



## COBB COUNTY PURCHASING DEPARTMENT

1772 County Services Parkway  
Marietta, Georgia 30008-4012  
(770) 528-8400 /FAX (770) 528-1154  
Email: [purchasing@cobbcounty.org](mailto:purchasing@cobbcounty.org)  
[www.purchasing.cobbcountyga.gov](http://www.purchasing.cobbcountyga.gov)

### IMPORTANT NOTICE – PLEASE READ CAREFULLY!!

ALL bids **MUST** be received at the Cobb County Purchasing Department.

**BIDS MUST BE RECEIVED BEFORE 12:00 (NOON) ON BID OPENING DAY**

**Any bid received later than 12:00 (noon) will not be accepted.** The County accepts no responsibility for delays in the mail. Bids are to be mailed or delivered to:

COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GA 30008-4012

**All bid prices shall be submitted on the Bid Form included in the bid/proposal.  
Any revisions made on the outside of the envelope WILL NOT be considered.**

**PLEASE CHECK bid specifications and advertisement for document requirements.**

Documents/Forms listed below **MUST** be submitted when required.

Omission of these documents /forms will cause your bid/proposal to be declared **NON-RESPONSIVE**.

- **BID SUBMITTAL FORM**
  - ▶ *Official Signature is required on this form guaranteeing the quotation.*
- **CONTRACTOR AFFIDAVIT and AGREEMENT - Exhibit A**
  - ▶ *Affidavit **MUST** be signed, notarized and submitted with any bid requiring the performance of physical services. If the affidavit is not submitted at the time of the bid, bid will be determined non-responsive and will be disqualified.*
- **BID BOND**

**If your firm is classified as a Disadvantaged Business Enterprise (DBE) please complete Exhibit B** with bid response. A Disadvantaged Business Enterprise (DBE) is generally defined as a Female, Black American, Hispanic American and any other minority owned business.

All vendors are required to submit the ORIGINAL AND AT LEAST one (1) duplicated copy of any bid submitted to Cobb County. Please refer to your bid specifications to determine if more than one (1) copy is required. Non-submission of a duplicate copy may disqualify your bid/proposal.

A “**SEALED BID LABEL**” has been enclosed to affix to your bid. This label **MUST** be affixed to the outside of the envelope or package, **even if it is a “NO BID” response**. Failure to attach the label may result in your bid being opened in error or not routed to the proper location for consideration. No bid will be accepted after the date and time specified.

**Thank you in advance for your cooperation.**

ADVERTISEMENT FOR REQUEST FOR PROPOSAL  
COBB COUNTY PURCHASING DEPARTMENT

**BID OPENING DATE: APRIL 28, 2011**

Sealed proposals from qualified contractors will be receive before 12:00 NOON, April 28, 2011, in the Cobb County Purchasing Department, 1772 County Services Parkway, Marietta, GA 30008 for furnishing all labor. Materials, equipment, appliances, etc. pursuant to the plans, specifications, condition and addenda for:

**SEALED BID # 11 -5572  
REQUEST FOR PROPOSAL  
DESIGN / BUILD  
NEW AUSTELL SENIOR CENTER  
COBB COUNTY PROPERTY MANAGEMENT DEPARTMENT**

**PRE-PROPOSAL MEETING: APRIL 13, 2011 @ 1:30 P.M.  
COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GEORGIA 30008**

**No bids will be accepted after the 12:00 noon deadline.**

Proposals are opened at 2:00 p.m. at Cobb County Purchasing Department, 1772 County Services Parkway, 2nd Floor, Bid/Meeting Room, Marietta, GA 30008.

All contractors wishing to submit proposals for this work must submit a qualification statement form (in the proposal package) to be considered. Proposals must be accompanied by bid security in the amount not less than five percent (5%) of the base bid. Performance Bond and Labor and Material Payment Bond, or other security instruments as allowed by law each in the amount equal to 100% of the contract sum will be required of the successful bidder. Bonds must be written by a surety company licensed to do business in the State of Georgia, have a "Best's" rating of "A" or better, appear on the current U.S. Treasury Department list of sureties that are acceptable on bonds for the federal government (circular 570), and have recommended bonds limits equal to or in excess of those required for this project; otherwise acceptable to the owner.

**The Georgia Security and Immigration Compliance Act Affidavit form must be submitted with all bid packages involving the "performance of physical services" in order to be considered.**

No proposal may be withdrawn for a period of ninety (90) days after date of bid opening, unless otherwise specified in the bid documents. Cobb County will consider the competency and responsibility of bidders in making the award. Cobb County reserves the right to reject any and all proposals, to waive informalities and technicalities, to reject portions of the proposals, and to award contracts in a manner consistent with the County and the laws governing the State of Georgia.

This solicitation and any addenda are available for download in PDF format on the Cobb County Purchasing website. [www.purchasing.cobbcountyga.gov](http://www.purchasing.cobbcountyga.gov)

Advertise: APRIL 1, 8, 15, 22, 2011



**BID SUBMITTAL FORM**

SUBMIT BID/PROPOSAL TO:  
COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GA 30008-4012

**BID/PROJECT NUMBER: 11-5572**  
**REQUEST FOR PROPOSAL**  
**DESIGN / BUILD**  
**NEW AUSTELL SENIOR CENTER**  
**COBB COUNTY PROPERTY MANAGEMENT DEPARTMENT**

**DELIVERY DEADLINE: APRIL 28, 2011 BEFORE 12:00 (NOON) EST**  
**(NO BIDS/PROPOSALS WILL BE ACCEPTED AFTER THIS DEADLINE).**

BID OPENING DATE: APRIL 28, 2011 @ 2:00 P.M. IN THE PURCHASING DEPARTMENT BID ROOM.

BUSINESS NAME AND ADDRESS INFORMATION:

Company name: \_\_\_\_\_

Contact name: \_\_\_\_\_

Company address: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Phone number: \_\_\_\_\_ Fax number: \_\_\_\_\_

**NAME AND OFFICIAL TITLE OF OFFICER GUARANTEEING THIS QUOTATION:**

\_\_\_\_\_  
(PLEASE PRINT/TYPE) NAME TITLE

**SIGNATURE OF OFFICER ABOVE:** \_\_\_\_\_  
(SIGNATURE)

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

BIDDER WILL INDICATE TIME PAYMENT DISCOUNT: \_\_\_\_\_

BIDDER SHALL INDICATE MAXIMUM DELIVERY DATE: \_\_\_\_\_

Bids received after the date and time indicated will not be considered. Cobb County reserves the right to reject any and all bids, to waive informalities, to reject portions of the bid, to waive technicalities and to award contracts in a manner consistent with the county and the laws governing the state of Georgia.

The enclosed (or attached) bid is in response to Bid Number 11-5572; is a firm offer, **as defined by section O.C.G.A. (s) 11-2-205 of the code of Georgia (Georgia laws 1962 pages 156-178)**, by the undersigned bidder. This offer shall remain open for acceptance for a period of 90 days calendar days from the bid opening date, as set forth in this invitation to bid unless otherwise specified in the bid documents.

**NOTICE TO BIDDERS - - BID QUOTES MUST INCLUDE INSIDE DELIVERY CHARGES**

Advertise Dates: APRIL 1, 8, 15, 22, 2011

## SEALED BID LABEL

### **SEALED BID ENCLOSED**

DELIVER TO:  
COBB COUNTY PURCHASING  
1772 County Services Parkway  
Marietta, GA 30008-4012

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**SEALED BID # 11-5572 DATE: April 28, 2011**

**BIDS MUST BE RECEIVED BEFORE 12:00 NOON**

**DESCRIPTION:** Request for Proposal  
Design / Build  
New Austell Senior Center

**PLEASE ATTACH LABEL TO OUTSIDE OF BID PACKAGE**



*Cobb County...Expect the Best!*

**"STATEMENT OF NO BID"**

COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GA 30008

TO ALL PROSPECTIVE BIDDERS:

Because of the many requests to be placed on our vendors' list, we are continuously updating the list. While we want to include all bona fide vendors, we do not want to mail bids to those vendors who may no longer be interested in participating in our bidding process.

If you do not choose to respond to the attached Invitation to Bid/Request for Proposal, please fill out the form below indicating whether or not you want to be retained on our current vendor list.

Vendors who do not respond in any way (by either submitting a bid or by returning this form) over a period of one year may be removed from the current vendor list.

**Vendors who do not wish to bid often return the entire bid package, sometimes at considerable postage expense. Returning the entire bid package is not necessary. Simply return this form.**

Thank you for your cooperation.  
Cobb County Purchasing Department

**"STATEMENT OF NO BID"  
SEALED BID NUMBER 11-5572  
REQUEST FOR PROPOSAL  
DESIGN / BUILD  
NEW AUSTELL SENIOR CENTER**

If you do not wish to respond to the attached Invitation to Bid/Request for Proposal, please complete this form and mail/fax to: **Cobb County Purchasing Department, Attention: Sealed Bid Department, 1772 County Services Parkway, Marietta, GA. Fax # 770-528-1154**

I do not wish to submit a bid/proposal on this solicitation.

**I wish to be retained on the vendor list for this commodity or service: Yes \_\_\_\_\_ No \_\_\_\_\_**

Please PRINT the following:

\_\_\_\_\_  
Company

\_\_\_\_\_  
Representative

You are invited to list reasons for your decision not to bid: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



*Cobb County...Expect the Best!*

**REQUEST FOR PROPOSAL**

**SEALED BID # 11-5572  
DESIGN / BUILD  
NEW AUSTELL SENIOR CENTER  
COBB COUNTY PROPERTY MANAGEMENT DEPARTMENT**

**BID OPENING DATE: APRIL 28, 2011**

**PRE-PROPOSAL CONFERENCE: APRIL 13, 2011 @ 1:30 P.M. (E.S.T.)  
COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GEORGIA 30008**

BIDS ARE RECEIVED IN THE  
COBB COUNTY PURCHASING DEPARTMENT  
1772 COUNTY SERVICES PARKWAY  
MARIETTA, GEORGIA 30008  
**BEFORE 12:00 (NOON) BY THE BID OPENING DATE**

BIDS WILL BE OPENED IN THE COBB COUNTY PURCHASING DEPARTMENT  
**BID/MEETING ROOM AT 2:00 P.M.**

**VENDORS ARE REQUIRED TO SUBMIT THE ORIGINAL AND 5 COPIES OF BID  
(UNLESS OTHERWISE SPECIFIED IN BID SPECIFICATIONS)**

**N.I.G.P. COMMODITY CODE: 90625**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

REPRESENTATIVE: \_\_\_\_\_

PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_

E-MAIL \_\_\_\_\_

**NOTE: The Cobb County Purchasing Department will not be responsible for the accuracy or completeness of the content of any Cobb County Invitation to Bid or Request for Proposal or subsequent addenda thereto received from a source other than the Cobb County Purchasing Department.**

**COBB COUNTY REQUEST FOR COMPETITIVE SEALED PROPOSALS**

**DESIGN / BUILD**

**NEW AUSTELL SENIOR CENTER  
4905 AUSTELL POWDER SPRINGS ROAD  
Austell, GA 30106**

**COBB COUNTY PROPERTY MANAGEMENT**

**SEALED BID #11-5572**

**DUE DATE FOR PROPOSALS: April 28, 2011**

**COBB COUNTY REQUEST FOR COMPETITIVE SEALED PROPOSALS**

**DESIGN / BUILD**

**NEW AUSTELL SENIOR CENTER  
4905 AUSTELL POWDER SPRINGS ROAD  
Austell, GA 30106**

**COBB COUNTY PROPERTY MANAGEMENT**

**SEALED BID #11-5572**

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**COBB COUNTY REQUEST FOR COMPETITIVE SEALED PROPOSALS**

**DESIGN / BUILD**

**NEW AUSTELL SENIOR CENTER  
4905 AUSTELL POWDER SPRINGS ROAD  
Austell, GA 30106**

**COBB COUNTY PROPERTY MANAGEMENT**

**SEALED BID #11-5572**

The Cobb County Board of Commissioners (Owner) is soliciting competitive sealed proposals from experienced firms for the New Austell Senior Center Design/Build construction project. This Project includes final design programming, site work, and the construction for the New Austell Senior Center located 4905 Austell Powder Springs Road, next to Clarkdale Park. An award will be made to the responsible and responsive offeror whose proposal is determined to be the most advantageous to Cobb County, taking into consideration the evaluation factors set forth in the Request for Competitive Sealed Proposals (RFP). Proposals will be received until **12:00 noon, April 28, 2011** at the Cobb County Purchasing Department located at 1772 County Services Parkway, Marietta, Georgia 30008. Any proposal received after this time will be rejected and will not be opened. Proposals, timely received, will be opened at 2:00 PM (local time) on April 28, 2011 at the offices of the Cobb County Purchasing Department, 1772 County Services Parkway, Marietta, Georgia 30008. Request for Proposal packages, which include floor plans and elevation drawings describing the requested services as well as the relative importance of the evaluation factors will be available upon request through the Cobb County Purchasing Department.

The Cobb County Board of Commissioners reserves the right to reject all proposals, to waive technicalities and informalities, to reject portions of the proposals, and to award contracts in a manner consistent with the interest of Cobb County and the laws of the State of Georgia.

All proposals shall be accompanied by a bid bond in the amount not less than five percent (5%) of the cost proposal. No proposal shall be considered if a proper bid bond or other authorized security has not been submitted. The successful offeror will be required to furnish a satisfactory performance bond and labor and materials payment bond, on forms provided by Owner, each in the amount of the total amount payable by the terms of the contract and will be increased as the contract amount is increased.

No offeror may withdraw its proposal and must honor its proposal for 90 days after the actual date of the opening thereof.

## **I. Introduction**

A County Selection Committee will determine the firm, whose proposal is believed to be most advantageous to the County to provide Design/Build Construction services for the New Austell Senior Center, beginning with the verification of the project program, final design, construction through acceptance and start-up of the Facilities to include all necessary staff and support through the One-Year Warranty Period.

The County Selection Committee members will each review the responses to the RFP's and provide a score for each based on the Selection Criteria contained in Section IV. The Selection Committee will convene and summarize the points earned by each offeror, then establish a list of offerors found by the selection committee to have submitted proposals reasonably susceptible of being selected for award. During the competitive sealed proposal process, proposals received will be opened in a manner so as to avoid disclosure of contents to competing offerors and during any process of discussion, the County will not disclose the contents of proposals.

Each firm is to prepare its proposal according to the RFP format, i.e., by section and paragraph of this RFP. Cobb County reserves the right to reject any proposal not submitted within the required time frame; reject any incomplete proposal submitted; contact client references; require further information; and/or require interviews/presentations from any responding firm. All costs related to the preparation, submittal, and/or presentation of a proposal are the responsibility of the offeror and will not be assumed in full or in part by Cobb County. All proposals shall be accompanied by a bid bond in the amount not less than five percent (5%) of the cost proposal. No proposal shall be considered if a proper bid bond or other authorized security has not been submitted.

Written inquiries regarding this RFP may be addressed to:  
Cobb County Purchasing Department  
1772 County Services Parkway  
Marietta, Georgia 30008  
Fax: 770-528-1154  
Email: [purchasing@cobbcountry.org](mailto:purchasing@cobbcountry.org)

**Written responses to all written inquiries received by 5:00 PM, April 19, 2011 will be issued in the form of an addendum** to all firms on record with the Cobb County Purchasing Department as having been issued the RFP.

**Submit an original and five (5) copies of this RFP to:  
Cobb County Purchasing Department  
1772 County Services Parkway  
Marietta, Georgia 30008**

Proposals must be submitted before **12:00 noon, April 28, 2011**. **Proposals must be received in a sealed envelope or container. Place the Project name, BID number, and opening date on the submitting envelope or container.** Proposals will be opened on this same date at 2:00 pm at the Cobb Purchasing Department.

**All bid prices shall be submitted on the Bid Proposal Form. Any revisions made on the outside of the envelope will not be accepted.**

**A pre-proposal Conference will be held on Wednesday, April 13, 2011, at 1:30 pm at the Cobb County Purchasing Department located at 1772 County Services Parkway Marietta, Georgia 30008. All firms intending to respond to this Request for Proposals are strongly urged to attend.**

## **II. Background**

The New Austell Senior Center will operate fronting on existing gravel parking area as you turn into the Clarkdale Park complex located off of Austell Powder Springs Road. This invitation is for the construction documents, permitting, related site work, any necessary interior design work, and complete construction management to finish the building and facilities. Basis for the design is; removal of trees, recycle materials for LEED credit, a minimum of 5000 square feet building footprint, covered entry area for arrivals and departures, exterior brick and stone, no paint exterior trim, metal roofing, raised garden, recreational areas for Seniors, paved walking path for Seniors. **Funding for Project will require following DAVIS – BACON regulations and appropriate paperwork.**

Cobb County will be the Owner and primary occupant of the Project. Design and construction will overlap, so teamwork will be the fundamental ingredient in the relationships between the parties. The Owners' tentative schedule for this project is; select Design/Builder by mid May, 2011, issue Notice to Proceed by end of June, 2011, agree upon final pricing for project by August 2011, begin construction by August 2011, and complete project by March 2012.

During Pre-Construction, the Design/Build Contractor will be responsible for pricing and value engineering as well as addressing maintainability and constructability issues. A Guaranteed Maximum Price will be presented by Design/Build Contractor prior to commencement of construction. Construction will commence with the release of distinct work packages while the total design documents are being finalized. The Design/Build Contractor will competitively bid all construction subcontracts and other work appropriate for competitive bidding with the assistance of the Owners' Representative as needed. The entire Team (Selection Committee) will make a recommendation for bid award and will have the opportunity to review all Bid Package results. Upon approval, a contract or Purchase Order will be issued between the Design/Build Contractor and the (Sub) Contractor as is appropriate.

