Documents by additions, deletions, clarifications, or corrections.

“**Bid**” or “**Proposal**” shall mean the offer or Proposal of the Design/Builder submitted on the prescribed form setting forth the price(s) for the Work to be performed.

“**Bidder**” or “**Proposer**” shall mean any person, firm, or corporation submitting a Bid or Proposal for the Work.

“**Bonds**” shall mean Bid, Performance, and Payment Bonds and other instruments of security, furnished by the Design/Builder and Design/Builder’s surety in accordance with the Contract Documents.

“**Contract Time**” shall mean the number of calendar days stated in the Contract Documents for the completion of the Work.

“**County**” shall mean DeKalb County, Georgia.

“**Design/Builder**” shall mean one firm to both design and construct the Project.

“**Drawings**” shall mean the part of the Contract Documents which show largely through graphical presentation the characteristics and scope of the Work to be performed and which have been prepared by Design/Builder and approved by the Owner.

“**Field Order**” shall mean a written order effecting a change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Owner to the Design/Builder during construction.

“**Notice of Award**” shall mean the written notice of the acceptance of the Bid or Proposal from the County to the successful Design/Builder as evidenced by return receipts of registered or certified letters.

“**Notice to Proceed**” shall mean written communication issued by the County to the Design/Builder authorizing Design/Builder to proceed with the Work and establishing the date of commencement of the Work as evidenced by official receipt of certified mail or acknowledgment of personal delivery.

“**Owner**” shall mean DeKalb County, Georgia.

“**Project**” shall mean the undertaking to be performed as provided in the Contract Documents.

“**Shall**” is mandatory; “**may**” is permissive.

“**Shop Drawings**” shall mean all drawings, diagrams, illustrations, brochures, schedules, and other data which are prepared by the Design/Builder, a Subcontractor, manufacturer, Supplier, or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

“**Specifications**” shall mean a part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards, and workmanship specified for this Project. Specifications include the programmatic and project-specific Technical Provisions.

“**Supplementary Conditions**” shall mean a part of the Contract Documents consisting of terms and conditions as may be required by the Owner.

“**Superintendent**” shall mean the Design/Builder’s authorized on-job representative designated in writing by the Design/Builder prior to commencement of any work.

“**Suppliers**” shall mean any person, supplier, or organization who furnishes materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

“**Work**” of the Design/Builder or Subcontractor shall include all labor, material, equipment, transportation, skill, tools, machinery and other equipment, and things useful or necessary in order to complete the Contract.

AA. Specifications:

1. The Specifications, the Drawings accompanying them, and the other Contract Documents shall be supplementary to each other, and any material, workmanship, and/or service which may be in one, but not called for in the others, shall be as binding as if indicated, called for, or implied by all.
2. The Design/Builder will be held responsible to furnish all labor and materials necessary to complete the Work as indicated by the Drawings and Specifications.
3. Unless otherwise stipulated, the Design/Builder shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the Work. The Design/Builder shall be responsible for entire Work and every part thereof.
4. Each section or type of work is described separately in the Specifications; however, should any item of material, equipment, work, or combinations of such be required in one section, and not be described in that section and a similar item described in another section, that description shall apply regardless of the section under which it is described.
5. Any discrepancies found between the Drawings and Specifications and site conditions or any inconsistencies or ambiguities in the Drawings or Specifications shall be immediately reported to the Owner, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. Work done by the Design/Builder after Design/Builder's discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the Design/Builder's risk.
6. Upon award of the Contract, the Design/Builder shall furnish such Contract Drawings and Specifications as may be required for completion of the Project. Any prints and Specifications in excess of these shall be furnished at cost at the Design/Builder's expense.

BB. Drawings and Specifications:

1. The intent of the Drawings and Specifications is that the Design/Builder shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Project in an acceptable manner, ready for use, occupancy, or operation by the County.
2. In case of conflict between the Drawings and Specifications, the Specifications shall govern. Figure dimensions on Drawings shall govern over scale dimensions, and detailed drawings shall govern over general drawings.
3. The Owner may (without changing the scope of the Work) furnish the Design/Builder additional instructions and detail drawings, as necessary to carry out the Work required by the Contract Documents. The additional drawings and instructions thus supplied will become a part of the Contract Documents. The Design/Builder shall carry out the Work in accordance with the additional detail drawings and instructions.
4. Abridging: Attention is directed to the fact that the detailed Specifications and separate sections may be written in short or abridged form. In regard to every section of the Specifications and all parts thereof, mention therein, or indications on the Drawings of articles, materials, operations, or methods requires that the Design/Builder:

Provide each item mentioned and indicated, of quality or subject to qualifications noted.