## **III. Scope of Services**

The following is a listing of some of the representative services to be provided by the Design/Build Contractor. The full scope of services will be defined within the contract executed with Cobb County.

### **A. *Design and Pre-construction Phase***

1. Develop a major task based bar schedule.
2. Develop a provisional construction **CPM** schedule indicating methods and sequencing of construction.
3. Complete design development.
4. Utilize LEED certificate requirements in design with requirements of the Cobb County green policy statement.
5. Develop requirements for safety, quality assurance, and schedule adherence.

6. Prepare and complete all necessary final construction documents to demonstrate to the Owner work scope and meeting any and all permit requirements.
7. Perform a “constructability” review of the construction documents.
8. Develop subcontractor bid packages.
9. Provide detailed construction cost estimates to develop into a Guaranteed Maximum Price to achieve Owner’s budget.
10. Provide analysis of different construction methods in each major trade group for potential quality, cost, and schedule enhancements.
11. Develop budget to be maintained throughout construction.
12. Determine extent of Special Inspections requirements set by Cobb County.
13. Procure all required permits, approvals, etc.
14. Develop value-engineering options.

***B. Construction Phase***

1. Maintain on-site staff for construction management.
2. Establish and maintain coordinating procedures.
3. Develop and maintain a detailed schedule (CPM) including delivery, approvals, inspection, testing, construction, and occupancy.
4. Conduct and record job meetings.
5. Prepare and submit change order documentation for approval of the Architect and the County.
6. Maintain a system for review and approval of shop drawings.
7. Maintain records and submit bi-weekly reports and formal monthly reports to Architect and the County.
8. Maintain quality control and ensure conformity to plans.
9. Obtain all Third Party Special Inspections as required by permitting authority.
10. Provide cost control through progress payment review and verifications according to the approved schedule and contract amounts.
11. Obtain Certificate of Occupancy and other relevant documents for Owner to use facility.
12. Develop as-built drawings and deliver to Architect for inclusion into a CADD disk to be submitted to Cobb County for maintenance and operations use.
13. Coordinate post-completion activities, including the assembly of guarantees, manuals, closeout documents, training, and the Owner’s final acceptance.

***C. Warranty Phase***

1. Coordinate and monitor the resolution of remaining “punch-list” items.
2. Coordinate, monitor, and resolve all warranty issues to the satisfaction of the County during the one-year general warranty period and as extended.

All Local, County, State, and Federal Codes and regulations must be followed, with particular emphasis on Building Codes, Life Safety Codes, and the Americans with Disabilities Act. Also following payment procedures to comply with Davis Bacon Act.

Once all contract documents are executed, between the County and the successful offeror, the successful offeror will be required to deliver the services required by this RFP. Cobb County must first approve any change in or substitution of project team members, including any consultant, in writing.

**IV. Selection Criteria**

The Competitive Sealed Proposals will be evaluated based on the information presented in the proposal package, and on an analysis of other publicly available information. The Owner may conduct such investigations or interviews, as it deems necessary to assist in the evaluation of any proposal submitted and to establish to Cobb County’s satisfaction the responsibility, qualifications, and financial ability of any offeror.

The evaluation by any Selection Committee will be based on the criteria listed below. The weight given to each criterion set forth below shall be determined by the User Department, approved by the Purchasing Manager, and shall equal 100 points, not including cost. The range of acceptable weights is provided at the end of each criterion. If cost is included, it shall be in addition to the 100 points.

A selection committee designated by Cobb County will evaluate the proposals. The ranking of the proposals will be based on the evaluation criteria weighted as follows:

\*\*\*\*\*

1. Staffing – Evaluation of the list of personnel specifically assigned to the proposed project, including their qualifications, overall experience and recent experience on projects of similar nature and complexity to the proposed project. (30 points)
  
2. Experience/Performance – Review of past performance on Cobb County projects or other projects of similar nature and complexity as the proposed project; evaluation of client references whether included in the proposal response or not; overall responsiveness to County’s needs. (30 points)
  
3. Approach – Evaluation of the overall understanding of the scope of the proposed project; completeness, adequacy and responsiveness to the required information of the request for proposals. (15 points)
  
4. Availability – Evaluation of the work load of the proposing firm and the staffing to be assigned to the proposed project; time schedule of the proposer in relation to that of the proposed project location of the offices or facilities from which the services are to be provided to the County. (10 points)
  
5. Financial Stability – Evaluation of the overall financial position of the firm as determined from financial information required by the Request for Proposal or Qualifications or from other independent sources. (15 points)

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6. Cost –Evaluation of the overall cost of the required services as submitted in the Request for Proposal, where applicable. (50)

\*\*\*\*\*

It is anticipated that a contract for the described work will be entered into with the Offeror that, in the opinion of Cobb County, offers the most favorable combination of qualifications, approach, and pricing.

The evaluation by the Selection Committee will be based on the criteria listed. The relative importance of the criteria is also listed. The RFP should be prepared per the following Sections as well as a one-page letter of transmittal signed by an owner, officer, or authorized agent of the firm acknowledging and accepting the terms and conditions of this RFP and an executed Conflict of Interest Statement. An executed "Officer's Oath" on the form provided will be required of the successful offeror prior to commencing work. The officer shall file the oath whose duty it is to make the payment. If the contractor is a partnership, all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for procuring the contract shall also make the oath. If the contractor is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the contract shall make the oath. If such oath is false, the contract shall be void, and all sums paid by the County on the contract may be recovered by appropriate action.

**V. Provide the following Qualifications and Information:**

**A. Firm or Firms' Information**

1. Firm local name, address, and telephone number
2. Primary local contact person(s) and telephone number(s)
3. Total number of firm's local full-time employees
4. Year firm established
5. Local firm's billings for the last three fiscal years
6. Local firms' billing for the current fiscal year
7. Listing and description of last 3 years of litigation involving the local firm
8. Listing and description of all litigation history for the local firm including 2008
9. Copy of the most recent 3 completed years of audited financial statements (Income Statement and Balance Sheet) for the local firm
10. Offeror must provide a letter of commitment from Surety or sureties regarding bonding capacity and availability.
11. Cost proposal amount (General Contract Fee, General Conditions, and overhead percentage)
12. Experience with LEED construction requirements.
13. List any OSHA violations within the past 3 years.
14. State your Experience Modification Factor, for the past 3 years, as related to your Workman's Comp Rates.

**B. Experience:**

1. List of full service Design/Build Construction projects completed in the last 5 years. Include: size, cost, total fee, time to complete design services, scope of design services, time to construct facility, description and cost of contractor change orders, special features (energy conservation, etc.), awards received, and type of project (be sure to specify which projects were similar to facilities of this size and type).
2. Provide no more than 3-5 examples of your experience as prime contractor in constructing facilities similar to this project (OR other public and private projects that indicate similar experience). For each of these projects:
  - a) Provide photographs
  - b) Provide an owner reference familiar with your performance on the project. *It is the Offeror's responsibility to ensure that the listed contact and phone number are current.*

- c) Provide a Design/Build reference (with current phone number) familiar with your performance on each project.
- d) Provide a Program Manager reference (if applicable).
- e) List the individual who served as the Project Executive/Director, Project Manager, Superintendent, and Cost Estimator. Please note whether this individual is still employed with your firm.

3. For those projects listed in 1 and 2 above, indicate those projects that included architect, engineering consultant, and contractor serving a corporate or public client *as a team*.

**C. Statement of local firm's capability to absorb additional workload, availability of personnel, and commitment to provide services on a timely basis.**

**D. Staffing Management**

1. Provide a proposed Owner/Architect/Engineer Organizational Chart, which identifies individual names and areas of responsibility.

2. Submit brief resumes of each key team member, as listed below, in this section of the Proposal.

- ❖ Design/Builder Project Manager
- ❖ Design/Builder Superintendent
- ❖ Design/Builder Field Engineer
- ❖ Design/Builder Safety Supervisor
- ❖ Architect responsible for all architectural issues and specifications.
- ❖ Civil Engineer responsible for civil engineering and specifications
- ❖ Structural Engineer responsible for structural engineering and specifications
- ❖ Life/Safety Engineer (certified) responsible for life/safety engineering and specifications
- ❖ Mechanical Engineer responsible for mechanical design and specifications
- ❖ Plumbing Engineer responsible for plumbing engineering and specifications
- ❖ Electrical Engineer responsible for electrical engineering and specifications
- ❖ Instrumentation System Engineer responsible for instrumentation engineering and specifications
- ❖ Furnishings, Fixtures & Equipment Specification Technician responsible for selection and specifications
- ❖ Other specialty consultants as applicable
- ❖ Materials testing & inspection consultant
- ❖ Major Subcontractors

Resumes shall show at least the following:

- ❖ Name, specialty, job title, and project job title. The project job title must correspond with the positions listed.
- ❖ Years of relevant experience with firm, and experience with previous employers. Project experience descriptions must include dates.
- ❖ Academic degree(s), discipline and year degree(s) received.

- ❖ Professional registrations.
- ❖ Name of the firm(s) responsible for the individual and office location where employed.
- ❖ A synopsis of specific experience, skills, training, or other qualities, which demonstrate the individual's ability to fulfill the duties of their position.

Provide a current list of other commitments by the Design/Builder and its architects, engineers, and other key team members and estimated completion dates by project in this section of the Proposal. Indicate the current commitments of individual staff to be assigned to the project and involvement with other projects.

3. Please identify the individual who, *from project start to finish*, will be the leader of your construction team and the principal point of contact between your firm and the Owner and Architect along with other consultants.

#### **E. Services**

1. Provide a comprehensive outline of the steps you propose in order to meet the services required in this RFP. This detail should indicate what is to be done, who individually, and by name is responsible to do it, and when it is to be completed.
2. Please answer the following questions and/or provide adequate responses:
  - a) Provide one page overview of services typically performed for similar projects using Design/Build Construction techniques.
  - b) How would you implement these services to ensure the success of this project?
  - c) How does your firm implement cost control and scheduling activities during preconstruction?
  - d) Explain your approach to value engineering, citing relevant, specific examples.
  - e) Occasionally, subcontractors and suppliers go bankrupt during the course of a project. What would you do to protect the County from being adversely affected by such an occurrence?
  - f) Describe how your firm would assist the County in assuring participation by local contractors. Include examples of other projects where you have been successful in meeting similar goals.
  - g) Describe your approach to team work on a project of this magnitude.
  - h) Describe how your firm intends to arrange the construction into bid packages in order to reach the county's schedule and budget objectives.

#### **F. Other**

At your option, you may provide any additional supporting documentation or information, which would be helpful in evaluating your firm's qualifications and commitment.

#### **1. OTHER RELATIVE INFORMATION**

At the discretion of the Offeror, other relative information may be submitted in this section of the Proposal in an effort to further demonstrate that the

Offeror can serve the best interests and particular needs of the Owner on this project.

## **2. ALTERNATIVE PROPOSALS**

Alternative proposals for suggested alternate approaches may be submitted; however, the base proposal will be used for the comparison, evaluation, and ranking of offerors. Alternative proposals must be clearly labeled and arranged in a separate section of the submittal package. Any alternative proposals would only be considered if the Owner elects to pursue discussions, negotiations, and revisions of the base proposals.

## **G. MODIFICATION OR WITHDRAWAL OF PROPOSALS**

A submitted proposal may be retrieved in person by an offeror or its authorized representative if, before the scheduled closing time for receipt of proposals, the identity of the persons requesting retrieval is established and that person signs a receipt for the proposal. If the proposal is retrieved for modification, the sealed proposal must be resubmitted prior to the scheduled closing time for receipt of proposals. If the proposal is not resubmitted, it will be considered as withdrawn.

## **H. ADDENDA**

Each proposal schedule shall include specific acknowledgment in the space provided of receipt of all addenda issued by the Owner during the advertisement period. Failure to acknowledge may result in the proposal being rejected as non-responsive.

## **I. LAND ACQUISITION**

This project will be constructed on land currently owned by Cobb County.

## **J. MISTAKES; CORRECTIONS AND WITHDRAWAL OF PROPOSALS**

After proposals are opened, if the low Offeror claims a serious and honest error in proposal preparation, and can support such claim with evidence satisfactory to the Owner, withdrawal of the proposal without forfeiture of the bid security will be permitted. As a condition of this release, the low Offeror will be prohibited from:

- 1) Subcontracting or furnishing labor or equipment on this project.
- 2) Bidding on any Cobb County System projects within ninety (90) days of release by Owner.

## **K. INTERPRETATIONS**

No interpretation of the meaning of the drawings, specifications or other pre-proposal documents will be made to any Offeror orally. Every request for such interpretation should be in writing, addressed to the Owner, and in order to be given consideration must be received at least seven days prior to the date fixed for the opening of proposals. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the request for proposals. All addenda so issued shall become a part of the Contract Documents.

Any questions concerning this request for proposals should be in writing via letter or facsimile, no later than **5:00 p.m. on April 19, 2011**, to:

Cobb County Purchasing Department  
1772 County Services Parkway  
Marietta, GA 30008-4021  
FAX: (770) 528-1154  
E-mail: purchasing@cobbcounty.org

**L. SITE EXAMINATION**

The site of the proposed work is shown on the drawings. The Offeror, before making his proposal, shall examine the drawings, specifications and the site and shall make such examinations on the ground as may be necessary to thoroughly familiarize themselves with the nature and extent of the proposed construction and with all local conditions affecting the work. Geo-Technical site investigation will be provided by Owner. The Offeror shall also accept the premises in its present condition and carry out all work in accordance with the requirements of the specifications and as shown on the drawings. The Owner will not be responsible for Offeror's errors and misjudgment nor for failure to obtain any information on local conditions or general laws or regulations pertaining thereto. At the time of the opening of proposals, each Offeror will also be presumed to have read and to be thoroughly familiar with the drawings, Contract Documents (including all addenda), and the construction specifications. The failure or omission of any Offeror to examine any form, instrument, or document shall in no way relieve any Offeror from any obligation in respect to his proposal.

**M. Notice of SPECIAL CONDITIONS;**  
NONE

**N. LAWS AND REGULATIONS; LICENSING**

The Offeror's attention is directed to the fact that all applicable Federal and state laws, county and 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 the same as though herein written out in full.

The State of Georgia has requirements for the licensing of contractors engaged in specific types of construction, including general contracting, electrical, plumbing, and underground utility work [re: OCGA § 43-14]. Any contractor (or subcontractor of any tier) performing regulated work on this project shall furnish proof of valid and current registration to the Owner. Similarly, the State requirements concerning local business licenses shall be met.

**O. EXECUTION OF COMPETITIVE SEALED PROPOSALS**

The Offeror, in signing his proposal on the whole or any portion of the work, shall conform to the following requirements:

1. Competitive Sealed Proposals, which are not signed by individuals providing said proposal shall have attached thereto a power of attorney evidencing authority to sign the proposal in the name of the person for whom it is signed.
2. Competitive Sealed Proposals, which are signed for a partnership shall be signed by all of the partners or by an attorney-in-fact. There should be attached to the

proposal a power of attorney executed by the partners evidencing authority to sign the proposal.

3. Competitive Sealed Proposals, which are signed for a corporation shall have the correct corporate name thereof and the signature of the president or other authorized officer of the corporation manually written below the corporate name following the wording "By \_\_\_\_\_." The corporate seal shall also be affixed to the proposal.

**P. NON-COLLUSION AFFIDAVIT**

The Georgia statute concerning public works construction contracting requires that any person who procures such work by bidding or proposal shall make an oath in writing that he/she has not prevented or attempted to prevent competition in such bidding [OCGA § 36-91-21(d),(e)]. If the Design/Builder is a partnership, all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for or procuring the contract shall make the oath and complete the Affidavit. If the Design/Builder is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the contract shall make the oath and complete the Affidavit. If such oath is false, the Contract shall be void, and all sums paid by the County on the Contract may be recovered by appropriate action.

**Q. CONTRACT PERFORMANCE BOND AND PAYMENT BOND**

The Design/Builder will be required to furnish a contract performance bond and a payment bond executed by a surety company. This company must be listed in the latest issue of U.S. Treasury Circular 570, registered, and duly authorized to do business in the State of Georgia. The bond must be signed (or countersigned) by a local agent, each in an amount that is at least equal to one-hundred percent (100%) of the Contract Price, as security for the faithful performance of this contract and as security for the payment of all persons performing labor and furnishing material in connection with the Contract.

The surety shall be acceptable to the Owner and the bond shall be executed on the form attached. In case of default on the part of the Design/Builder, all expenses incident to ascertaining and collecting losses under the bond, including both engineering and legal services, shall lie against the bond.

The Design/Builder will be required to provide the Owner a one-year guarantee covering workmanship and materials of the project. The contract performance bond shall remain in force for one year from date of project acceptance by the Owner. The cost of this bond shall be paid by the Design/Builder.

**R. INSURANCE PROOF OF COVERAGE**

Be Prepared to discuss a CONTRACTOR CONTROLLED INSURANCE PROGRAM (CCIP) in lieu of the below insurance requirements. Payment and Performance bonds may not be required until Notice to Proceed is issued to Design/Builder.

Prior to execution of Contract Documents, a certificate of insurance will be submitted to the Owner as required.

The **Design/Builder** shall procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with performance of the work hereunder by the **Design/Builder**, his agents, representatives, employees, or subcontractors.