Perform according to conditions stated, each operation prescribed.
Provide therefor all necessary labor, equipment, and incidentals.

5. Wording: Whenever in these Specifications or on the Drawings the words “directed,” “required,” “permitted,” “ordered,” or words of like import are used, it shall be understood that the direction, requirement, permission, or order of the County is intended, and similar words, “approved,” “acceptable,” “satisfactory,” or words of like import shall mean approved by, acceptable to, or satisfactory to the County.
6. Specification Sections: For convenience of reference and to facilitate the letting of contracts and subcontracts, these Specifications are separated into titled sections. Such separation shall not, however, operate to make the County an arbiter to establish limits to the contracts between the Design/Builder and Subcontractors, nor shall such separation be interpreted as superseding normal union jurisdictions.
7. Language: Notwithstanding the appearance of such language in the various sections of the Specifications as, “The Paving Contractor,” “The Grading Contractor,” etc., the Design/Builder is responsible to the County for the entire Contract and the execution of all work referred to in the Contract Documents.

CC. Present Documents Govern: The Design/Builder shall in no case claim a waiver of any specification requirements on the basis of previous approval of material or workmanship on other jobs of like nature or on the basis of what might be considered “standard” for material or workmanship in any particular location. The Contract Documents for this job shall govern the Work.

DD. Design/Builder’s Shop Drawings:

1. The approved Drawings will be supplemented by such Shop Drawings as are needed to adequately control the Work. It is mutually agreed that all authorized alterations affecting the requirements and information given on the approved Drawings shall be in writing.
2. Shop Drawings to be furnished by the Design/Builder for any structure shall consist of such detailed drawings as may be required for the prosecution of the Work.
3. Shop Drawings must be approved by the Owner before the work in question is performed. Drawings for false work, centering, and form work may also be required, and in such cases shall be likewise subjected to approval unless approval be waived. It is expressly understood, however, that approval of the Design/Builder’s Shop Drawings does not relieve the Design/Builder of any responsibility for accuracy of dimensions and details. It is mutually agreed that the Design/Builder shall be responsible for agreement and conformity of Design/Builder’s Shop Drawings with the approved Drawings and Specifications.
4. It is the responsibility of the Design/Builder to check all Shop Drawings before same are submitted to the Owner for approval. Shop Drawings which have not been checked and approved by the Design/Builder will not be approved.
5. Shop Drawings shall be submitted only by the Design/Builder who shall indicate by a signed stamp on the drawings that Design/Builder has checked the Shop Drawings and that the work shown on them is in accordance with Contract requirements and has been checked for dimensions and relationship with work of all other trades involved. Under no conditions shall Shop Drawings be accepted from anyone other than the Design/Builder.
6. The Design/Builder shall furnish the Owner with at least six copies of all Shop Drawings for approval. Two finally approved copies will be returned to the Design/Builder for Design/Builder’s use.
7. The Contract Price shall include the cost of furnishing all Shop Drawings and the Design/Builder will be allowed no extra compensation for such drawings.

8. The approval of such Shop Drawings shall not relieve the Design/Builder from responsibility for deviations from Drawings or the Specifications unless Design/Builder has in writing called attention to such deviations, and the Owner has approved the changes or deviations in writing at the time of submission, nor shall it relieve Design/Builder from the responsibility for errors of any kind in Shop Drawings. When the Design/Builder does call such deviations to the attention of the Owner, Design/Builder shall state in Design/Builder's letter whether or not such deviations involve any extra cost. If this is not mentioned, it will be assumed that no extra cost is involved for making the change.

EE. Instructions, Changes, Etc.:

1. All changes, alterations, or instructions in regard to any feature of the Work that differ from the Drawings and Specifications must be approved in writing by Change Order in all cases, and no verbal orders will be regarded as a basis for claims for extra work.
2. If the Design/Builder claims that any instruction by Drawings or otherwise involves extra cost or an extension of time, Design/Builder shall notify the Owner in writing within ten (10) days after the receipt of such instructions and in any event before proceeding to execute the Work. Thereafter, the procedure shall be the same as that described for changes in the Work. No such claim shall be valid unless made in accordance with the terms of this section.
3. No claims for extra cost will be considered based on an escalation of material prices throughout the period of the Contract.
4. No extra work is to be performed or any changes made that involves any extra cost or extension of time unless approved by the Owner and authorized by Change Order.

FF. Requests for Substitutions: Requests for substitutions of proprietary products or of a particular manufacturer or vendor must be accompanied by documentary proof of equality, and difference in price and deliveries, if any, in form of certified quotations from Suppliers of both specified and proposed equipment. The item proposed for substitution shall be equal to or superior to the specified item or items, in construction, efficiency, and utility in the opinion of the Owner. The opinion of the Owner shall be final and no substitute material or article shall be purchased or installed without such written approval.

In case of a difference in price, the County shall receive all benefits of the difference in cost involved in any substitution, when lower, and the Contract altered by Change Order to credit the County with any savings to be obtained. However, the County shall not be charged for any additional cost in case of a price difference.

GG. Authority of the Design/Builder:

1. The Design/Builder shall perform all of the Work herein specified under the general direction, and to the entire satisfaction, approval, and acceptance of the Owner. The Owner shall decide all questions relating to measurements of quantities, the character of the Work performed, and as to whether the rate of progress is such that the Work will be completed within the time limit of the Contract. All questions as to the meaning of these Specifications will be decided by the Owner.
2. The approval of the Owner of any materials, plants, equipment, Drawings, or of any other items executed, or proposed by the Design/Builder, shall be construed only to constitute an approval of general design. Such approval shall not relieve the Design/Builder from the performance of the Work in accordance with the Contract Documents, or from any duty, obligations, performance guarantee, or other liability imposed upon Design/Builder by the provisions of the Contract.

HH. Rejections of Work and Materials:

1. All materials and equipment furnished and all work done that is not in accordance with the Drawings or Specifications or that is defective will be rejected. All rejected

materials, equipment, or work shall be removed immediately. If rejected materials, equipment, or work is not removed within forty-eight hours from the date of letter of notification, the Owner shall have the right and authority to stop the Design/Builder and Design/Builder's work immediately, and/or shall have the right to arrange for the removal of said rejected materials, equipment, or work at the cost and expense of the Design/Builder. All rejected materials, equipment, or work shall be replaced with other material, equipment, or work which conforms with the Drawings and Specifications at no additional cost to the County.

2. Inspection of the Work shall not relieve the Design/Builder of any of Design/Builder's obligations to fulfill Design/Builder's Contract and defective work shall be made good regardless of whether such work, material, or equipment has been previously inspected by the Owner and accepted or estimated for payment. The failure of the Owner to condemn improper materials or workmanship shall not be considered as a waiver of any defect which may be discovered later, or for work actually defective. All work, material, and/or equipment shall be guaranteed against defects for a period of one year from date of Project acceptance as established by the County. The warranty requirement set forth herein shall be in addition to any and all other warranty requirements set forth in the Contract Documents.

II. Lines, Grades, and Measurements:

1. Such stakes and markings as the Owner may set for either its or the Design/Builder's guidance shall be preserved by the Design/Builder. Failure to protect such stakes or markings, or gross negligence on the Design/Builder's part resulting in loss of same, may result in the Design/Builder being charged for their replacement.
2. The Design/Builder must exercise proper care and caution to verify the grades and figures given Design/Builder before proceeding with the Work, and shall be responsible for any damage or defective work caused by Design/Builder's failure of such care and caution. Design/Builder shall promptly notify the Owner of any errors or discrepancies Design/Builder may discover in order that the proper corrections may be made.

JJ. Land and Rights-of-Way:

1. Prior to entering on any land or right-of-way, the Design/Builder shall ascertain the requirements of applicable permits or easements obtained by the County, and shall conduct Design/Builder's work in accordance with requirements thereof including the giving of notice. The Design/Builder shall be fully responsible for performing work to the requirements of any permit or easement granting entity even though such requirements may exceed or be more stringent than that otherwise required by the Contract Documents, and shall compensate the County fully for any loss or expense arising from failure of the Design/Builder to perform as required by such entity.
2. The Design/Builder shall provide at Design/Builder's own expense and without liability to the County any additional land and access thereto that the Design/Builder may desire for temporary construction facilities, or for storage of materials.

KK. Prior Use by County: Prior to completion of the Work, the County may take over operation and/or use of the uncompleted Project or portions thereof. Such prior use of facilities by the County shall not be deemed as acceptance of any work or relieve the Design/Builder from any of the requirements of the Contract Documents.

LL. Barricades:

1. Lanterns: Design/Builder shall provide continuously burning lanterns at all barricades and at protective barriers around excavations so that the public is adequately warned of such hazards. Lanterns shall remain lighted from sundown to sunrise and at all other times when the labor forces are not on the job site.

2. Access to Site: Delivery of construction materials and equipment shall be only from locations approved by the County.

MM. Schedules, Reports, and Records:

1. The Design/Builder shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records, and other data as the Owner may request concerning work performed or to be performed.
2. Prior to the first partial payment estimate, the Design/Builder shall submit schedules showing the order in which Design/Builder proposes to carry on the Work, including dates at which Design/Builder will start the various parts of the Work, estimated date of completion of each part; and, as applicable, the dates at which special detail drawings will be required, and respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
3. The Design/Builder shall also submit a schedule of payments that Design/Builder anticipates Design/Builder will earn during the course of the Work.