## MINIMUM LIMITS OF INSURANCE

**Design/Builder** shall maintain limits no less than:

- A. General Liability**  
\$5,000,000 General Liability combined single limit per occurrence, for bodily injury, personal injury, property damage, contractual liability, and broad form property damage.
- B. Automobile Liability**  
\$1,000,000 Automobile Liability combined single limit per accident, for bodily injury and property damage, including owner, non-owned, hired, leased or rented vehicles.
- C. Workers' Compensation and Employers' Liability**  
\$100,000 Employers' Liability limit per accident and Worker's Compensation limits as required by the Labor Code of the State of Georgia.
- D. Builder's Risk**  
Full amount of cost proposal minus the amount of Design and Construction Management services. Cobb County should be listed as a Loss Payee under this insurance.
- E. Professional Liability**  
\$1,000,000 Professional Liability Insurance to cover damages resulting from errors or omissions of the engineers and/or architects on the Design/Builder's project team.
- F. Umbrella Policy**  
\$25,000,000 limit for a combined single limit

## DEDUCTIBLES AND SELF-INSURED RETENTION

Any deductibles or self-insured retentions must be declared to and approved by the **Owner**. At the option of the **Owner**, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the **Owner**, its officers, officials, or employees; or the **Design/Builder** shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

## OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

- A. General Liability and Automobile Coverage**
  1. The **Owner**, its officers, officials, employees, and volunteers are to be covered as additional named insureds as respects liability arising out of activities performed by or on behalf of the **Design/Builder**; products and completed operations of the **Design/Builder**; premises owned, occupied

or used by the **Design/Builder**; or automobiles owned, leased, hired or borrowed by the **Design/Builder**.

The coverage shall contain no special limitation on the scope of protection afforded to the **Owner**, its officers, officials, employees, or volunteers. Nothing in this paragraph shall be construed to require the **Design/Builder** to provide liability insurance coverage to the **Owner** for claims asserted against the **Owner** for its sole negligence.

2. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the **Owner**, its officers, officials, employees, or volunteers.
3. The **Design/Builder's** insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**B. Workers' Compensation and Employers' Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the **Owner**, its officers, officials, employees, and volunteers for losses arising from work performed by the **Design/Builder** for the **Owner**.

**C. Builder's Risk**

The **Design/Builder** shall secure all-risk type of builder's risk insurance covering work performed under the Contract, and materials, equipment, expedited deliveries or other items to be incorporated therein, while the same are located at the construction site, stored off-site, or at the place of manufacture. The policy shall cover not less than losses due to fire, flood, explosion, hail, lightning, weather, vandalism, malicious mischief, wind, collapse, riot, aircraft, smoke or other cataclysmic events, until the date of final acceptance of the work.

The making of progress payments to the **Design/Builder** shall not be construed as relieving the **Design/Builder** or his subcontractors or the insurance company or companies providing the coverage described herein of responsibility for loss or direct physical loss, damage or destruction occurring prior to final acceptance.

**D. All Coverage**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the **Owner**.

**ACCEPTABILITY**

Insurance is to be placed with insurers with a Best's rating of no less than A.VII, or acceptable to the **Owner**.

**VERIFICATION OF COVERAGE**

- A. The **Design/Builder** shall furnish the **Owner** with five original Certificates of Insurance, each with **original endorsements** affecting coverage required by this

clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The name of the Insured on the Certificate must exactly match the name on the Agreement/Contract and on the Design/Builder's corporate seal.

Each certificate must have an original signature in blue ink or a stamped signature in blue ink. Photocopies are not acceptable.

- B.** The Certificates must include the Cobb County Property Management Project Name and Project Number. The Certificate Holder must be shown as:

Cobb County Board of Commissioners  
Cobb County, Georgia  
Attention: Cobb County Property Management  
57 Waddell Street  
Marietta, GA 30060

- C.** The certificates and endorsements naming additional insureds and indicating required waivers are to be submitted with the executed Agreement/Contract and Performance and Payment Bonds, and shall be approved by the **Owner** before work commences. The **Owner** reserves the right to require complete, certified copies of all required insurance policies at any time.

- D.** The endorsements on the certificates must read as follows:

1. The certificate for All Coverage shall include the following Cancellation endorsement, worded exactly as follows: *"Should any coverage be suspended, voided, cancelled or, reduced in coverage or in limits, thirty (30) days prior written notice delivered by certified mail, return receipt requested, will be given to the Certificate Holder."*
2. The certificate for General Liability and Automobile coverage shall include the following endorsement, worded exactly as follows: *"Owner, its officers, officials, employees and volunteers are covered as additional insureds as respects liability arising out of actions performed by or on behalf of the Design/Builder; products and completed operations of the Design/Builder; premises owned, occupied or used by the Design/Builder; or automobiles owned, leased, hired or borrowed by the Design/Builder."*
3. The certificate for Worker's Compensation and Employers' Liability coverage shall include the following endorsement, worded exactly as follows: *"The insurer agrees to waive all rights of subrogation with respect to Worker's Compensation and Employers' Liability Coverage against the Owner, its officers, officials, employees, and volunteers for losses arising from work performed by the Design/Builder for the Owner."*

## **SUBCONTRACTORS**

**Design/Builder** shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

## **S. AWARD OF CONTRACT**

The Offeror to whom the Contract is being awarded will be required to execute the agreement and obtain the performance bond, payment bond and provide insurance

certificates acceptable to the Owner within twenty-one calendar days from the date when the notice of award is issued to the Offeror. In case of failure of the Offeror to execute the agreement or provide insurance or meet bonding requirements, the Owner may consider the Offeror in default, in which case the bid security accompanying the proposal shall become payable to the Owner.

**T. OWNERSHIP OF PROPOSAL DOCUMENTATION**

Upon receipt of the Proposal by the Owner, the Proposal and all included documentation shall become the property of the Owner, without compensation to the Offeror, for disposition or usage by the Owner at its discretion. The Owner assumes no responsibility or obligation to firms providing proposals and will make no payment for any costs associated with the preparation or submission of proposals. All work, including but not limited to planning, programming, cost estimates and summaries, plans, specifications and other materials prepared by or for the firms proposing to the Owner under this Invitation for Proposals shall become the property of the Owner

## Conflict of Interest Statement

As a duly authorized representative of the firm \_\_\_\_\_

I, \_\_\_\_\_ with the title \_\_\_\_\_ certify

that to the best of my knowledge no circumstances exist that will cause a conflict of interest in performing services for Cobb County Government, that no employee of Cobb County, nor any public agency official or employee affected by this Request for Proposals has any pecuniary interest in the business of this firm, associates or consultants of this firm, or the firm's parent firm, subsidiary, or other legal entity of which this firm is a part, and that no person associated with or employed by this firm has any interest that would conflict in any way, manner or degree with the performance of services for Cobb County Government.

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

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

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

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

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

## Officer's Oath

As a duly authorized representative of the firm involved in the bidding for or procuring the contract \_\_\_\_\_

I, \_\_\_\_\_ with the title \_\_\_\_\_ certify that I did not prevent or attempt to prevent competition in such proposals by any means whatsoever. Nor did I prevent or endeavor to prevent anyone from making a proposal therefore by any means whatsoever, or induce another to withdraw a proposal for the work.

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

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

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

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

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

**Compliance with Georgia Security and Immigration Compliance Act  
PROCEDURES & REQUIREMENTS  
(Effective 10-28-2010 - Supersedes All Previous Versions)**

**BACKGROUND**

Pursuant to the “Georgia Security and Immigration Compliance Act,” Cobb County cannot enter into a contract for the physical performance of services unless the contractor registers and participates in the federal work authorization program to verify information of all newly hired employees or subcontractors. Neither may any contractor or subcontractor enter a contract with the county in connection with the physical performance of services unless the contractor and/or subcontractor registers and participates in the federal work authorization program to verify information of all new employees. O.C.G.A. § 13-10-91.

Before any bid for the physical performance of services is considered, the bid must include a signed, notarized affidavit from the contractor attesting to the following: (1) the affiant has registered with and is authorized to use the federal work authorization program; (2) the user ID number and date of authorization for the affiant; and (3) the affiant is using and will continue to use the federal work authorization program throughout the contract period. O.C.G.A. § 13-10-91 (b) (1). Affidavits shall be maintained for five years from the date of receipt. O.C.G.A. § 13-10-91 (b) (1).

Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a condition of the contract or subcontract, provide Cobb County with notice of the identity of any and all subsequent subcontractors hired or contracted by that contractor or subcontractor within five (5) business days of entering into a contract or agreement for hire with any subcontractor. Such notice shall include an affidavit including the subcontractor’s name, address, user ID number, and date of authorization to use the federal work authorization program. O.C.G.A. § 13-10-91 (b) (3).

Based upon the County’s experience and desire for full compliance, no work may be commenced by any subsequent subcontractor prior to notice being received by the County that the subcontractor (regardless of tier) is in compliance with the law and the attached Procedures & Requirements, including the preparation and submission of the Contractor (or Subcontractor) Affidavit & Agreement AND the Immigration Compliance Certificate PRIOR to the commencement of any work.

**DEFINITIONS**

Affidavit – a written statement made or taken under oath before an officer of the court or a notary public or other person who duly has been authorized so to act.

Affiant – the person who makes and subscribes to a statement made under oath (affidavit).

Physical Performance of Services – the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to public real property, including the construction, reconstruction, or maintenance of all or part of a public road; or any other performance of labor for a public employer under a contract or other bidding process.

## PROCEDURES & REQUIREMENTS

1. Bid Documents: Bid documents should contain information regarding the contract language and contractual requirements described below.
2. Responsive Bid Documents: Responsive bid documents **MUST INCLUDE** a signed, notarized affidavit from the contractor in the form attached as EXHIBIT A (CONTRACTOR AFFIDAVIT & AGREEMENT). **If the affidavit is not submitted at the time of the bid, the applicant will be disqualified.**

**THIS AFFIDAVIT MUST BE SIGNED, NOTARIZED AND SUBMITTED WITH ANY BID REQUIRING THE PERFORMANCE OF PHYSICAL SERVICES. IF THE AFFIDAVIT IS NOT SUBMITTED AT THE TIME OF THE BID, THE BID WILL BE DETERMINED TO BE NON-RESPONSIVE AND WILL BE DISQUALIFIED.**

3. Contract Language & Contractual Requirements: Affirmative language shall be contained in agreements for the performance of services to cover all statutory and County requirements; such language shall require:
  - (a) That affidavits in the form attached to these “Procedures & Requirements” be executed from a contractor (and any subcontractors, regardless of tier) and notarized, showing compliance with the requirements of O.C.G.A. § 13-10-91 and that such be made part of the contract and/or subcontracts;
  - (b) That the contractor (and any subcontractors, regardless of tier) fully comply with the requirements for completing and submitting the “Immigration Compliance Certification” and that such certification be received by the County prior to the commencement of any work under the contract or subcontract;
  - (c) That the contractor (or any subcontractor, regardless of tier) notify the County within five (5) business days of entering into a contract or other agreement for hire with any subcontractor(s), regardless of tier;
  - (d) That the contractor be responsible for obtaining and providing to the County the “Subcontractor Affidavit & Agreement” and “Immigration Compliance Certification” attached to and required under these “Procedures & Requirements” from each subcontractor, regardless of tier, employed or retained for work under the contract prior to the commencement of any work under the contract or any subcontract;
  - (e) That Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
  - (f) That any contractor and/or subcontractor retaining any other subcontractor to perform services under the contract provide legal notice to any subcontractor of the requirements of Cobb County for immigration compliance and further provide notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
  - (g) That failure to comply with any of the requirements and procedures of the County (i.e., failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or reviews of records by County or State officials upon request; and/or failure to continue to meet any of the statutory or County obligations during the life of the contract) shall constitute a material breach of the agreement and shall entitle the County to dismiss any general

contractor or to require the dismissal of any subcontractor or sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements;

- (h) That upon notice of a material breach of these provisions, the contractor (or subcontractor, regardless of tier) shall be entitled to cure the breach within ten (10) days and provide evidence of such cure. Should the breach not be cured, the County shall be entitled to all available remedies, including termination of the contract, the requirement that a subcontractor be dismissed from performing work under the contract, and any and all damages permissible by law.

- 4. Immigration Compliance Certification: Prior to commencing work under any contract for the physical performance of services, the contractor shall complete the “IMMIGRATION COMPLIANCE CERTIFICATION” form attached to these “Procedures & Requirements” and submit the same to the County.

Prior to allowing any other subcontractor to perform work under the contract, the contractor shall obtain a completed “IMMIGRATION COMPLIANCE CERTIFICATION” from each subcontractor (regardless of tier) and submit the same to the County.

***FORM ATTACHMENTS:***

1. CONTRACTOR AFFIDAVIT & AGREEMENT (EXHIBIT A);
2. SUBCONTRACTOR AFFIDAVIT & AGREEMENT (EXHIBIT A-1);
3. IMMIGRATION COMPLIANCE CERTIFICATION (EXHIBIT A-2).

**CONTRACTOR AFFIDAVIT & AGREEMENT  
(EXHIBIT A)**

**This affidavit must be signed, notarized and submitted with any bid requiring the performance of physical services. If the affidavit is not submitted at the time of the bid, the bid will be determined non-responsive and will be disqualified.**

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

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

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

\_\_\_\_\_  
EEV (E-Verify) Program User ID Number

\_\_\_\_\_  
EEV Program Date of Authorization

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

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

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

\_\_\_\_\_  
Date

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

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

***Effective 10-28-2010***

**SUBCONTRACTOR AFFIDAVIT & AGREEMENT  
(EXHIBIT A-1)**

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

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

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

\_\_\_\_\_  
EEV (E-Verify) Program User ID Number

\_\_\_\_\_  
EEV Program Date of Authorization

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

\_\_\_\_\_  
Subcontractor Business Name

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

\_\_\_\_\_  
Date

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

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

*Effective 10-28-2010*

**IMMIGRATION COMPLIANCE CERTIFICATION**  
*(Required to be completed by Contractors and all Subcontractors)*  
**(EXHIBIT A-2)**

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to:

\_\_\_\_\_  
*(Project Name/Description)*

_____	_____	_____
_____	_____	_____
_____	_____	_____

I further certify to Cobb County, Georgia the following:

- The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
- We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed.
- If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the project.
- I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9's are accurate.
- To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States.
- If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

**Sworn to by:**

**Employer Name & Address:**

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Date

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

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

*Effective 10-28-2010*

**Disadvantaged Business Enterprises (DBE): The following provisions should be carefully read to determine applicability to your business.**

Cobb County Government encourages the participation of all businesses in offering their services and/or products. The Cobb County Government has the goal to fairly and competitively procure the best product at the most reasonable cost.

A Disadvantaged Business Enterprise (DBE) is generally defined as a Female, Black American, Hispanic American and any other minority owned business. The Federal Government has long had program in place to ensure participation of DBE vendors and suppliers. The State of Georgia has established a similar program whereby DBE firms are defined, certified and made known. This effort is managed by the Georgia Department of Transportation (GDOT). More information can be obtained from GDOT web site:

1. <http://www.dot.state.ga.us/eeo-div/index.shtml>

The Cobb County Government addresses DBE business participation (frequency and dollar value) in the following ways:

1. Cobb County wishes to identify all DBE participation; both at the contractor and sub-contractor levels in the following ways.
  - a. DBE businesses are requested to identify such status at the time they register as a vendor.
  - b. DBE businesses are requested to identify themselves at the time they propose to do business. Please complete **EXHIBIT B** if applicable and return with bid submittal.
  - c. All businesses will receive with each Purchase Order an instruction sheet for use of the furnished *Cobb County Government DBE Participation Report*, **EXHIBIT C**. Businesses are requested to complete this report and submit it with each invoice for the time period billed.

2. Cobb County has established a Disadvantaged Business Enterprise Plan in accordance with the regulations of the U.S. Department of Transportation (U. S. Department of Transportation (USDOT), 49 CFR Part 26.) The Cobb County Department of Transportation is the lead agency for implementing the USDOT DBE Program for the County.

*The Plan applies only to projects which are clearly indicated by the County.*

**EXHIBIT B**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) IDENTIFICATION FORM**

A Disadvantaged Business Enterprise (DBE) is generally defined as a Female, Black American, Hispanic American and any other minority owned business. If your firm is classified as a Disadvantaged Business Enterprise (DBE), please complete this form and submit with bid response or send to:

Cobb County Purchasing Department  
Attn: Purchasing Director  
1772 County Services Parkway  
Marietta, GA 30008  
Fax: 770-528-1154  
Email: [purchasing@cobbcounty.org](mailto:purchasing@cobbcounty.org)

Name of Business: \_\_\_\_\_

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

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Certification Number: \_\_\_\_\_

Name of Organization Certification \_\_\_\_\_

**This information is acquired for informational purposes only and will have no bearing on the award unless otherwise stated**

**Instructions for Completing Exhibit C**  
**Disadvantaged Business Enterprise (DBE)**  
**Participation Report**

All Cobb County Government contractors or vendors are requested to complete a report descriptive of any DBE subcontractor involvement in work for which the government is making payment. If otherwise specified in an RFP/ITB or contract, additional reporting forms may be required as well.

The objective of this request is to assist in the identification of Disadvantaged Business Enterprise (DBE) business participation with the Cobb County Government and to quantify that participation.

The Cobb County Government does not administer a DBE Certification Program. The principle certification agency for the State of Georgia is the Georgia Department of Transportation. As a Contractor/Vendor you are not responsible for verification of any DBE Certification information of your subcontractor.

**\*\*\* Instructions \*\*\***

1. Contractor/Vendor is furnished the one-page *DBE Monthly Participation Report* with each Cobb County Government-issued Purchase Order.
2. Contractor/Vendor completes this report for each billing period and attaches it to the invoice to then be sent to the County department/agency receiving the service or product.
3. Upon receipt of a Contractor/Vendor invoice and DBE report, the County department/agency receiving the service or product should keep a copy of the completed DBE report for their reporting process. In order to add or verify the prime contractor is registered as a DBE vendor in AMS, the County department/agency should send a copy of the DBE report to:

Cobb County Purchasing Division  
Attn.: DBE Report

A Disadvantaged Business Enterprise (DBE) is a firm that is under the control of someone in an ownership position (at least 51%) that:

1. Has membership in one or more of the following groups: Female, Black American, Hispanic American, Native American, Subcontinent Asian American and Asian-Pacific America. There may be other groups that may be eligible to be certified as DBE.
2. Is a U.S. citizen or lawfully admitted permanent resident of the U.S.
3. Has a personal net worth which does not exceed \$750,000.
4. The business meets the Small Business Administration's size standard for a small business. Its annual gross receipts for the three previous fiscal years cannot have exceeded \$22,410,000. Depending on the type of work the business performs, other size standards may apply.
5. The business is organized as a for-profit business.
6. The business may also be DBE eligible as a certified U.S. Small Business Administration 8 (a) program.