NN. Supplementary Conditions:

1. Scope: Furnish, erect, and maintain temporary facilities and perform temporary work required in the performance of this Contract, including those shown and specified.
2. Use of Temporary Facilities: Design/Builder may be required by the County to provide and maintain a suitable office on the site for Design/Builder's own use and for the use of representatives of the County.
3. Maintenance and Removal:
 - a. Utilities and Furnishings: Design/Builder shall furnish sufficient heat, artificial light, ventilation and janitor's service, and shall also provide a table or desk, plan rack and chairs, all for the use of those visiting the job, in addition to such furnishings as Design/Builder provides for Design/Builder's own use.
 - b. Location and Removal: Temporary offices and other structures shall be located where approved by the County, and shall be removed from the premises upon completion of the Contract or earlier if so directed by the County. They shall remain the property of the Design/Builder.
4. Field Offices:
 - a. Design/Builder and Design/Builder's Subcontractors shall provide such additional offices, storage shanties, tool sheds and other temporary buildings as required for their own use and those employed on the Work.
5. Toilet and Washing Facilities:
 - a. Toilet Building: Design/Builder may be required by the County, at the beginning of work, to provide on premises suitable and adequate temporary toilets and enclosure for use of workers on the job; maintain same in sanitary condition; remove same at completion of building operations and/or when directed.
 - b. Sanitary Regulations: Do not allow any sanitary nuisances to be committed in or about work; enforce sanitary regulations of local and State Health Authorities.
6. Utilities During Construction:
 - a. Utilities: Design/Builder shall furnish all utilities and pay for all utility bills used during construction. Utilities shall include electric power or fuel of any sort used for heating, etc., and water.
7. Connections to Utilities:
 - a. Design/Builder shall provide all temporary connections to utilities when not provided by the utility company or others.

8. Telephone:

- a. Design/Builder shall, if required by the County, install and maintain at Design/Builder's own expense, a job telephone for duration of the Contract.

9. Temporary Heat:

- a. The Design/Builder shall provide at Design/Builder's own expense temporary heat as necessary to protect all work and materials against injury from dampness and cold. Fuel, equipment and method of heating shall not present a fire hazard and shall be satisfactory to the County. See requirements in detail Specifications for temperatures to be maintained for application of work under the various trades.

10. Interruption of Facility Operations:

- a. The Design/Builder shall schedule the Work such that the Design/Builder minimizes interruptions to the operation of any existing facility, including water mains and sewers. Shut downs must be scheduled with the County and mitigation steps taken to prevent upsets or impacts to plant compliance.
- b. The Design/Builder shall conduct operations in a manner and sequence which will provide for the continued transportation of wastewater flows during construction of this Project. The Design/Builder shall take all actions required to prevent discharge of sewer flow from the system to the ground or stream. Any construction actions that impede or interrupt flow shall be carefully executed and monitored to prevent surcharging and overflow.
- c. Any damages resulting from surcharging, overflow or back-up caused by the Contractor's operations shall be the Contractor's responsibility. Fines charged the County for overflows caused by the Design/Builder shall be paid for by the Contractor.

11. DeKalb County Work Hours: Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during DeKalb County Construction Activities work hours (DeKalb County Code of Ordinances Chapter 16, Article VII, Division 2, Section 16-306 (d)). DeKalb County work hours are generally Monday through Friday from 7:00 a.m. through 7:00 p.m. DeKalb County observes the following holidays; **New Year's Day, Martin Luther King, Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, day after Thanksgiving, and Christmas.** The Design/Builder will not perform Work outside of DeKalb County work hours without the County's written consent given after prior written notice to the Construction Manager, which shall be submitted at least seven (7) days in advance.

OO. Notice to Design/Builder and Subcontractors: The Georgia Legislature has enacted a new Code provision, designated O.C.G.A. § 13- 10-80, governing progress payments and retainage for public works contracts. It is applicable to contracts which, when awarded exceed \$150,000.00 in value or forty-five (45) days in duration, and establishes mandatory guidelines by which payments received from DeKalb County in this contract must be passed through the subcontractors. For your information, its provisions are set out below:

13-10-80. Periodic Progress Payments; Retainage; Exceptions; Minimal Standard of this Code Section.

1. As used in this Code section, the term:

- a. "Contractor" means a person having a direct contract with the Owner.
- b. "Lower tier subcontractor" means a person other than the Design/Builder having a direct contract with a subcontractor.

- c. "Owner" means the state, any county, municipal corporation, authority, board of education, or other public board, public body, department, agency, instrumentality, or political subdivision of the state.
 - d. "Owner's authorized contract representative" means the architect or engineer in charge of the Project for the owner or such other contract representative or officer as designated in the contract documents as the party representing the Owner's interest regarding administration and oversight of the Project.
 - e. "Subcontractor" means a person other than an Owner having a direct contract with the contractor.
2. In any contract for the performance of any construction Project entered into on or after July 1, 1985, with an owner, as defined in paragraph (3) of subsection (a) of this Code section, such contract shall provide for the following:
- a. After work has commenced at the construction site, progress payments to be made on some periodic basis, and at least monthly, based on the value of work completed as may be provided in the contract documents plus the value of materials and equipment suitably stored, insured, and protected at the construction site, and at the owner's discretion such materials and equipment suitably stored, insured, and protected off site at a location approved by the owner's authorized contract representative when allowed by the contract documents, less retainage; and
 - b. Retainage to a maximum of ten (10%) percent of each progress payment; provided, however, that, when fifty (50%) percent of the contract value including change orders and other additions to the contract value provided for by the contract documents is due and the manner of completion of the contract work and its progress are reasonably satisfactory to the Owner's authorized contract representative, the Owner shall withhold no more retainage. At the discretion of the Owner and with the approval of the Design/Builder, the retainage of each subcontractor may be released separately as the subcontractor completes his work.
3. If, after discontinuing the retention, the Owner's authorized contract representative determines that the work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level. If retention is resumed by an owner, the Design/Builder and subcontractors shall be entitled to resume withholding retainage accordingly.
4. At substantial completion of the work or such other standard of completion as may be provided in the contract documents and as the Owner's authorized contract representative determines the work to be reasonably satisfactory, the owner shall within thirty (30) days after invoice and other appropriate documentation as may be required by the contract documents are provided pay the retainage to the Design/Builder. If at that time there are any remaining incomplete minor items, an amount equal to two hundred (200%) percent of the value of each item as determined by the Owner's authorized contract representative shall be withheld until such item or items are completed. The reduced retainage shall be shared by the Design/Builder and subcontractors as their interests may appear. The Design/Builder shall, within ten (10) days from the Design/Builder's receipt of retainage from the Owner, pass through payments to subcontractors and shall reduce each subcontractor's retainage in the same manner as the Design/Builder's retainage is reduced by the Owner, provided that the value of each subcontractor's work complete and in place equals fifty (50%) percent of his subcontract value, including approved change orders and other additions to the subcontract value and provided, further, that the work of the subcontractor is

proceeding satisfactorily and the subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his work including any warranty work as the Design/Builder in his reasonable discretion may require, including, but not limited to, a payment and performance bond.

5. The subcontractor shall, within ten (10) days from the subcontractor's receipt of retainage from the Design/Builder, pass through payments to lower tier subcontractors and shall reduce each lower tier subcontractor's retainage in the same manner as the subcontractor's retainage is reduced by the Design/Builder, provided that the value of each lower tier subcontractor's work complete and in place equals fifty (50%) percent of his subcontract value, including approved change orders and other additions to the subcontract value and provided, further, that the work of the lower tier subcontractor is proceeding satisfactorily and the lower tier subcontractor has provided or provides such satisfactory reasonable assurances of continued performance and financial responsibility to complete his work including any warranty work as the subcontractor in his reasonable discretion may require, including, but not limited to, a payment and performance bond.
6. This Code section shall not apply to:
 - a. Any contracts let by the Department of Transportation of this State for the construction, improvement, or maintenance of roads or highways in this State or purposes incidental thereto; or
 - b. Any contracts whose value or duration at the time of the award does not exceed \$150,000.00 or forty-five (45) days in duration.
7. Contract and subcontract provisions inconsistent with the benefits extended to Design/Builders, subcontractors, and lower tier subcontractors by this Code section shall be unenforceable; provided, however, that nothing in this Code section shall render unenforceable any contracts or subcontract provisions allowing greater benefits to be extended to such Design/Builders, subcontractors, or lower tier subcontractors, the provisions and benefits of this Code section being minimal only. Nothing shall preclude a payor under this Code section, prior to making a payment, from requiring the payee to submit satisfactory evidence that all payrolls, material bills, and other indebtedness connected with the work have been paid. (Code 1981, '13-10-2, enacted by Ga. L. 1985, p. 1043, '1.)

PP. Georgia Open Records Act: Without regard to any designation made by the person or entity entering this Agreement, DeKalb County considers all information submitted in response to the Agreement to be a public record that will be disclosed upon request pursuant to the Georgia Open Records Act O.C.G.A. § 50-18-70 et seq., after contacting the person or entity making the submission, unless a court order is presented with the Agreement.