**Exhibit C**  
**Cobb County Government Disadvantaged Business Enterprise Participation**  
**Monthly Report**

**Contractor/Vendor:** Please keep this blank report to make copies as needed. Print or type in the report, then send the completed report to the County department/agency receiving the service or product.

**County Departments:** Keep a copy of this completed report and use the dollar figures to input into your quarterly DBE report to the DBE Liaison (Records Management Division). If you already have a similar reporting method of gathering the dollar figures continue to use it. Send a copy of this completed report to the Purchasing Division (Attn: DBE Report) to add or verify the prime contractor is registered as a DBE vendor in AMS.

Submitted by: \_\_\_\_\_ Month Invoiced: \_\_\_\_\_  
**Name of Prime Contractor/Vendor** **From/To:**

Cobb County Project Name: \_\_\_\_\_ Bid or P.O. Number: \_\_\_\_\_

Cobb County Department or Agency receiving service or product: \_\_\_\_\_

Description of Purchased Service/Product: \_\_\_\_\_

Full Contracted Amount: \$\_\_\_\_\_ Payment amount requested at this time: \$\_\_\_\_\_

1. Are YOU, the Prime Contractor a DBE business? YES \_\_\_\_\_ NO \_\_\_\_\_  
 2. Are YOUR subcontractors DBE vendors? YES \_\_\_\_\_ NO \_\_\_\_\_

**Please provide information below for each participating DBE subcontractor(s).**

DBE Subcontractor Business Name	Type Service or Product Supplied	DBE Subcontractor Business/Contact Tel. Number	Actual Dollar Value of DBE Subcontractor Participation this Reporting Month
			\$
			\$
			\$
			\$
			\$
			\$

Submitted by: \_\_\_\_\_  
 Printed Name

Title or position: \_\_\_\_\_

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

Signature of Authorized Representative

COBB COUNTY PROPERTY MANAGEMENT  
COBB COUNTY PROPERTY MANAGEMENT  
57 WADDELL STREET, MARIETTA, GA 30060-1964

**PAYMENT BOND**

Bond Number: \_\_\_\_\_

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

WHEREAS, the **Contractor** has entered into a written contract dated \_\_\_\_\_, 20\_\_\_\_ with the **Owner** for performance of \_\_\_\_\_ in accordance with drawings and/or specifications prepared by or for Cobb County which contract is by reference made a part of this bond by reference as if fully set forth herein, and is hereinafter referred to as the **Contract**.

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

- A. A claimant is defined as an entity having a direct contract with the **Contractor** or with a Subcontractor of the **Contractor** for labor, material, or both, used or reasonably required for use in the performance of the Contract, "labor and material" being construed to include but not limited to that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
- B. The **Contractor** and **Surety** hereby jointly and severally agree with the **Owner** that every claimant as herein defined who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be due claimant, and have execution thereon. The **Owner** shall not be liable for the payment of any judgment costs or expenses of any such suit.
- C. No suit or action shall be commenced hereunder by any claimant,
1. Unless claimant, other than one having a direct contract with the **Contractor**, shall have given written notice to any two of the following: the **Contractor**, the **Owner**, or the **Surety** above-named, within ninety (90) days after such claimant did or performed the last of the work of labor, or furnished the last of the materials for which said claim is made, stating with substantial specifics and accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the **Contractor**, **Owner** and/or **Surety**, at the addresses provided in the Contract or in this bond, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
  2. After one (1) year from the completion of Contract and the acceptance by **Owner** of the work there under, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  3. Other than in a state court of competent jurisdiction in and or the county or of the state in which the project, or any part thereof, is situated.
- D. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by **Surety** of mechanics' liens which may be filed on record against said improvement, whether or not claim for the amount of such presented under and against this bond.
- E. PROVIDED FURTHER, that the said **Surety**, for value received hereby, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed there under or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

**IN WITNESS WHEREOF**, this instrument is executed in three (3) counterparts, each one of which shall be deemed an original, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**Attest:**

**By:** \_\_\_\_\_

**Attest:**

**By:** \_\_\_\_\_

\_\_\_\_\_  
**Principal/Contractor (SEAL)**

\_\_\_\_\_  
**Signature**

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

\_\_\_\_\_  
**Title**

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

\_\_\_\_\_  
**Signature of Attorney-in-Fact**

\_\_\_\_\_  
**Typed Name of Attorney-in-Fact**

**(Bond must not be dated prior to date of Agreement)**

## PERFORMANCE BOND

Bond Number: \_\_\_\_\_

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

WHEREAS, the **Builder** has entered into a written contract dated \_\_\_\_\_, 20\_\_\_\_ with **Owner** for the construction of \_\_\_\_\_ in accordance with drawings and/or specifications prepared by or for Cobb County which contract is made a part of this bond by reference as if set forth herein and is hereinafter referred to as the "**Contract.**"

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if **Builder** shall promptly and faithfully perform said **Contract**, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

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

Whenever **Builder** shall be, and declared by **Owner** to be in default under the Contract, the **Owner**, having performed **Owner's** obligations there under, the **Surety** may promptly remedy the default, or shall promptly:

1. Complete the **Contract** in accordance with its 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 **Owner** and the **Surety** jointly of the responsible and responsive bidder, arrange for a contract between such bidder and **Owner**, and make available as work progresses (even though there should be default or a succession of defaults) under the contract or contracts of completion arranged under this paragraph sufficient funds to pay the cost of completion less the balance of the **Contract** price; but not exceeding, including other costs and damages for which the **Surety** may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by **Owner** to **Builder** under the **Contract** and any amendments thereto, less the amount paid by **Owner** to **Builder**.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the **Contract** falls due

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the **Owner** named herein or the heirs, executors, administrators or successors of the **Owner**.

The **Surety** may only cancel this bond by first providing thirty (30) days written notice to **Owner** and **Builder**. Such cancellation shall not discharge the **Surety** from liability already accrued under this bond prior to the expiration of the thirty (30) day period.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Attest:

By: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
Principal/Builder (SEAL)

\_\_\_\_\_  
Signature

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

President \_\_\_\_\_  
Title

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

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

\_\_\_\_\_  
Typed Name of Attorney-in-Fact

**Bid Form**  
**Page 1 of 3**

TO: COBB COUNTY BOARD OF COMMISSIONERS

THE UNDERSIGNED, having examined the project documents titled:

**REQUEST FOR PROPOSALS**  
**DESIGN/BUILD – NEW AUSTELL SENIOR CENTER**  
**SEALED BID #11-5572**

And having evaluated the conditions affecting the Work, hereby submits proposes and agrees to furnish all labor and materials, equipment, and appliances and to perform all operations necessary TO COMPLETE ALL WORK FOR ALL SERVICES AS REQUIRED BY THE PROJECT MANUAL, INCLUDING ANY ADDENDA, IN ACCORDANCE WITH THE COST STRUCTURE AND PRICING PROVIDED IN THE RESPONSE TO THIS PROPOSAL.

**I. DESIGN FEES:**

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

**II. GENERAL CONDITIONS:**

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

**III. GC FEES:**

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

**TOTAL BID PRICE**

\_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_)

**The undersigned understands and agrees also to the following:**

To comply with and be bound by the entire contents of **Sealed Bid #11-5572** (aka Project Manual) including all Addenda.

The undersigned acknowledges receipt of Addenda numbers:

ADDENDUM NO. \_\_\_\_\_ Acknowledged: \_\_\_\_\_

ADDENDUM NO. \_\_\_\_\_ Acknowledged: \_\_\_\_\_

ADDENDUM NO. \_\_\_\_\_ Acknowledged: \_\_\_\_\_

**CONTRACTOR'S QUALIFICATION STATEMENT**

**I. CONTRACTOR**

Name of Contractor: \_\_\_\_\_

Address of Contractor: \_\_\_\_\_

Primary Contact Person: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Type of Business Entity: \_\_\_\_\_  
(corporation, sole proprietorship, partnership, p.c.)

Contractor does \_\_\_\_ or does not \_\_\_\_ anticipate using subcontractor(s) in the performance of this Work.

Contractor Business Entity Principals:

Primary Owners (if other than C-Corporation): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

President: \_\_\_\_\_

Secretary: \_\_\_\_\_

Business is organized under the Laws of the State of \_\_\_\_\_

Business Qualifies as a Woman Owned, Small Business, or DBE (Y/N): \_\_\_\_\_

If yes, list certifying authority: \_\_\_\_\_

**II. BANK REFERENCE**

Primary Bank: \_\_\_\_\_

Relationship officer Responsible for account: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**III. BACKGROUND**

Has Contractor ever done business under a different name? \_\_\_\_\_

If so, provide names: \_\_\_\_\_

**BID FORM**  
**Page 3 f 3**

Prior projects with Cobb County: \_\_\_\_\_

**SIMILAR PROJECT EXPERIENCE**

1. Name of project: \_\_\_\_\_  
Address of project: \_\_\_\_\_  
Contact person with Owner: \_\_\_\_\_  
Phone number \_\_\_\_\_

2. Name of project: \_\_\_\_\_  
Address of project: \_\_\_\_\_  
Contact person with Owner \_\_\_\_\_  
Phone number: \_\_\_\_\_

Bonding Co \_\_\_\_\_

Bonding Co Agency \_\_\_\_\_

License: # \_\_\_\_\_

Type of Business Entity: \_\_\_\_\_ (corporation, sole proprietorship, partnership, p.c.)

Individual Members of the Firm  
\_\_\_\_\_  
\_\_\_\_\_

President of the Corporation  
\_\_\_\_\_

Secretary of the Corporation  
\_\_\_\_\_

Corporation is organized under the Laws of the State of \_\_\_\_\_

Bid dated this \_\_\_\_\_ day of \_\_\_\_\_ 201\_\_\_\_\_

END OF BID FORM

## **COBB COUNTY GREEN BUILDING POLICY**

All new construction and renovation of occupied county building, 5000 square feet or more, where feasible, shall be designed and built to achieve a LEED certification. Other construction and renovations less than 5,000 square feet may also be considered where appropriate. The Green Building Policy shall require a payback of no more than ten years for projects designed to the LEED standard. County staff shall recommend to the Board of Commissioners which level of LEED certification is appropriate for the particular project based on sustainability and life cycle cost analysis. Where no level of certification is feasible, then the project design and construction shall include as many measures as possible based on the LEED checklist.

## SECTION 3 PLAN

### SECTION 3 CLAUSE OF THE URBAN DEVELOPMENT ACT OF 1968 [135.38 SECTION 3 CLAUSE]

All Section 3 covered contracts shall include the following clause (referred to as the Section 3 clause):

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall to the greatest extent feasible, be directed at low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises, Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

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Section 3 Plan Format

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(Name of Firm)

agrees to implement the following specific Section 3 Plan directed at increasing the utilization of lower income residents and businesses within Cobb County.

- A. To ascertain from the Cobb County Community Development Block Grant Program Office the exact boundaries of the Section 3 covered project area. And where advantageous, seek the assistance of local officials in preparing and implementing the Firm's Section 3 Plan.
- B. To recruit from within the Project Area and Cobb County the necessary number of lower income residents through: Local advertising media, signs placed at the proposed site for the project, and through community organizations and public or private institutions operating within or serving the project area and Cobb County such as the Chamber of Commerce, the Georgia Department of Labor, the Work-Force Development Act Program, the Urban League, the NAACP, the Local Housing Authorities, and related organizations. Please identify the detailed, specific actions which were taken to recruit within the project service area and within Cobb County.
- C. To obtain a list of all lower income area residents who have applied, either on their own or by referral from any source, and to employ such persons, if otherwise eligible, and if a vacancy exists. Please submit a list of the residents identified, the sources from which these names were obtained, and any on-going actions which will be made to obtain such lists of eligible Section 3 residents once the Firm, and all subcontractors, initiate any hiring actions.
- D. To insert the Section 3 Plan in all bid proposal documents, and to require all bidders on subcontracts to submit a Section 3 Plan, including numeric goals and the specific steps planned to accomplish these goals.
- E. To formally contact unions, subcontractors, and trade associations to secure their cooperation for this program. Please identify all contacts made, dates for each, and the agreements obtained from each person/agency contacted.
- F. To insure that all appropriate Section 3 business concerns are notified of pending subcontract opportunities. Please detail how the Firm and subcontractors, will meet the Cobb County Community Development Block Grant Program Section 3 contract numeric goals (See TABLE B "Goals" attached), or explain in detail why the numeric goals cannot be met.

To maintain records (Monthly Section 3 Report--enclosed), including copies of correspondence, memoranda, etc., which document that all of the above action steps have been taken. Any documents which demonstrate the Firm will be successful in meeting its overall goals should be incorporated in the Section 3 Plan which is submitted as a part of the Firm's bid proposal.

To appoint or recruit an executive official of the Firm as Section 3 Officer to coordinate the implementation of this Section 3 plan.

To attach Table A, on which will be listed all projected work force needs for all phases of this project, by occupation, trade, skill level and number of positions, along with the number of new hires anticipated for this project, and the number of Section 3 residents for which jobs will be made available.

- G. To prepare a detailed Section 3 Plan which addresses, at a minimum, all of the items contained herein. The Firm is encouraged to provide any other details, and specific information which explains how the firm will meet, or exceed, the numeric goals for Section 3-- Employment and Contractual.

As officers and representative of

---

(Name of Firm)

We the undersigned have read and fully agree to this Section 3 Plan, and become a party to the full implementation of this program.

---

Signature

---

Title

---

Date

---

Signature

---

Title

---

Date



## TABLE B

### Goals – Cobb County Community Development Program

#### **A. Section 3 Residents - New Hires**

##### Numerical Goals for Resident Employment

For all Section 3 covered contracts [\$100,000 or more], Firms, and their subcontractors, may demonstrate compliance by committing to employ Section 3 residents as a percentage of the aggregate new hires for each year over the duration of the Section 3 project. The following percentage constitutes a safe harbor for Firms and subcontractors:

- (1) 30 percent of the aggregate number of new hires for each year period beginning January 1, 1998;

Each Firm, or Subcontractor, must meet the following employment hiring preferences in order to comply with this Section:

- (1) Section 3 residents who reside in the project service area, neighborhood, or within Cobb County. The CDBG Program Office should be contacted regarding the priorities, herein.
- (2) Participants in any HUD Youth-Build Programs within Cobb County--if this Program becomes available.
- (3) Other Section 3 residents, such as public housing, Section 8, Work-Force Development Act or other very low and low-income residents within Cobb County.
- (4) If McKinney Homeless Assistance Act funds [i.e. ESG Program or other McKinney Funds received by Cobb County] are used on a covered Section 3 project, then homeless persons residing in the project service area must be given the highest priority.

#### **B. Section 3 Business Concerns**

##### Numerical Goals For Contracting

For all Section 3 contracts, Firm and their subcontractors may demonstrate compliance by committing to award to Section 3 business concerns:

- (1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for "building trades work", arising in connection with housing rehabilitation, housing construction and other public construction; and
- (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts, i.e, management, clerical, professional services.

**C. Definitions:**

**Section 3 Residents:**

- (1) A public housing resident, or
- (2) An individual who resides in Cobb County and is a low-income person, or very low-income person.

[Low-income person is defined as a member of a household in which the total combined income from all adult members of the household (including single persons) does not exceed 80 per cent of the median household income for the Metropolitan Atlanta area. A very low- income person is defined as a member of a household in which the total combined income from all adult members of the household (including single persons) does not exceed 50 per cent of the median household income for the Metropolitan Atlanta area. Median household income levels are determined annually by the U.S. Department of Housing and Urban Development.]

**Section 3 Business Concern:** A Section 3 Business Concern is defined as a company that meets one or more of the following criteria:

- (a) 51% of the business is owned by Section 3 residents.
- (b) 30% of the employees are Section 3 residents.
- (c) 25% of the total subcontracts are awarded to other businesses that meet (a) or (b).

## MONTHLY SECTION 3 REPORT

This report [see attached instructions and form(s)] shall be used to report accomplishments regarding employment, training and contracting opportunities provided to low - and very low-income persons under Section 3 of the Housing and Urban Development act of 1968. The Section 3 regulations apply to any projects with contracts and subcontracts in excess of \$100,000 awarded in connection with the Section 3-covered activity.

Firm will complete the attached Section 3 Report by the 10th day of the month immediately following the report period

Month/Year Covered by This Report:

---

---

Name of Firm

---

Name and Title of Person Approving/Submitting This Report

---

Signature of Person Approving/Submitting This Report

---

Signature Date of Person Approving/Submitting This Report

## **Instructions**

### **Part I: Employment and Training Opportunities**

Block A: Contains various job categories. Professionals are defined as people who have special knowledge of an occupation (i.e. supervisors, architects, surveyors, planners, and computer programmers). For construction positions, list each trade and provide data in columns B through F for each trade where persons were employed. The category of "Other" includes occupations such as service workers.

Block B: Enter the percentage of all the new hires (Section 3 residents) in connection with this award. New Hires include full-time positions (permanent, temporary and seasonal).

Block C: Enter the percentage of the total staff hours worked for Section 3 employees and trainees (including new hires) connected with this award. Include staff hours for part-time and full-time positions.

Block D: Enter the number of Section 3 residents that were hired and trained in connection with this award.

Block E: Enter under each racial/ethnic code (1-6) the number of employees and trainees recorded in column D.

### **Part II: Contract Opportunities**

#### **1: Construction Contracts**

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project/program that were awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards. Indicate the appropriate racial/ethnic code(s).

Item E: Enter under each racial/ethnic code (1-6) the number of employees and trainees recorded in Item D.

#### **2: Non-Construction Contracts**

Item A: Enter the total dollar amount of all contacts awarded on the project/program.

Item B: Enter the total dollar amount of contracts connected with this project awarded to Section 3 businesses.

Item C: Enter the percentage of the total dollar amount of contracts connected with this project/program awarded to Section 3 businesses.

Item D: Enter the number of Section 3 businesses receiving awards. Indicate the appropriate racial/ethnic code(s).

Item E: Enter under each racial/ethnic code (1-6) the number of employees and trainees recorded in Item D.

**Part III: Summary of Efforts - Self-explanatory**

**Part: I Employment and Training (\*Include New Hires in columns C and D)**

A Total New Hires By Job Category	B % of Aggregate New Hires Who are Section 3 Residents	C % of Total Staff Hours for Section 3 Employees and Trainees*	D Number of Section 3 Employees and Trainees*	E Racial/Ethnic Code(s) From Column D [Enter Numbers For Each Category]					
				1	2	3	4	5	6
Professional									
Technicians									
Office/ Clerical									
Construction by Trade (List Trade:									
Trade:									
Trade:									
Trade:									
Trade:									
Trade:									
Other:(List)									
Total:									

Racial/Ethnic Codes:  
 1 = White American  
 2 = Black American  
 3 = Native American  
 4 = Hispanic American  
 5 = Asian Pacific American  
 6 = Hasidic Jews

**Part II: Contract Awards**

**1. Construction Contracts:**

- A. Total dollar amount of all contracts awarded on the Project \$ \_\_\_\_\_
- B. Total dollar amount of contracts awarded to Section 3 businesses \$ \_\_\_\_\_
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses \_\_\_\_\_ %
- D. Total number of Section 3 businesses receiving contracts \_\_\_\_\_
- E. Enter the number of Section 3 businesses receiving contracts by Racial/Ethnic code(s)
1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_ 6. \_\_\_\_\_

Racial/Ethnic Codes:  
 1 = White American  
 2 = Black American  
 3 = Native American  
 4 = Hispanic American  
 5 = Asian Pacific American  
 6 = Hasidic Jews

**2. Non-Construction Contracts:[Applies to Professional and other Non-Construction Services]**

- A. Total dollar amount of all non-construction contracts awarded on the project/activity \$ \_\_\_\_\_
- B. Total dollar amount of non-construction contracts awarded to Section 3 businesses \$ \_\_\_\_\_
- C. Percentage of the total dollar amount that was awarded to Section 3 businesses \_\_\_\_\_ %
- D. Total number of Section 3 businesses receiving non-construction contracts \_\_\_\_\_
- E. Enter the number of Section 3 business receiving non-construction contacts by Racial/Ethnic code(s)
1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_ 4. \_\_\_\_\_ 5. \_\_\_\_\_ 6. \_\_\_\_\_

Racial/Ethnic Codes:  
 1 = White American  
 2 = Black American  
 3 = Native American  
 4 = Hispanic American  
 5 = Asian Pacific American  
 6 = Hasidic Jews

**Part III: Summary**

Indicate the efforts made to direct the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs, to the greatest extent feasible, toward low - and very low -income persons, particularly those who are recipients of government assistance for housing. (Check all that apply.)

- \_\_\_\_\_ Attempted to recruit low-income residents through: local advertising media, signs prominently displayed at the project site, contracts with community organizations and public or private agencies operating with in the metropolitan area in which the Section 3 covered program or project is located, or similar methods.
- \_\_\_\_\_ Participated in a HUD program or other program which promotes the training or employment of Section 3 residents.
- \_\_\_\_\_ Participated in a HUD program or other program which promotes the award of contracts to business concerns which meet the definition of Section 3 business concerns.
- \_\_\_\_\_ Coordinated with Youthbuild Programs administered in the metropolitan area in which the Section 3 covered project is located.
- \_\_\_\_\_ Other; describe below, or on separate sheet.

## Section 3 Policies and Procedures

## SECTION 3 POLICIES AND PROCEDURES

The following policies and procedures have been prepared by Cobb County to be utilized in planning and implementing the Section 3 regulations. Any organization or agency which needs detailed information on any facet of these policies and procedures should contact the Cobb County CDBG Program Office.

1. Purpose of Section 3  
The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701(u)) is to ensure employment and other economic opportunities generated by certain HUD financial assistance shall to the greatest extent feasible, be consistent with existing Federal, State and local laws and regulations, and be directed to low-and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons.
2. Applicability of Section 3:  
Section 3 applies to the following HUD assistance [Section 3 covered assistance].
  - A. HUD Programs covered by Section 3---CDBG, HOME, McKinney Act Programs.
  - B. Housing and Community Development Assistance:  
Section 3 applies to training, employment, contracting and other economic opportunities arising in connection with the expenditure of housing assistance and community development assistance that is used for the following projects:
    1. Housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair and replacement);
    2. Housing Construction;
    3. Other Public Construction.
  - C. Range of Economic Opportunities:  
When the Congress amended Section 3, it narrowed the types of activities to which the statute would apply in housing and community development programs. As noted under 2-B, the programs were narrowed to housing rehabilitation, housing construction, and other public construction projects. It is important to note that jobs arising in connection with these projects are not only construction jobs, but management, maintenance, clerical and administrative jobs "that come into existence because of the construction project." However, management, maintenance, or administrative jobs generated from the expenditure of housing assistance or community development assistance, but which assistance is not expended for direct rehabilitation, construction, or other public construction, are not subject to the Section 3 preference requirements.
3. Thresholds For Section 3 Assistance:
  - A. Cobb County Recipient Thresholds.  
The Section 3 requirements apply to recipients of housing and community development program assistance for a Section 3 covered project(s) for which the amount of the assistance exceeds \$200,000, i.e., Cobb County.

- B. Contractor and Subcontractor Thresholds.  
The requirements of Contractors and Subcontractors performing work on Section 3 covered contracts or subcontracts exceeds \$100,000.
- C. Threshold for Recipients, But Not Contractors or Subcontractors.  
If a recipient receives Section 3 covered housing or community development assistance in excess of \$200,000, but has no contract which exceeds \$100,000; the Section 3 preference requirements only apply to the recipient.
- D. Applicability Of Section 3 To Entire Project or Activity Funded With Section 3 Assistance.  
The Section 3 requirements apply to the entire project or activity that is funded with Section 3 covered assistance, regardless of whether the Section 3 activity is fully, or partially, funded with Section 3 covered assistance.

4. Numerical Goals for Meeting The "Greatest Extent Feasible" Requirement

A. General

- (1) Contractors may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth in this section for providing training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns.
- (2) The goals established in this section apply to the entire amount of Section 3 covered assistance awarded to Cobb County in any Federal Fiscal Year (FY).
- (3) For recipients that do not engage in training, or hiring, but award contracts to Contractors that will engage in training, hiring, and subcontracting, Cobb County must ensure to the greatest extent feasible, that Contractors will provide training, employment, and contracting opportunities to Section 3 residents and Section 3 business concerns.
- (4) The numerical goals established in this section represent minimum numerical targets.
- (5) The numerical goals set forth in this section apply to new hires. The numerical goals reflect the aggregate hires. Efforts to employ Section 3 residents, to the greatest extent feasible, should be made at all job levels.

B. Goals for Resident Employment

For all Section 3 covered contracts [\$100,000 or more], Contractors, and their Subcontractors, may demonstrate compliance by committing to employ Section 3 residents as a percentage of the aggregate new hires for each year over the duration of the Section 3 project. The following percentages constitute a safe harbor for Contractors and Subcontractors:

- (1) 30 percent of the aggregate number of new hires for each year.

Each Contractor, or Subcontractor, must meet the following employment hiring preferences in order to comply with this Section.

- (1) Section 3 residents who reside in the project service area, neighborhood, or within Cobb County. The CDBG Program Office should be contacted regarding the priorities, herein.

- (2) Participants in any HUD Youth-build Programs within Cobb County--if this Program becomes available.
- (3) Other Section 3 residents.
- (4) If McKinney Homeless Assistance Act funds are used on a covered Section 3 project, then homeless persons residing in the project service area must be given the highest priority.

C. Numerical Goals For Contracting:

For all Section 3 contracts, Contractors and their Subcontractors may demonstrate compliance by committing to award to Section 3 business concerns:

- (1) At least ten (10) percent of the total dollar amount of all Section 3 covered contracts for "building trades work", arising in connection with housing rehabilitation, housing construction and other public construction; and
- (2) At least three (3) percent of the total dollar amount of all other Section 3 covered contracts, i.e, management, clerical, professional services.
- (3) Section 3 Business Concern: A Section 3 Business Concern is defined as a company that meets one or more of the following criteria:

Numerical

- (a) 51% of the business is owned by Section 3 residents, or
- (b) 30% of the employees are Section 3 residents, or
- (c) 25% of the total subcontracts are awarded to businesses that meet (a) or (b).

(4) Priority Contracting Preferences:

Contractors and Subcontractors must meet the following contracting preferences to comply with the Section 3 requirements.

- (a) Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area, neighborhood, or within Cobb County.
- (b) Applicants selected to carry out HUD Youth-Build programs--if one becomes available in Cobb County.
- (c) Other Section 3 business concerns.

(5) Safe Harbor and Compliance Determinations

In the absence of evidence to the contrary, a Contractor that meets the minimum numerical goals set forth, herein, will be considered to have complied with the Section 3 preference requirements. In evaluating compliance, herein, a Contractor that has not met the numerical goals set forth in this section has the burden of demonstrating why it was not feasible to meet the numerical goals. Such justification may include impediments encountered despite actions taken. The Contractor, also, can indicate other economic opportunities which were provided in its efforts to comply with Section 3.

5. Contractor Responsibilities In Bid Proposals

All Contractors who bid on eligible Section 3 covered projects must complete and submit a Section 3 Plan with its bid proposal. The Section 3 Plan shall constitute an integral part of the bid proposal. Those Contractors who do not submit a completed Section 3 Plan as a part of its bid proposal may be considered non-responsive to the RFP.

6. Section 3 Clause

As required by the Section 3 regulations, all Section 3 covered contracts must contain the language spelled-out in the Section 3 Clause, as noted in 24 CFR Part 135.38 of the federal regulations, and as noted in Cobb County's Bid Document Packages.

7. Procurement Procedures

Cobb County will establish procurement procedures which provide a preference for Section 3 Business Concerns, and for other business concerns which certify in their Section 3 Plan submission that they will meet the safe harbor thresholds contained in Cobb County's Section 3 Policies and Procedures. [ **Note: this includes Professional Services.**]

8. Complaint and Compliance Review

The Cobb County CDBG Program Office will work closely with the HUD FHEO Office to establish procedures for reviewing Contractor compliance with Section 3 requirements, and for responding to all complaints alleging that a Contractor has failed to comply with the Section 3 regulations.

9. Contractor Reporting on Section 3 Activities

Each Contractor that performs work on Section 3 covered assistance must agree to provide the CDBG Program Office with periodic reports on the actions they have taken to comply with Section 3. The report format and frequency of submission will be provided by the Cobb County CDBG Program Office.

10. Proof of Status as Section 3 Resident

Cobb County will require evidence and certification of a person's Section 3 status. Acceptable documentation or evidence may include evidence of a person's residency in a public housing development, or evidence of Section 8 certificate or voucher assistance, or other evidence of participation in a HUD or other Federally assisted program such as Work-Force Development Act, AFDC, or JOBS, or evidence of participation in a State or local assistance program or receipt of welfare assistance. If the above information is not available, a person's Section 3 status will be verified by proof of income, (supplied by the individual requesting preference) that meets the definition of a Section 3 resident.

## **CERTIFICATIONS**

**EQUAL OPPORTUNITY PROVISION CERTIFICATIONS  
[EXECUTIVE ORDER 11246]**

**A. Executive Order 11246 (Contracts/Subcontracts above \$10,000)**

**1. Section 202 Equal Opportunity Clause:**

**During the performance of this contract, the contractor agrees as follows:**

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

enforcing such provisions, including sanctions for non-compliance. Provide however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Department the contractor may request the United States to enter into such litigation to protect the interest of the United States.

**SPECIAL EQUAL OPPORTUNITY PROVISIONS:**

**A. Activities and Contracts Not Subject to Executive Order 11246, as Amended**

(Applicable to Federally assisted construction contracts and related subcontracts \$10,000 and under)

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

- (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (2) The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this nondiscrimination clause. The Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (3) Contractors shall incorporate foregoing requirements in all subcontracts.

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Name of Firm

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Name of Authorized Person

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Signature of Authorized Person

---

Date of Signature of Authorized Person



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
 CERTIFICATION BY PROPOSED SUBCONTRACTOR REGARDING  
 EQUAL EMPLOYMENT OPPORTUNITY**

<b>Name of Prime Contractor</b>	<b>Project Number</b>
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**INSTRUCTIONS**

**This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.**

**Where the certification indicates that the subcontractor has not filed a compliance report due under applicable instructions, such subcontractor shall be required to submit a compliance report before the owner approves the subcontract or permits work to begin under the subcontract.**

**SUBCONTRACTOR'S CERTIFICATION**

*Name and Address of Subcontractor (including Zip Code)*

**1. Has the Bidder participated in a previous contract or subcontract subject to the Equal Opportunity Clause?  yes  no**

**2. Were compliance reports required in connection with such contract[s] or subcontract[s]?  yes  no**

**3. Has Bidder completed all compliance instructions, including SF-100?  yes  no  None Required**

**4. Have you ever been or are you being considered for sanction[s] due to a violation of Executive Order 11246, as amended?  yes  no**

*Name and Title of Signer (please type)*

**Signature**

**Date**

**CERTIFICATION OF BIDDER REGARDING SECTION 3**  
**AND SEGREGATED FACILITIES**

Name of Prime Contractor \_\_\_\_\_

Project Name & Number: \_\_\_\_\_

The undersigned hereby certifies that

- (a) Section 3 provisions are included in the Contract
- (b) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

\_\_\_\_\_  
Name and Title of Signer (Print or Type)

\_\_\_\_\_  
Signature Date

**CERTIFICATION OF PROPOSED SUBCONTRACTOR REGARDING**  
**SECTION 3 AND SEGREGATED FACILITIES**

Name of  
SubContractor \_\_\_\_\_

Project Name & Number: \_\_\_\_\_

The undersigned hereby certifies that

- (a) Section 3 provisions are included in the Contract
- (b) No segregated facilities will be maintained as required by Title VI of the Civil Rights Act of 1964.

\_\_\_\_\_  
Name and Title of Signer (Print or Type)

\_\_\_\_\_  
Signature Date

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**CERTIFICATION OF NONSEGREGATED FACILITIES**

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

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

Name of Bidder: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**Must be included without alternation**

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**CERTIFICATIONS REGARDING LOBBYING DISCLOSURE  
AND  
DRUG-FREE WORKPLACE**

# Certification for a Drug-Free Workplace

U.S. Department of Housing  
and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. **Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here  if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.  
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature	Date
X	

March 26, 1992

PROGRAM MANAGEMENT DIVISION  
OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT  
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CIRCULAR NO. IV-CPD-92-16

TO: ALL GEORGIA CDBG ENTITLEMENT GRANTEES AND RECIPIENTS or GRANTS  
UNDER PROGRAMS ADMINISTERED BY THE OFFICE OF COMMUNITY PLANNING  
AND DEVELOPMENT

SUBJECT: GUIDANCE ON IMPLEMENTATION OF BYRD AMENDMENT REQUIREMENTS -  
DISCLOSURE OF LOBBYING ACTIVITIES

In accordance with Section 319 of the Department of Interior and Related Agencies Appropriations Act (commonly referred to as the "Byrd Amendment"), recipients and subrecipients of Federal contracts, grants, loans, or cooperative agreements are prohibited from using Federally appropriated funds to influence Federal employees, members of Congress, and congressional staff in connection with the award of any Federal contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement. This prohibition also applies to payments made to influence a Federal official in connection with the extension, continuation, renewal, amendment or modification of any contract, grant, loan, or cooperative agreement.

The Byrd Amendment further mandates that all applicants and grantees of contracts, grants or cooperative agreements exceeding \$100,000, or loans, loan insurance, or loan guarantees exceeding \$150,000 must disclose any lobbying activities which have been undertaken with funds made available from non-Federal sources.

A. ANTI-LOBBYING CERTIFICATION

A government-wide Interim Final Rule implementing the Byrd Amendment was published in the Federal Register on February 26, 1990. The Interim Final Rule was supplemented by a Notice published by the Office of Management and Budget (OMB) on June 15, 1990. These regulations mandate that any applicant/grantee meeting the \$100,000/\$150,000 threshold must certify that Federally appropriated funds have not and will not be used to undertake any prohibited lobbying activity. (Please refer to Attachment 1, "Community Development Block Grant Grantee Certifications," paragraph (n), for the standard certification language utilized by HUD.) This certification *must* be filed at the time of submission of the application or request to enter into an agreement. If it is not filed at the time of application, the certification must be filed prior to receipt of the award or assistance involved. Submission of the certification is a condition for receipt of a grant award.

B. LOBBYING DISCLOSURE (SF-LLL)

In the event an applicant or grantee undertakes lobbying activities with funds other than those appropriated by the Federal government, a standard disclosure form must be submitted. (See SF-

LLL "Disclosure Form to Report Lobbying.") It is the responsibility of the applicant to determine whether a Form SF-LLL is required to be submitted to HUD.

There are two requirements with respect to a disclosure submission:

- (1) The SF-LLL must be submitted to HUD at the time of the application or request. If it is not filed at the time of the request, it must be filed prior to award or agreement.
- (2) A new disclosure form must be filed at the end of each calendar quarter in which a payment, or an agreement to make a payment, is made which would have otherwise required reporting at the time of application. Moreover, if an event occurs during the calendar quarter which materially affects the accuracy of the information reported on a previous disclosure form, a new disclosure form must be submitted. Such events include:
  - o an increase of \$25,000 or more in the amount paid or expected to be paid for lobbying pertaining to a covered Federal action;
  - o a change in the person(s) conducting the lobbying activity; or
  - o a change in the Federal official(s) contacted with the intent to lobby.