QQ. First Source Jobs Ordinance: The DeKalb County First Source Jobs Ordinance, attached as an Exhibit and incorporated into this Agreement, requires contractors or beneficiaries entering into any type of agreement with the County, including purchase orders, regardless of what they may be called, for the procurement or disposal of supplies, services, construction Projects, professional or consultant services, which is funded in whole or part with County funds or County administered funds in which the contractor is to receive \$50,000 or more in County expenditures or committed expenditures and recipient of urban redevelopment action grants or community development block funds administered in the amount of \$50,000 or more make a good faith effort to hire DeKalb County residents for at least 50% of jobs using the First Source Registry (candidate database). The work to be performed under this contract is subject to the provisions of the DeKalb County First Source Jobs Ordinance. For more information on this Ordinance requirement, please contact DeKalb Workforce Development at 404.687.3400.

RR. Contractor and Subcontractor Evidence of Compliance:

1. County contracts for the physical performance of services within the state of Georgia shall include the following provisions in accordance with O.C.G.A. § 13-10-91, as amended:
 - a. the contractor has registered with and is authorized to use the federal work authorization program to verify information on all newly hired employees or subcontractors;
 - b. by affidavit, the contractor must attest to the contractor's name, address, user identification number, date of authorization, and verification of the continual participation throughout the contract period, and
 - c. the affidavit shall become a part of the covered contract and must be attached.
2. No contractor or subcontractor who enters into a contract with the County or a contractor of the County shall enter into such a contract or subcontract in connection with the physical performance of services within Georgia unless the contractor or subcontractor registers and participates in the federal work authorization program to verify information of all newly hired employees. Any employee, contractor, or subcontractor of such contractor or subcontractor shall also be required to satisfy the requirements of O.C.G.A. § 13-10-91, as amended.
3. Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a condition of any contract or subcontract entered into pursuant to O.C.G.A. § 13-10-91, as amended, agree to provide the County with notice of the identity of any and all subsequent subcontractors hired or contracted by the contractor or subcontractor. Such notice shall be provided within five (5) business days of entering into a contract or agreement for hire with any subcontractor. Such notice shall include an affidavit from each subsequent contractor attesting to the subcontractor's name, address, user identification number, and date of authorization to use the federal work authorization program.
4. An affidavit shall be considered an open public record; provided, however, that any information protected from public disclosure by federal law or by Article 4 of Chapter 18 of Title 50 shall be redacted. Affidavits shall be maintained by the County for five years from the date of receipt.
5. To verify compliance, the contractor agrees to participate in random audits conducted by the Commissioner of the Georgia Department of Labor. The results of the audits shall be published on the www.open.georgia.gov website, and on the Department of Labor's website no later than December 31 of each year.
6. Any person who knowingly and willfully makes a false, fictitious, or fraudulent statement in an affidavit submitted pursuant to O.C.G.A. § 13-10-91 shall be guilty of a violation of Code § 16-10-20 and, upon conviction, shall be punished as provided in such section. Contractors and subcontractors convicted for false statements based on a violation of such section shall be prohibited from bidding on or entering into any public contract for twelve (12) months following such conviction.

[SIGNATURES CONTINUED ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have set their hands and caused their seals to be affixed hereupon in four (4) counterparts, each to be considered as an original by their authorized representatives, on this ____ day of _____, 20____.

COMPANY NAME

DEKALB COUNTY, GEORGIA

By: _____(SEAL)
Signature

_____ **by Dir.**(SEAL)
Michael L. Thurmond
Chief Executive Officer
DeKalb County, Georgia

Name (Typed or Printed)

Date

Title

Date

Federal Tax I.D. Number

ATTEST:

ATTEST:

Signature

Name (Typed or Printed)

Title

Date

BARBARA SANDERS, CCC, CMC
Clerk of the Chief Executive Officer
And Board of Commissioners of
DeKalb County, Georgia

Date

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

Department Director Signature

County Attorney Signature

Department Director Name (Typed or Printed)

County Attorney Name (Typed or Printed)

ATTACHMENTS

This Contract includes the following Attachments all of which are incorporated herein by reference:

Exhibit 1, Statement of Work

Exhibit 2, Design/Builder's Cost Proposal

Exhibit 3, First Source Ordinance Forms

Attachment 1, Special Requirements

Attachment 2, Contractor's Affidavit

Attachment 3, Subcontractor's Affidavit(s)

Attachment 4, Sub-subcontractor's Affidavit(s)

Attachment 5, Certificate of Corporate Authority or Joint Venture Certificates

Attachment 6, Performance Bond and Accompanying Power of Attorney

Attachment 7, Payment Bond and Accompanying Power of Attorney

Attachment 8, Copies of Required Insurance policies and Declaration Page(s)

Attachment 9, Business License Documentation

Attachment 10, Ethics Rules Executive Order 2014-4 Ethics Rules

In addition to the foregoing, the Proposal Document Package dated _____, the original of which is maintained in the County's Department of Purchasing and Contracting, forms an essential part of this Contract as if fully set out herein.