C. **EXCEPTIONS TO LOBBYING PROHIBITIONS AND DISCLOSURE REQUIREMENTS**

The prohibition on the use of appropriated funds does not apply to:

- (1) Agency and Legislative Liaison Activities and Agency Requirements. Appropriated funds may be used to provide reasonable compensation for agency and legislative liaison activities which are not directly related to the transaction or post-award action involved, or for providing any information specifically requested by HUD.
- (2) Professional and Technical Services. Appropriated funds may also be used to pay for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application for the transaction involved, or for meeting requirements imposed by or pursuant to law as a condition for receipt of such assistance.

Applicants/grantees are not required to disclose payments which are permissible pursuant to the above exceptions.

D. **SUBCONTRACTORS AND SUBRECIPIENTS**

Subcontractors and subrecipients are subject to the requirements of the Byrd Amendment concerning the filing of certifications and disclosure forms in the case of:

- a. a subcontract exceeding \$100,000 at any tier under a Federal contract;
- b. a sub-grant, contract or subcontract exceeding \$100,000 at any tier under a Federal grant;
- c. a contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement; or

- d. any contract or subcontract exceeding \$100,000, at any tier under a Federal loan exceeding \$150,000.

Subcontractors and Subrecipients must submit certification and disclosure forms to the next tier agency. All disclosure forms must be submitted from tier to tier until they are submitted to HUD. Certification forms will be retained by the tier to whom they are submitted.

E. PENALTIES

Please be advised that any person or agency who makes an expenditure prohibited by the Byrd Amendment is subject to a civil penalty from \$10,000 up to \$100,000 for each failure. This penalty also applies to any person or agency that fails to submit or amend the disclosure form, when required. Failure to submit the required certification may result in an application or assistance being delayed or denied.

Very sincerely yours,  
Thomas A. Ficht, Director  
Program Management Division  
Office of Community Planning and Development

# Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse side for Instructions and Public Reporting burden statement)

<b>1. Type of Federal Action</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only year (yyyy) _____ quarter _____ date of last report (mm/dd/yyyy) _____
<b>4. Name and Address of Reporting Entity</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee      Tier _____, if known:   Congressional District, if known _____	<b>5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime</b>   Congressional District, if known _____	
<b>6. Federal Department/Agency</b>   Congressional District, if known _____	<b>7. Federal Program Name/Description</b>   CFDA Number, if applicable _____	
<b>8. Federal Action Number, if known</b>  _____	<b>9. Award Amount, if known</b> \$ _____	
<b>10a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI)   _____ (attach continuation sheet(s) if necessary)	<b>b. Individuals Performing Services</b> (including address if different from No. 10a.) (last name, first name, MI)   _____ (attach continuation sheet(s) if necessary)	
<b>11. Amount of Payment</b> (check all that apply) \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	<b>13. Type of Payment</b> (check all that apply) <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other (specify) _____	
<b>12. Form of Payment</b> (check all that apply) <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____		
<b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11</b>   _____ (attach continuation sheet(s) if necessary)		
<b>15. Continuation sheets attached</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>16. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	Signature _____ Print Name _____ Title _____ Telephone No. _____ Date (mm/dd/yyyy) _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form-LLL (7/97)

**INSERT DEBARRED CERTIFICATION FORM**



**COBB COUNTY  
CDBG PROGRAM OFFICE**

127 Church Street, Suite 270  
Marietta, Georgia 30060  
(770) 528-4600 fax: (770) 528-4613  
[www.cobbcounty.org/cdbg](http://www.cobbcounty.org/cdbg)



**Nick Autorina**  
*Managing Director*

MEMORANDUM

TO: Prospective Bidders

FROM: Nick Autorina  
Managing Director

DATE: June 4, 2010

SUBJECT: Community Development Block Grant Certifications

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The following CDBG Grant Certifications apply to your proposal or bid. Please complete the required information and submit with your proposal or bid. If you have any questions, please contact:

Nick Autorina  
Managing Director  
Cobb County CDBG Program  
127 Church Street, Suite 270  
Marietta, GA 30060  
Telephone: 770-528-4600

CDBG Certifications Applicable To This Proposal:

- (e) The Scope of Work for this activity will be conducted and administered in compliance with:
1. Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 42 U.S.C. §2000d et sec.); and
  2. The Fair Housing Act (42 U.S.C. 3601-20);
- (n) To the best of its knowledge and belief:
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
  2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions; and
  3. It will require that the language of paragraph (n) of this certification be included in the award

documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly;

- (o) It will or will continue to provide a drug-free workplace by:
1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  2. Establishing an ongoing drug-free awareness program to inform employees about -
    - (a) The dangers of drug abuse in the workplace;
    - (b) The grantee's policy of maintaining a drug-free workplace;
    - (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
  3. Making it a requirement that each employee be engaged in the performance of the grant will be given a copy of the statement required by Paragraph 1;
  4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the grant, the employee will
    - (a) Abide by the terms of the statement; and
    - (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 4(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
  6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 4(b), with respect to any employee who is so convicted -
    - (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
    - (b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
  7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1, 2, 3, 4, 5 and 6.
  8. The firm must insert in the space provided below the site(s) for the performance of work done in connection with the specific project/activity:

Place of Performance (Street address, city, county, state, zip code)

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Check \_\_\_\_\_ if there are workplaces on file that are not identified here; and

- (p) It will comply with the other provisions of the Act and with other applicable laws.

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Signature

Date

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Title

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APPENDIX TO CDBG CERTIFICATIONS

INSTRUCTIONS CONCERNING LOBBYING AND DRUG-FREE WORKPLACE REQUIREMENTS:

**A.**     Lobbying Certification - Paragraph n

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**B.**     Drug-Free Workplace Certification - Paragraph o

1.       By signing and/or submitting this application or grant agreement, the contractor is providing the certification set out in paragraph (o).
2.       The certification set out in paragraph (o) is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HUD, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3.       For contractors other than individuals, Alternate I applies. (This is the information to which entitlement grantees certify).
4.       For contractors who are individuals, Alternate II applies. (Not applicable to CDBG Entitlement grantees.)
5.       Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

**FEDERAL LABOR STANDARDS PROVISIONS**  
**U. S. Department of Housing and Urban Development**  
**Office of Labor Relations**

**Applicability**

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

**A. 1. (i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provisions of 29 CFR 5.5 (a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321 shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

**(ii) (a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2)** The classification is utilized in the area by the construction industry; and
- (3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

that additional time is necessary. (Approved by the Officer of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representative, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for the determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

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

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

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

**2. Withholding.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

**3. (i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contribution or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide

such benefits is enforceable, that the plan or program is financially responsible and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control number 1215-0140 and 1215-0017.)

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

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

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

**(2)** That each laborer or mechanic (including each helper, apprentices, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

**(3)** That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

#### **4. Apprentices and Trainees.**

**(i) Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a Sates

Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

**(iii) Equal employment opportunity.** The utilization of apprentices, trainees, and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

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

**6. Subcontracts.** The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 of this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

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

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

**9. Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

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

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

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

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

**B. Contract Work Hours and Safety Standards Act.** The provisions of this paragraph B are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

**(1) Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any

such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**(2) Violations; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

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

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

**C. Health and Safety.** The provisions of this paragraph C are applicable only where the amount of the prime contract exceeds \$100,000.

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

**(2)** The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

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

## **INSERT APPLICABLE WAGE DECISION**

NOTE: The award for the project contract requires compliance with the most recent wage decision. The most recent copy of the wage decision may be obtained from the Cobb County Community Development Block Grant Program Office, 127 Church St., Suite 270 Marietta, GA 30060. For more information about CDBG requirements, applicants may contact Parker Matthews, CDBG Program Manager, at 770-528-4600 x 223.



# TERMS AND CONDITIONS

## 1.0 GENERAL REQUIREMENTS

### 1.1 BASIC DEFINITIONS

1.1.1 The Contract Documents consist of the RFP dated April 1, 2011, Design Baseline Bid Documents, Design/Builder's Bid Proposal identified in Article 14, this Agreement between Owner and Design/Builder for Final Design and Construction ("Agreement"), the Construction Documents to be prepared and approved by the Owner in accordance with Subparagraph 2.2.2 of this Agreement, and Modifications after execution of this Agreement. A Modification is a Change Order or a written amendment to this Agreement signed by both parties. The foregoing and following documents form the contract for the Project, and are as fully a part of the contract as if attached to this Agreement or repeated herein.

Bid Addendum #01 dated xxxxxxxxxxxxxx  
Bid Addendum #02 dated xxxxxxxxxxxxxx  
Bid Addendum #03 dated xxxxxxxxxxxxxx  
Bid Addendum #04 dated xxxxxxxxxxxxxx  
Non-Collusion Affidavit  
Immigration Reform and Control Act Contractor Affidavit

This Agreement and each and every provision are for the exclusive benefit of the Owner and the Design/Builder and not for the benefit of any third party nor any third party beneficiary, except to the extent expressly provided in the Agreement.

1.1.2 The Project, as identified above, is the total design and construction of the parking deck building, facility or other improvements for which the Design/Builder is responsible under this Agreement, including all professional design services and all labor, materials, and equipment used or incorporated in such design and construction. It may also include improvements to be undertaken by the Owner or others.

1.1.3 The Work comprises the completed construction designed under the Project and includes labor and supervision, materials, equipment, machinery, apparatus, tools, services, transportation and all other facilities, licenses, permits, taxes, fees, charges, excises, services and incidentals of any description whatsoever necessary to perform and completely finish in a workmanlike manner and to the complete satisfaction and approval of the Owner, in its reasonable discretion, free from all liens or claims of laborers, material men, suppliers, or subcontractors and in conformity in all respects with all applicable federal, state, county or municipal laws, ordinances, rules or regulations, all work and things contemplated by the Design Baseline Documents and the Contract Documents which are required of the Design/Builder.

### 1.2 EXECUTION, CORRELATION, AND INTENT

1.2.1 This Agreement shall be signed in not less than duplicate by the Owner and Design/Builder.

1.2.2 It is the intent of the Owner and Design/Builder that the Contract Documents include all items necessary for proper execution and completion of the Work. The Contract Documents must be taken as complementary, and any item of Work called for in any Contract Document shall be as binding as if called for by all. The Design/Builder understands that the Work shall be complete in every detail reasonably inferable from the Contract Documents as being necessary to produce the intended results notwithstanding the fact that every item involved is not particularly mentioned or shown. Words not otherwise specifically defined herein, which have a well-known technical or trade meaning, are used in this Agreement in accordance with such recognized or well-known meaning. If there is any conflict in the Contract Documents, the priority shall be as follows in descending order: Modifications to the Agreement, this Agreement, any Special Conditions, these Terms and General Conditions, the Specifications, the Drawings, and the Design/Builder's Bid Proposal.

1.2.3 By executing this Agreement, the Design/Builder represents that it is an independent contractor and that it has:

- .1 read and studied the Contract Documents and understands the same;
- .2 familiarized himself with the local conditions under which the Work is to be performed;  
and
- .3 correlated his observations with the requirements of the Contract Documents.
- .4 acknowledged that the Design Baseline Bid Documents are incomplete in defining the total scope of work, do not accurately define existing conditions whether exposed or hidden, and do not reflect all code requirements, agreements, conditions, ordinances, rules or regulations, which might affect this Project.

1.2.4 The Design/Builder shall designate in the Agreement a representative who shall have full authority to execute any and all instruments requiring the signature of the Design/Builder, and to otherwise act on behalf of the Design/Builder with respect to all matters arising out of the Contract Documents. The Design/Builder's designated representative will be authorized to execute all bonds, agreements, certificates, affidavits, applications and any and all instruments of any other nature whatsoever which may be required for the proper performance of the Work contemplated by the Contract Documents.

1.2.5 The Design/Builder represents that any reference by the Contract Documents to Cobb County as supplying utilities, permits, licenses, approvals, procedures or items of any nature whatsoever are included with the Design/Builder's cost and shall not be construed to mean that the cost of such items will be paid by Cobb County.

### 1.3 OWNERSHIP AND USE OF DOCUMENTS

1.3.1 All documents, including drawings, written information, estimates, specifications and other documents and data are and remain the property of the Owner. The Design/Builder agrees that the Owner may reuse any and all drawings, written information, estimates, specifications and other documents and data described herein in the Owner's sole discretion without first obtaining permission of the Design/Builder and without payment of any monies to the Design/Builder therefore. However, any reuse of the documents by the Owner on a different

site, without a new contract agreement, shall be at the Owner's risk and the Design Builder's Architect and Consultants shall have no liability where such documents are reused. The Owner agrees herewith to attempt to secure the services of the Design Builder's Architect to assist the Owner in site adapting such drawings to new sites. The Owner shall offer the Design Builder's Architect the opportunity to negotiate a fee for such services but shall not be bound to accept the negotiated fee. Following such negotiations, should Owner determine Design Builder's Architect's services/fee would not be in the Owner's best interest, Design Builder's Architect and Consultants name and seal shall be removed and the construction documents redone according to licensing regulations prior to their reuse.

1.3.2 Submission or distribution of documents to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Design/Builder's or the Architect's common law copyrights or other reserved rights. The Owner shall own neither the documents nor the copyrights.

## **2.0 DESIGN/BUILDER RESPONSIBILITIES**

### **2.1 SERVICES AND RESPONSIBILITIES**

2.1.1 Design services shall be performed by qualified architects, engineers and other professionals selected and paid by the Design/Builder. The parties acknowledge that Praxis 3 has been selected by Design/Builder to perform the architectural services for the Project. The professional obligations of all such persons shall be undertaken and performed in the interest of the Design/Builder. Construction services shall be performed by qualified construction contractors and suppliers, selected and paid by the Design/Builder and acting in the interest of the Design/Builder. . Nothing contained in this Agreement shall create any professional obligation or contractual relationship between such persons and the Owner or the Owner's Architect.

2.1.2 Intentionally Omitted.

### **2.2 BASIC SERVICES**

2.2.1 The Design/Builder's Basic Services are as described below and in Article 14.

2.2.2 Based on the Design Baseline Bid Documents and the Design/Builder's Bid Proposal, the Design/Builder shall submit Construction Documents for review and approval by the Owner. Color boards for exterior and interior finishes along with samples shall also be submitted to the Owner. Construction Documents shall include technical drawings, schedules, diagrams, and specifications, setting forth in detail the requirements for construction of the Work and shall:

- .1 develop the intent of the Design Baseline Bid Documents in detail;
- .2 provide information necessary for the use of those in the building trades; and
- .3 includes documents required for all regulatory agency approvals.

The Design/Builder hereby warrants that the Construction Documents prepared by the Design/Builder's Architect and Engineer will be adequate and sufficient to accomplish the purposes of the Construction Project, and agrees that any review or approval of said documents by the Owner

or otherwise shall not act to diminish or alter the Design/Builder's responsibilities under this Agreement.

2.2.3 The Design/Builder shall act as Owner's Agent in filing documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project, and shall be solely responsible for any violation by the Design/Builder, his employees or agents, of any Federal, State, City or Departmental laws, ordinances, or regulations. Design/Builder shall maintain compliance with all environmental related policies, procedures and applicable permits, regulations, codes and Americans with Disabilities Act requirements.

2.2.4 Unless otherwise provided in the Contract documents, the Design/Builder shall provide or cause to be provided and shall pay for all design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, permits and City of Marietta required inspections, utility connection, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

2.2.5 The Design/Builder shall be responsible for and shall coordinate all construction means, methods, techniques, sequences, and procedures.

2.2.6 The Design/Builder shall keep the Owner informed of the progress and quality of the Work. The Design/Builder shall fax to the Owner, on a weekly basis, copies of the Superintendent's daily reports.

2.2.7 If requested in writing by the Owner, the Design/Builder, with reasonable promptness and in accordance with the time limits agreed upon, shall interpret the requirements of the Contract Documents. Claims, disputes, and other matters in question relating to performance there under by both Owner and Design/Builder shall be interpreted by the Owner. Such interpretations and decisions shall be in writing, shall be presumed to be correct, and shall be given such weight, as the court shall determine.

2.2.8 The Design/Builder shall correct Work, which does not conform to the Construction Documents at no additional cost to Owner.

2.2.9 The Design/Builder warrants to the Owner that materials and equipment incorporated in the Work will be new unless otherwise specified, and that the Work will be of good quality, free from faults and defects, and in conformance with the Contract Documents. Work not conforming to these requirements shall be corrected in accordance with Article 9 of this Agreement.

2.2.10 The Design/Builder shall pay all sales, consumer, use, and similar taxes and shall secure and pay for building permit and all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work.

2.2.11 The Design/Builder shall give notices and comply with all laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

2.2.12 The Design/Builder shall pay all royalties and license fees. The Design/Builder shall defend

suits or claims for infringement of patent rights and shall save the Owner and its Agents harmless from loss on account thereof, except that the Owner shall be responsible for such loss when a particular design, process or product of a particular manufacturer is required by the Owner. However, if the Design/Builder has reason to believe the use of a required design, process, or product is an infringement of a patent, the Design/Builder shall be responsible for such loss unless such information is promptly given to the Owner.

2.2.13 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees and parties in privity of contract with the Design/Builder, to perform a portion of the Work, including their agents and employees.

2.2.14 The Design/Builder shall keep the premises free from accumulation of waste materials or rubbish caused by the Design/Builder's and its subcontractor's operations. At the completion of the Work, the Design/Builder shall remove from and about the Project the Design/Builder's and its subcontractor's tools, construction equipment, machinery, surplus materials, waste materials, and rubbish.

2.2.15 The Design/Builder shall prepare Change Orders for the Owner's approval and execution in accordance with this Agreement and shall have authority to make minor changes in the design and construction consistent with the intent of this Agreement not involving an adjustment in the contract sum or an extension of the contract time. The Design/Builder shall promptly inform the Owner, in writing, of minor changes in the design and construction.

2.2.16 The Design/Builder shall notify the Owner when the Work is substantially completed by issuing a Certificate of Substantial Completion for the Owner's approval and if approved by the Owner, shall establish the Date of Substantial Completion, shall state the responsibility of each party for security, maintenance, heat, utilities, damage to the Work and insurance, shall include a list of items to be completed or corrected and shall fix the time within which the Design/Builder shall complete items listed therein. Owner shall produce a list of items to be completed or corrected upon establishment of Date of Substantial Completion.

2.2.17 The Design/Builder shall maintain in good order at the site one record copy of the drawings, specifications, product data, samples, shop drawings, Change Orders and other Modifications, marked currently to record changes made during construction. These documents and materials shall be delivered to the Owner upon completion of the design and construction and prior to final payment.

2.2.18 The Design/Builder shall be responsible for the preservation of all public and private property, monuments, utility lines, etc., along and adjacent to the Work. The Design/Builder shall use every precaution necessary to prevent damage or injury thereto. The Design/Builder shall exercise suitable precaution necessary to prevent damage to pipes, conduits and other underground structures; and shall carefully protect from disturbance or damage all land monuments and property marks until an authorized representative of the Owner has witnessed or otherwise referenced their location, and shall not remove them until directed. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the Work, or in consequence of the non-execution thereof on the part of the Design/Builder, his employees or agents, such property shall be restored by the

Design/Builder, at the Design/Builder's expense. The Design/Builder will restore same to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring same, or Design/Builder shall make good such damage or injury in an otherwise acceptable manner.

2.2.19 Intentionally Omitted.

2.2.20 The Design/Builder shall furnish services by land surveyors, air, and water conditions, when such services are deemed necessary by the Design/Builder to carry out properly the design services under this Agreement. These costs are to be included as cost of work.

### **3.0 OWNER RESPONSIBILITIES**

3.1 The Owner shall designate a representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall examine documents submitted by the Design/Builder and shall promptly render decisions pertain thereto to avoid delay in the orderly progress of the Work.

3.2 At the Owner's option, the Owner may appoint an on-site project representative to observe the Work and to have such other responsibilities as the Owner and Design/Builder agree in writing at any time after the execution of this Agreement.

3.3 The Owner shall cooperate with the Design/Builder in securing building and other permits, licenses, and inspections.

3.4 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or nonconformity with the Design or Construction Documents, the Owner shall give prompt written notice thereof to the Design/Builder.

3.5 The Owner shall furnish required information and services and shall promptly render decisions pertaining thereto to avoid delay in the orderly progress of the design and construction.

3.6 The Owner shall, at the request of the Design/Builder and upon execution of this Agreement, provide a certified or notarized statement of funds available for the Project and their source.

3.7 The Owner shall communicate with contractors only through the Design/Builder.

### **4.0 CONTRACT TIME**

4.1 The Design/Builder shall provide services as expeditiously as is consistent with reasonable skill and care and the orderly progress of design and construction and in accordance with the Schedule (as defined below), as may be amended by mutual agreement of the parties from time to time.

4.2 Time limits stated in Contract Documents are of the essence of this Agreement. The Work to be performed under this Agreement shall commence upon execution of a notice to proceed unless otherwise agreed and, subject to authorized Modifications, Substantial Completion shall be achieved as indicated in Article 14.

4.3 The Date of Substantial Completion of the Work or of a designated portion thereof is the date when construction is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy and utilize the Work for its intended use. The Date of Final Completion of the Work is the date when all punch list items are completed and the Work to be performed under this Agreement is fully completed.

4.4 The Design/Builder shall prepare a design and construction schedule of Work consistent with Paragraph 4.1 above and present it to Owner for written approval prior to commencing the Work ("Schedule"). This schedule shall indicate the dates for the start and completion of the various stages of the Work, including the dates when information and approvals are required from the Owner, The Schedule shall be revised as required by the conditions of the Work.

4.5 If the Design/Builder is delayed in the progress of the Project by acts or neglect of the Owner, Owner's employees, separate contractors employed by the Owner, or changes ordered in the Work not caused by the fault of the Design/Builder, the contract time shall be reasonably extended by Change Order.

4.6 If, at any time during the course of the Work, the progress of the Work, in the Owner's judgment, raises a doubt as to the ability of the Design/Builder to meet the Contract Time, the Design/Builder shall confer and cooperate with the Owner in establishing a schedule for the Work which will assure its completion within the Contract Time at no additional cost to the Owner.

4.7 Completion time will not be extended for normal bad weather. The time for completion as stated in the Request for Proposal includes due allowance for calendar days on which work cannot be performed out-of-doors. For the purpose of the Agreement, the Design/Builder agrees that he may expect to lose calendar days due to weather in accordance with the following table:

Jan: 22 days	May: 4 days	Sep: 4 days
Feb: 16 days	Jun: 6 days	Oct: 5 days
Mar: 11 days	Jul: 8 days	Nov: 9 days
Apr: 7 days	Aug: 6 days	Dec: 15 days

Also, the Design/Builder agrees that the measure of extreme weather during the period covered by this Agreement shall be the number of days in excess of those shown for each month in the table above, in which precipitation exceeds 0.10 inch and the average temperature failed to exceed 40 degrees F. The average in which the maximum temperature exceeded 50 degrees F., averaged from three local area weather stations over the same period of time. This is the same source of data used to determine normal weather losses. If the total accumulated number of calendar days lost to weather, from the start of work until the building is enclosed, exceeds that total accumulated number to be expected for the same period from the table above, time for completion will be extended by the number of calendar days needed to include the excess number of calendar days lost. No extension will be made for days of bad weather occurring after the "building is enclosed". For the purpose of this Agreement, the term "enclosed" is defined to mean when the building exterior skin is sufficiently completed. No change in contract sum will authorized because of adjustment of contract time due to weather.

4.8 It is further agreed that time is of the essence of each and every portion of this Agreement

and of the Specifications wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Agreement an additional time is allowed for the completion of any work, the new time limit fixed by such extension shall be of the essence of this Agreement.

Extensions of time will be considered when the delay in completion of the work is due:

.1 To any preference, priority, or allocation order duly issued by the Government or Owner;

.2 To unforeseeable cause beyond the control and without the fault or negligence of the Contractor, restricted to acts of God, or of the public enemy, acts of the Owner, fires, floods, epidemics, quarantine restriction, and extremely severe weather in excess of normal weather losses allowed in Paragraph 4.7. Production line schedule delays of the product manufacturers shall not be considered grounds for a time extension.

4.9 The Design/Builder shall within five (5) days from the beginning of such delay, unless the Owner shall grant a further period of time prior to the final settlement of the Agreement, notify the Owner, in writing with a copy to the Owner's Architect, the causes of the delay for each delay caused by reasons other than weather. The Owner shall, where possible, ascertain the facts and extent of the delay or delays for claims, other than those caused by weather, filed by the Design/Builder between the 20th of the month to the 20th day of the previous month. If the Owner agrees with a time extension, the Design/Builder shall issue the monthly Pay Application accompanied by a Change Order. In cases where a claim is filed, except those that are of a continuing nature and extend beyond the normal monthly report period stated herein, the Owner shall ascertain the facts and render his decision within thirty (30) days of the receipt of the final data relating to the claim. Decisions for claims for delays due to severe weather shall be made by the Owner only after the Substantial Completion. Only those days in excess of the accumulated total number of calendar days lost to weather, from the date of the Proceed Order until the time the building is enclosed, as covered in the schedule in Paragraph 4.7, will be considered. Claims for time losses due to extreme weather conditions will not be considered in fractions of less than one half (1/2) day. If the Design/Builder fails to file claims within the time period specified herein for delays, it shall be considered prima facie evidence that no basis for a claim exists.

4.10 The Design/Builder acknowledges and understands that if Substantial Completion of the project is delayed beyond the Date of Substantial Completion (as defined in Article 14 hereof), the Owner will suffer, sustain and incur substantial commercial and economic loss, damage and detriment, including, without limitation, loss of income, profits and operating revenues from the Project and extended interest costs, the precise magnitude and extent of all of which may be difficult to ascertain. Accordingly, it is the intent and desire of the parties (and an inducement to the Owner to enter into this Agreement with the Design/Builder) to agree in advance upon the amount of compensation which the Owner will be entitled to receive from the Design/Builder if Substantial Completion of the Project is not achieved on or before the Date of Substantial Completion or Final Completion is not achieved on or before the Final Completion Date. For each calendar day that Substantial Completion of the Project is delayed beyond the Date of Substantial Completion (as the same may be extended for excusable delays allowed hereunder), the

Design/Builder shall pay to Owner the sum of Five Hundred Dollars (\$500.00) per day until Substantial Completion is achieved. For each calendar day that Final Completion of the Project is delayed beyond the Date of Final Completion (as the same may be extended for excusable delays allowed hereunder), Design/Builder shall pay to Owner the sum of Two Hundred Dollars (\$200.00) per day until Final Completion is achieved. Said sums shall constitute liquidated damages and not a penalty and are deemed reasonable by the parties in light of the circumstances and the anticipated actual loss, damage or detriment which the Owner will suffer, sustain and incur if completion of the Project is delayed. The Owner shall be entitled to retain, receive and recover such liquidated damages from the Design/Builder solely on the basis of the Design/Builder's failure to achieve the Date of Substantial Completion and/or the Date of Final Completion, without the necessity of proving or establishing any underlying cause or actual amount of loss or damage sustained, it being the intent and purpose of the parties to preclude the necessity of any such proof by negotiating and agreeing in advance upon the amount of such liquidated damages as herein provided. Such liquidated damages may be withheld by the Owner from the balance due to the Design/Builder under this Agreement as and when such damages accrue and payments become due to the Design/Builder hereunder or, if such liquidated the Design/Builder for breach of this Agreement, including, without limitation, Owner's right to terminate this Agreement.

## **5.0 PAYMENTS**

### **5.1 PROGRESS PAYMENTS**

5.1.1 The Design/Builder shall deliver to the Owner itemized Applications for Payment in such detail as indicated in Article 14.

5.1.2 Within thirty days of the Owner's receipt of a properly submitted and correct Application for Payment certified by the Design/Build Architect and approved by the Owner, the Owner shall make payment to the Design/Builder.

5.1.3 The Application for Payment shall constitute a representation by the Design/Builder to the Owner that, to the best of the Design/Builder's knowledge, information, and belief the design and construction have progressed to the point indicated. The quality of the Work covered by the application is in accordance with the Contract Documents; and the Design/Builder is entitled to payment in the amount requested. The application shall be certified by the Design/Builder's Architect and approved by the Owner.

5.1.4 The Design/Builder shall pay each contractor, upon receipt of payment from the Owner, out of the amount paid to the Design/Builder on account of such contractor's work, the amount to which said contractor is entitled in accordance with the terms of the Design/Builder's contract with such contractor. The Design/Builder shall, by appropriate agreement with each contractor, require each contractor to make payments to subcontractors in similar manner.

5.1.5 The Owner shall have no obligation to pay or to be responsible in any way for payment to a contractor of the Design/Builder except as may otherwise be required by law.

5.1.6 No progress payment or partial or entire use or occupancy of the Project by the Owner shall constitute an acceptance of Work not in accordance with the Contract Documents.

5.1.7 The Design/Builder warrants that:

.1 Title to Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in construction or upon receipt of payment by the Design/Builder, whichever occurs first;

.2 Work, materials and equipment covered by previous Applications for Payment are free and clear of liens, claims, security interests or encumbrances, hereinafter referred to as "liens"; and

.3 no Work, materials or equipment covered by an Application for Payment will have been acquired by the Design/Builder, or any other person performing work at the site or furnishing materials or equipment for the Project, subject to an agreement under which an interest therein or encumbrance thereon is retained by the seller or otherwise imposed by the Design/Builder or such other person.

5.1.8 The Design/Builder will receive the payments made by the Owner and the Design/Builder will hold such payments as a trust fund to be applied first to the payment of laborers, suppliers, subcontractors, and others responsible for the Work for which such payments are made, including sufficient funds so that all taxes and insurance applicable thereto are also paid. The Design/Builder shall first apply all progress payments as trustee to satisfy all obligations the Design/Builder has incurred due to the Work, and shall comply with all laws applicable thereto.

5.1.9 The Design/Builder shall, as often as requested by the Owner, furnish such information, evidence and substantiation as the Owner may require with respect to the extent and value of current progress and the nature and extent of all obligations incurred by the Design/Builder in connection with the Work and all payments made by the Design/Builder on account thereof. The Design/Builder shall also furnish, as required by the Owner in its sole discretion, such partial or final lien waivers or releases as the Owner deems necessary to ensure that the Design/Builder has paid all persons furnishing any labor, material, or services in furtherance of any Work furnished hereunder. If required by the Owner, the furnishing of such lien waivers and releases shall be a condition precedent to any payment hereunder. Nothing herein shall constitute any requirement that the Owner exercise its discretionary option to require such releases and waivers. Moreover, no prior failure of the Owner to require such releases and waivers shall limit the Owner's right to require them subsequently.

5.1.10 The Owner reserves the right to withhold, as an additional reserve and without limiting its other rights and remedies, an amount sufficient: (a) to defend, satisfy and discharge any asserted claim that the Design/Builder (or anyone providing any of the Work hereunder) has failed to make payment for labor, services, materials, equipment, taxes, or other items or obligations furnished or incurred in connection with the Work or has caused damage to the Work or to any other work on the Project; (b) to complete the Work if it appears that funds remaining in the Contract, including retainage and exclusive of back charges, are insufficient to complete the Work; (c) to reimburse the Owner for any back charges incurred as a result of any act or omission by the Design/Builder hereunder; (d) to protect the Owner from the possible consequences of any other breach or default by the Design/Builder hereunder; or (e) to secure the Owner with respect to any breach or default by the Design/Builder or its affiliates, parent company and subsidiaries under any other agreement. Payment hereunder shall not be evidence of the proper performance or progress of the Work and no

payment shall be construed to be acceptance of defective, faulty, or improper work or materials.

Without limiting the provisions of the previous paragraph, the Owner may retain from each progress payment made prior to the time of Substantial Completion ten percent (10%) of the amount otherwise due after deduction of any amounts as provided in the preceding sentence, and in no event to exceed any applicable statutory requirements. If the Owner elects to use this retainage provision:

.1 at the time the work is fifty percent complete, the Owner shall withhold no additional retainage and shall pay the Design/Builder the full amount of what is on account of progress payments;

.2 the Owner may, in its sole discretion, reduce the amount to be retained at any time;

.3 the Owner may release retainage on that portion of the work a Subcontractor has completed, in whole or in part, and which Work the Owner has accepted;

.4 in lieu of retainage, the Design/Builder may furnish a retention bond, acceptable to the Owner, to be held by the Owner.

5.1.11 The Owner shall make a progress payment to the Design/Builder equal to the value of the completed Work and Stored Work as of the corresponding Monthly Billing Date, to the extent approved by the Owner, and after deducting: (a) all previous payments; (b) current retainage (to a maximum of 10 percent of each progress payment; provided, however, that, when 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 satisfactory to the Owner, the Owner shall withhold no more retainage. If after discontinuing the retention, the Owner determines that the Work is unsatisfactory or has fallen behind schedule, retention may be resumed at the previous level.; and (c) all charges or back charges for services, materials, equipment, or other items furnished or otherwise chargeable to the Design/Builder.

## 5.2 FINAL PAYMENT

5.2.1 At substantial completion of the Work and as the Owner determines the Work to be reasonably satisfactory, the Owner shall within 30 days after the last of the following to occur: (a) delivery of a final application for payment; (b) furnishing of evidence satisfactory to the Owner that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished or incurred in connection with the Work; (c) delivery of all guaranties, warranties, bonds, instruction manuals, performance charts, diagrams, as-built drawings and similar items required of the Design/Builder or the Design/Builder's suppliers or subcontractors; and (d) delivery of a general release, in a form satisfactory to the Owner, executed by the Design/Builder running to and in favor of the Owner, and such other parties as the Owner may require; pay the retainage to the Design Builder. If at that time there are any remaining incomplete minor items, an amount equal to 200 percent of the value of each item as determined by the Owner's Architect shall be withheld until such item or items are completed to the Owner's satisfaction.

5.2.2 Neither final payment nor amounts retained, if any, shall become due until the Design/Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Project for which the Owner or Owner's

property might be liable have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, (3) a certificate that insurance required by the Contract Documents is in force following completion of the Work, and (4) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the Owner. If a contractor refuses to furnish a release or waiver required by the Owner, the Design/Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Design/Builder shall reimburse the Owner for moneys the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

5.2.3 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:

- .1 unsettled liens;
- .2 faulty or defective Work appearing after Substantial Completion;
- .3 failure of the Work to comply with requirements of the Contract Documents; or
- .4 terms of special warranties required by the Contract Documents.

5.2.4 Acceptance of final payment shall constitute a waiver of all claims by the Design/Builder except those previously made in writing and identified by the Design/Builder as unsettled at the time of final Application for Payment.

## **6.0 PROTECTION OF WORK, PEOPLE, AND PROPERTY**

6.1 The Design/Builder shall be responsible for initiating, maintaining, and providing supervision of safety precautions and programs in connection with the Work.

6.2 The Design/Builder shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to:

- .1 Employees on the Work and other persons who may be affected thereby;
- .2 The Work and materials and equipment to be incorporated therein; and
- .3 Other property at or adjacent to the site.

6.3 The Design Builder shall give notices and comply with applicable laws, ordinances, rules, regulations, and orders of public authorities bearing on the safety of persons and property and their protection from damage, injury, or loss.