EXHIBIT 1
SAMPLE STANDARD COUNTY CONTRACT

Statement of Work

SAMPLE COUNTY CONTRACT (DB)

EXHIBIT 2
SAMPLE STANDARD COUNTY CONTRACT

Design/Builder's Cost Proposal

SAMPLE COUNTY CONTRACT (DB)

EXHIBIT 3
SAMPLE STANDARD COUNTY CONTRACT

First Source Ordinance Forms

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 1
SAMPLE STANDARD COUNTY CONTRACT

Special Requirements

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 2
SAMPLE STANDARD COUNTY CONTRACT

Contractor's Affidavit

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 3
SAMPLE STANDARD COUNTY CONTRACT

Subcontractor's Affidavit

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 4
SAMPLE STANDARD COUNTY CONTRACT

Sub-subcontractor's Affidavit

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 5
SAMPLE STANDARD COUNTY CONTRACT

Certificate of Corporate Resolution/ Business Organization Documents

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 6
SAMPLE STANDARD COUNTY CONTRACT

Performance Bond and Accompanying Power of Attorney
(consisting of 3 pages)

KNOW ALL MEN BY THESE PRESENTS that _____ [Insert name of contractor] (hereinafter called the “Principal”) and _____ [Insert name of surety] (hereinafter called the “Surety”), are held and firmly bound unto _____ County (hereinafter called the “County”) and their successors and assigns, in the penal sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract with the County, awarded by the DeKalb County Governing Authority on _____, which is incorporated herein by reference in its entirety (hereinafter called the “Contract”), for the **RFVQ 22-500603 CEDAR GROVE ROAD BRIDGE REPLACEMENT**, more particularly described in the Contract (hereinafter called the “Project”); and

NOW, THEREFORE, the conditions of this obligation are as follows, that if the Principal shall fully and completely perform all the undertakings, covenants, terms, conditions, warranties, and guarantees contained in the Contract, including all change orders, modifications, amendments, changes, deletions, additions, and alterations thereto that may hereafter be made, then this obligation shall be void; otherwise, it shall remain in full force and effect.

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

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

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

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

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

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

The Surety's obligations under this bond include all of the Contractor's duties under the Contract, including without limitation its maintenance and guarantee obligations.

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

This Bond is intended to comply with O.C.G.A. §36-91-70, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the County beyond that contemplated by O.C.G.A. §36-91-70, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the County, whether or not such protection is found in the applicable statutes.

If any one or more of the provisions of this Bond are determined to be illegal or unenforceable by a court of competent jurisdiction, all other provisions shall remain effective.

IN WITNESS WHEREOF the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ____ day of _____, 20__.

PRINCIPAL

By: _____ (SEAL)
Signature of Principal

Print Name and Title of Authorized Signer

Print Name of Principal Business

ATTEST:

Corporate Secretary

SURETY

By: _____ (SEAL)
Signature of Surety (by Power of Attorney)

Print Name and Title of Authorized Signer

Print Name of Surety Business

WITNESS:

[Attach Original Power of Attorney]

ATTACHMENT 7
SAMPLE STANDARD COUNTY CONTRACT

Payment Bond and Accompanying Power of Attorney

KNOW ALL MEN BY THESE PRESENTS that _____ [Insert name of contractor] (hereinafter called the “Principal”) and _____ [Insert name of surety] (hereinafter called the “Surety”), are held and firmly bound unto _____ County, (hereinafter called the “County”), its successors and assigns as obligee, in the penal sum of [Insert contract amount], lawful money of the United States of America, for the payment of which the Principal and the Surety bind themselves, their administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered, or is about to enter, into a certain written contract with the County, awarded by the DeKalb County Governing Authority on _____ [insert date of award] which is incorporated herein by reference in its entirety (hereinafter called the “Contract”), for the construction of a Project known as **RFVQ 22-500603 CEDAR GROVE ROAD BRIDGE REPLACEMENT** as more particularly described in the Contract (hereinafter called the “Project”);

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall promptly make payment to all persons working on or supplying labor or materials under the Contract, and any amendments thereto, with regard to labor or materials furnished and used in the Project, and with regard to labor or materials furnished but not so used, then this obligation shall be void; but otherwise it shall remain in full force and effect.

1. A “Claimant” shall be defined herein as any Subcontractor, person, party, partnership, corporation or other entity furnishing labor, services, or materials used, or reasonably required for use, in the performance of the Contract, without regard to whether such labor, services, or materials were sold, leased, or rented, and without regard to whether such Claimant is or is not in privity of contract with the Principal or any Subcontractor performing work on the Project, including, but not limited to, the following labor, services, or materials: water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
2. In the event a Claimant files a claim against the County, or the property of the County, and the Principal fails or refuses to satisfy or discharge it promptly, the Surety shall satisfy or discharge the claim promptly upon written notice from the County, either by bond or as otherwise provided in the Contract.
3. The Surety hereby waives notice of any and all modifications, omissions, additions, changes, alterations, extensions of time, changes in payment terms, and any other amendments in or about the Contract and agrees that the obligations undertaken by this bond shall not be impaired in any manner by reason of any such modifications, omissions, additions, changes, alternations, extensions of time, changes in payment terms, and amendments.
4. The Surety hereby agrees that this Bond shall be deemed amended automatically and immediately, without formal or separate amendments hereto, upon any amendment or modification to the Contract, so as to bind the Principal and Surety, jointly and severally, to the full payment of any Claimant under the Contract, as amended or modified, provided only

that the Surety shall not be liable for more than the penal sum of the Bond, as specified in the first paragraph hereof.

5. This Bond is made for the use and benefit of all persons, firms, and corporations who or which may furnish any materials or perform any labor for or on account of the construction to be performed or supplied under the Contract, and any amendments thereto, and they and each of them may sue hereon.
6. No action may be maintained on this Bond after one (1) year from the date the last services, labor, or materials were provided under the Contract by the Claimant prosecuting said action.
7. This Bond is intended to comply with O.C.G.A. §36-91-90, and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this Bond extends protection to the County beyond that contemplated by O.C.G.A. §36-91-90, or any other statutory law applicable to this Project, then the additional protection shall be enforced in favor of the County, whether or not such protection is found in the applicable statutes.

IN WITNESS WHEREOF, the Principal and Surety have hereunto affixed their corporate seals and caused this obligation to be signed by their duly authorized representatives this ____ day of _____, 20____.

PRINCIPAL

By: _____ (SEAL)
Signature of Principal

Print Name and Title of Authorized Signer

Print Name of Principal Business

ATTEST: _____
Corporate Secretary

SURETY

By: _____ (SEAL)
Signature of Surety (by Power of Attorney)

Print Name and Title of Authorized Signer

Print Name of Surety Business

WITNESS: _____

[Attach Original Power of Attorney]

ATTACHMENT 8
SAMPLE STANDARD COUNTY CONTRACT

Copies of Required Insurance policies and Declaration Pages

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 9
SAMPLE STANDARD COUNTY CONTRACT

Business License Documentation

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT 10
SAMPLE STANDARD COUNTY CONTRACT
Ethics Rules Executive Order 2014-4 Ethics Rules

SAMPLE COUNTY CONTRACT (DB)

ATTACHMENT M

GDOT AREA AND WORK CLASS REQUIREMENTS

The Lead Designer must be prequalified in the Area Classes identified below in Section A. The Prime Consultant or subconsultant team members must be prequalified in the Area Classes identified below in Section B. Respondents should submit a summary form which details the required area classes for the Lead Designer and all subconsultants or joint venture of consultants on the team listed in the Statement of Qualifications. The area classes listed on the summary form must meet all required area class requirements or the team will be disqualified. The Prequalification Expiration Date must be current by the deadline stated for this RFVQ.

A. The **Lead Designer** **MUST** be prequalified by GDOT in the area classes listed below:

Number	Area Class
4.01a	Minor Bridge Design
	(OR)
4.01b	Minor Bridge Design Conditional

B. The **Team** (either the Lead Designer and/or one or more of their subconsultant team members) **MUST** be prequalified by GDOT in the area classes listed below:

Number	Area Class
3.02	Urban Roadway Design
3.10	Utility Coordination
4.01a	Minor Bridge Design
	(OR)
4.01b	Minor Bridge Design Conditional
5.02	Engineering Surveying
6.02	Bridge Foundation Studies
9.01	Erosion, Sedimentation, and Pollution Control Plan

C. The **Prime Design/Builder** **MUST** be prequalified by GDOT in the Work Classes listed below:

Number	Work Class
232	Railroad Construction
500	Concrete Structures (Bridges & Culverts)
500a	Retaining Walls

D. The **Team** **MUST** be prequalified by GDOT in the Work Classes listed below:

Number	Work Class
149	Construction Layout
163	Miscellaneous Erosion Control Items
201	Clearing and Grubbing Right of Way
205	Roadway Excavation
208	Embankments

209	Subgrade Construction
232	Railroad Construction
310	Graded Aggregate Construction
500	Concrete Structures (Bridges & Culverts)
500a	Retaining Walls
507	Prestressed Concrete Bridge Members
520	Piling
670	Water Distribution