6.4 The Design/Builder shall be liable for damage or loss to property at the site caused in whole or in part by the Design/Builder, a contractor of the Design/Builder or anyone directly or indirectly employed by either of them, or by anyone for whose acts they may be liable, except damage or loss attributable to the acts or omissions of the Owner, the Owner's separate contractors or anyone directly or indirectly employed by them or by anyone for whose acts they may be liable and not attributable to the fault or negligence of the Design/Builder.

**7.0 DESIGN/BUILDER'S INSURANCE AND BONDS**

**7.1 DESIGN/BUILDER'S LIABILITY INSURANCE**

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

.1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit laws and acts which are applicable to the Work to be performed;

.2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Design/Builder's employees;

.3 claims for damages because of bodily injury, sickness or disease, or death of persons other than the Design/Builder's employees;

.4 claims for damages covered by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Design/Builder or (2) by another person;

.5 claims for damages, other than to the Work at the site, because of injury to or destruction of tangible property, including loss of use;

.6 claims for damages for bodily injury or death of a person or property damage arising out of ownership, maintenance, or use of a motor vehicle;

.7 claims for damages because of professional errors and omissions; and

.8 claims for contractually assumed liability under this agreement.

7.1.2 The insurance required by the above Subparagraph 7.1.1 shall be written for not less than limits of liability specified as follows or required by law, whichever are greater:

- .1 Worker's Compensation
  - (a) State: Statutory
  - (b) Applicable Federal: Statutory
  - (c) Employer's Liability: \$1,000,000.00

.2 Comprehensive General Liabilities (including Premises-Operations; Independent Contractors' Protective; Products and Completed Operations; Broad Form Property Damage and Elevator Liability):

Bodily Injury: \$1,000,000.00 Each Occurrence

Property Damage: \$5,000,000.00 Annual Aggregate  
\$1,000,000.00 Each Occurrence  
\$5,000,000.00 Annual Aggregate

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

Property Damage Liability Insurance including XCU coverage.

.3 Contractual Liabilities:

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

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

.5 Comprehensive Automobile Liability:

Bodily Injury: \$1,000,000.00 Each Person  
\$1,000,000.00 Each Occurrence

Property Damage: \$1,000,000.00 Each Occurrence  
\$5,000,000.00 Annual Aggregate

.6 Professional Errors and Omissions: \$1,000,000.00 Each Occurrence  
\$1,000,000.00 Annual Aggregate

.7 Builders Risk: Full amount of cost proposal minus the amount of Design and Construction Management Services.

.8 Umbrella Policy: \$25,000,000.00 combined single limit

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

7.1.3 The Design/Builder's liability insurance shall include contractual liability insurance applicable to the Design/Builder's obligations under Paragraph 11.7.

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

7.1.5 The Design/Builder's general liability and automobile insurance shall be endorsed to include the Owner, its officers, officials, employees, volunteers and agents as additional insureds as respects

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

7.1.6 The Design/Builder shall include all contractors and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated herein with the exception of professional liability insurance stated in Paragraph 7.1.7

7.1.7 The Design/Builder's Architect, Engineers, Testing Consultants and any other party engaged by the Design/Builder to provide services shall carry professional liability insurance in the amount of \$1,000,000.00 single limit per occurrence. Certificates shall be provided including a description of services covered by the insured party on the Project.

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

## 7.2 PROPERTY INSURANCE

7.2.1 The Design/Builder shall purchase and maintain in a company lawfully authorized to do business in the State of Georgia property insurance in the amount of the contract sum as well as subsequent modifications. Such property insurance shall be maintained unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered whichever is earlier. This insurance shall include interest of the Owner, the Design/Builder, Subcontractors, and Subs-Subcontractors in the Work.

7.2.2 The type of policy shall be a Builder's Risk in the amount of the contract sum as well as subsequent modifications and shall be on an all-risk policy form. The Builder's Risk policy shall cover work performed under the Contract, and materials, equipment, expedited deliveries or other items to be incorporated therein, while the same are located at the construction site, stored off-site, or at the place of manufacture. The policy shall cover not less than losses due to fire, flood, explosion, hail, lightning, weather, vandalism, malicious mischief, wind, collapse, riot aircraft, smoke or other cataclysmic events, until the date of final acceptance of the work. The

making of progress payments to Design/Builder shall not be construed as relieving Design/Builder or his subcontractors or the insurance company or companies providing the coverage described herein of responsibility for loss or direct physical loss, damage or destruction occurring prior to final acceptance.

7.2.3 The form of policy for this coverage shall be Completed Value.

7.2.4 If the Owner is damaged by the failure of the Design/Builder to maintain such insurance, then the Design/Builder shall bear all costs properly attributable thereto.

### 7.3 INSURANCE

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

#### 7.3.2 Verification of Coverage;

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

7.3.2.2 The Certificate Holder must be shown as:

Cobb County Board of Commissioner  
Cobb County, Georgia  
Attention: Cobb County Property Management  
57 Waddell Street  
Marietta, GA 30060

7.3.2.3 The certificates and endorsements naming additional insureds and indicating required waivers are to be submitted with the executed Agreement/Contract and Performance and Payment Bonds, and shall be approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies at any time.

7.3.2.4 The endorsements on the certificates must read as follows:

.1 The certificate for All Coverage shall include the following Cancellation endorsement, worded exactly as follows: "Should any coverage be suspended, voided, cancelled or, reduced in coverage or in limits, thirty(30) days prior written notice delivered by certified mail, return receipt requested, will be given to the Certificate Holder.";

.2 The certificate for General Liability and Automobile coverage shall include the following endorsement, worded exactly as follows: "Owner, its officers, officials, employees and volunteers are covered as additional insureds as respects liability arising out of actions performed by or on behalf of the Design/Builder; products and completed operations of the Design/Builder; or automobiles owned, leased, hired or borrowed by the Design/Builder."

.3 The certificate for Worker's Compensation and Employers' Liability coverage shall include the following endorsement, worded exactly as follows: "The insurer agrees to waive all rights of subrogation with respect to Worker's Compensation and Employers' Liability coverage against the Owner, its officers, officials, employees, and volunteers for losses arising from work performed by the Design/builder for the Owner."

#### 7.4 LOSS OF USE INSURANCE

7.4.1 The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Design/Builder, the Design/Builder's contractors, and their agents and employees, for loss of use of the Owner's property, including consequential losses due to fire or other hazards, however caused, to the extent covered by insurance under this Paragraph 7.4.

#### 7.5 PERFORMANCE BOND AND PAYMENT BONDS

##### 7.5.1 Prior to the execution of the Agreement:

.1 The Design/Builder will furnish bonds covering faithful performance of the Contract and payment of all obligations arising there under, secured through the Design/Builder's usual sources and acceptable to the Owner. Premiums shall be paid by the Design/Builder.

.2 The Design/Builder will furnish Performance and Labor and Materials Payment Bonds in the amount of 100% of the contract sum. Form of bonds shall be AIA Document A311. The company issuing such bonds must be listed in the latest issue of U. S. Treasury Circular 570, registered, and duly authorized to do business in the State of Georgia. The bond must be signed (or countersigned) by a local agent, each in an amount that is at least equal to one-hundred percent (100%) of the Guaranteed Maximum Price (as defined in Paragraph 13.1.1 below and as may be adjusted by the parties), as security for the faithful performance of this Agreement and as security for the payment of all persons performing labor or furnishing material in connection with the Agreement. Any increase in the Guaranteed Maximum Price shall require a rider to the bonds increasing the amounts accordingly. The surety shall be acceptable to the Owner and the bonds shall be executed on the forms attached hereto as **Exhibit A** and **Exhibit A-1**. In case of default on the part of the Design/Builder, all expenses incident to ascertaining and collecting losses on the bond, including engineering and legal fees, shall lie against the bond. The Design/Builder shall provide to Owner a one-year guarantee covering workmanship and materials of the Project. The performance bond shall remain in force for one year from the date of Project acceptance by the Owner. The cost of these bonds shall be paid by the Design/Builder.

.3 Bonding of Subcontractors: Include in the Base Bid, Performance and Labor and Material Payment Bonds, each in 100% of the sub-contract sum, for each subcontractor having a contract exceeding One Hundred Thousand Dollars (\$100,000.00). Subguard (Contractor Supplied Insurance Program) will be used by the Design/ Builder to ensure payment and performance of each subcontractor working on site at a rate of 1.3% of the total cost of work. Should Owner elect not to require bonds for particular Subcontractors, bond costs shall revert back to the Owner. The Design/Builder and Subcontractor shall require the Attorney-In-Fact who executes the bonds on behalf of sureties to attach a certified, current copy of his Power of Attorney.

## **8.0 CHANGES IN THE WORK**

### **8.1 CHANGE ORDERS**

8.1.1 A Change Order is a written order signed by the Owner and Design/Builder, and issued after execution of this Agreement, authorizing a change in the Work or adjustment in the contract sum or contract time. The contract sum and contract time will only change by Change Order.

8.1.2 The Owner, without invalidating this Agreement, may order changes in the Work within the general scope of this Agreement consisting of additions, deletions, or other revisions, and the contract sum and contract time shall be adjusted accordingly. Such changes in the Work shall be authorized by Change Order, and shall be performed under applicable conditions of the Contract Documents.

8.1.3 The Owner may, within reason, request the Design/Builder to submit a proposal for a change in the Work and then elect not to proceed with the change. This shall result in no additional cost to the Owner.

8.1.4 Cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

- .1 by mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation.
- .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 by the method provided below.

8.1.5 If none of the methods set forth in Paragraph 8.1.4 in clauses .1, .2 or .3 is agreed upon, the Owner may elect to issue the Change Order to the Design/Builder directing such work to be performed by the Design/Builder, and any adjustments to Price or time shall be subject to ultimate determination in accordance with this Agreement; and the Design/Builder shall, nonetheless, proceed immediately with the changed Work. The Design/Builder shall keep a detailed account of

the direct savings and direct cost due to the changed Work separately from its other accounting records and shall make such records available to the Owner at the Owner's request. Failure to keep adequate and separate cost records of the changed Work, and to furnish same to the Owner upon its request, shall constitute an acceptance on the Design/Builder's part of the Owner's determination of the direct savings and direct cost of such changed Work. In no event shall the Design/Builder proceed with changed Work without a Change Order issued pursuant to this Paragraph 8.1.5. The Owner shall not be liable for any additional costs incurred or delays encountered in the performance of such changed Work without such a written Change Order. In case of the methods set forth in Paragraph 8.1.4 clauses .3 and .4, the Design/Builder shall keep and present an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, as well as fringe benefits required by agreement or custom; workers' or workman's compensation insurance; bond premiums; rental value of equipment and machinery; and fees paid to architects, engineers and other professionals. Pending final determination of cost to the Owner, payments on account shall be made on the Application for Payment. The amount of credit to be allowed by the Design/Builder to the Owner for deletion or change which results in a net decrease in the contract sum will be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

8.1.6 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order that application of agreed unit prices to quantities proposed will cause substantial inequity to the Owner, applicable unit prices shall be equitably adjusted.

8.1.7 In Paragraph 8.1.5 the allowance for overhead and profit combined, included in the total cost to the Owner, shall be based on the following schedule:

.1 For additive Change Orders, the Design/Builder's fee for overhead and profit combined will be increased by seven (7%) percent of the approved direct cost of the additional work performed by its Subcontractors. For the Design/Builder and each Subcontractor involved, the respective party's fee for overhead and profit combined will be increased by fifteen (15%) percent of the approved direct cost of the additional work performed with its own forces.

.2 All Sub-Subcontractor's are considered to have been established solely for the convenience of the Design/Builder and its immediate Subcontractors. To this effect, the allowable Subcontractor overhead and profit amount shall not be derived by compounding the established percentages upon themselves through their Sub-Subcontractors.

.3 For deductive Change Orders, the Design/Builder's fee for overhead and profit will remain unchanged.

.4 For Changes in the Work involving both additive and deductive amounts, the effective cost shall be the net total from the summation of all costs associated with the change. If this cost results in a net add, then subparagraph .1 above shall apply; if the cost is a net deduct, then subparagraph .3 above shall apply. The Design/Builder shall not submit groups of partial Proposals relative to a

singular item of Change. Requests for Time Extensions relative to the Change shall be identified in the Proposal.

.5 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a Change involving over One Hundred Dollars (\$100.00) be approved without such itemization.

.6 The Design/Builder shall sequentially number each of his cost change proposals and further identify each proposal as to cause for change.

## **8.2 CONCEALED CONDITIONS**

8.2.1 If, in the performance of the Work, the Design/builder finds latent, concealed or subsurface physical conditions which materially differ from the conditions the Design/Builder reasonably anticipated, or if the physical conditions are materially different from those normally encountered and generally recognized as inherent in the kind of work provided for in this Agreement, then the GMP, estimated Cost of the Work, the Design/Builder's Fee, the Date of Substantial Completion or the Date of Final Completion, and if applicable the compensation for Design Phase services, may be equitably adjusted by change Order within a reasonable time after the conditions are first observed. The Design/Builder shall provide the Owner with written notice within ten (10) business days after the date of discovery of such condition. Upon receipt of the Design/Builder's notice, the Owner will investigate the conditions. If the Owner determines that a concealed or unknown site condition exists, the Owner will issue an interim Change Order providing the Design/Builder directions on how to proceed. If the Owner determines that a concealed or unknown site condition does not exist, the Design/Builder shall continue with the Work s shown in the contract Documents.

## **8.3 REGULATORY CHANGES**

8.3.1 The Design/Builder acknowledges, by execution of this Agreement, that the Design/Builder has included in the compensation all changes in the Work necessitated by the enactment or revision of codes, laws, or regulations subsequent to signing of the Contract and including those codes, laws, or regulations which are anticipated to be enacted prior to completion of the Work. Contractor shall not be compensated for changes required by inspection officials through completion of the Work for compliance with requirements, which were in force at time of Contract signing or anticipated to be enacted prior to completion whether or not such requirements were noted at time of permit issuance.

## **9.0 DEFECTIVE WORK**

9.1 The Design/Builder shall promptly correct Work rejected by the Owner or known by the Design/Builder to be defective or failing to conform to the Construction Documents. Whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Design/Builder shall specifically warrant all work performed under this Agreement

for one (1) year immediately following Substantial Completion. The Design/Builder shall correct Work under this Agreement found to be defective or nonconforming within that one-year period, or within such longer period provided by any applicable special warranty in the Contract Documents.

9.2 Nothing contained in this Article 9 shall be construed to establish a period of limitation with respect to other obligations of the Design/Builder under this Agreement. Paragraph 9.1 relates only to the Design/Builder's warranty, and specific obligation of the Design/Builder to correct the Work. It has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design/Builder's obligations other than correction of the Work.

9.3 If the Design/Builder fails to correct defective Work as required, or, if the Design/Builder persistently fails to carry out Work in accordance with the Contract Documents, then the Owner, by written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Design/Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise the right for the benefit of the Design/Builder or other persons or entities.

9.4 If the Design/Builder defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within forty-eight (48) hours after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may give a second written notice to the Design/Builder and, seven (7) days following receipt by the Design/Builder of that second written notice and without prejudice to other remedies the Owner may have, the Owner may correct such deficiencies by whatever means the Owner deems expedient. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design/Builder costs of correcting such deficiencies. If the payments then or thereafter due the Design/Builder are not sufficient to cover the amount of the deduction, the Design/Builder shall pay the difference to the Owner.

## **10.0 DISPUTES**

10.1 Work Continuance and Payment. The Design/Builder shall continue to proceed with the performance of its obligations under the Agreement and shall maintain the progress of such services during any dispute mitigation or resolution proceedings arising out of this Agreement unless the Owner and the Design Builder shall mutually agree otherwise in writing. If the Design/Builder continues to perform, the Owner shall continue to make payments in accordance with this Agreement.

10.2 Direct Discussions. If the parties cannot reach resolution on a matter relating to or arising out of the Agreement, the parties shall endeavor to reach resolution through good faith direct discussions between the parties' representatives, who shall possess to the extent possible the necessary authority to resolve such matter and who will record the date of first discussions. If the parties' representatives are not able to resolve such matter within ten (10) business days of the date of first discussion, the Parties' representative shall immediately inform senior executives of the parties in writing that resolution was not effected. Upon receipt of such notice, the senior executives of the parties shall meet within fifteen (15) business days to endeavor to reach resolution. If the

dispute remains unresolved after fifteen (15) business days from the date of first discussion, the parties shall submit such matter to mediation.

10.3 Mediation. The parties shall endeavor to resolve the matter by mediation through the Cobb County system. The administration of the mediation shall be as mutually agreed by the parties. The mediation shall be convened within sixty (60) business days of the matter first being discussed. Either party may terminate the mediation at any time after the first session, but the decision to terminate shall be delivered in person by the terminating party to the non-terminating party and to the mediator. The costs of the mediation shall be share equally by the parties.

10.4 Litigation. If the matter remains unresolved after submission of the matter to a mitigation procedure or top mediation, the parties shall submit the matter to litigation. All such actions shall be commenced in a court of competent jurisdiction located in Cobb county, Georgia, it being specifically understood that the Owner and Design/Builder expressly consent to the jurisdiction and venue of any such court.

## **11.0 MISCELLANEOUS**

11.1 This Agreement shall be governed and construed in accordance with the laws and court decisions of the State of Georgia.

11.2 The table of contents and the headings of Articles and paragraphs are for convenience only and shall not modify rights and obligations created by this Agreement.

11.3 In case a provision of this Agreement is held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not be affected.

### **11.4 SUBCONTRACTS**

11.4.1 Work not performed by the Design/Builder with its own forces shall be performed by Subcontractors or the Architect/Engineer. The Design/Builder, as soon as practicable after execution of this Agreement, shall furnish to the Owner in writing the names of the persons or entities the Design/Builder will engage as contractors and subcontractors for the Project. The Design/Builder shall not retain any subcontractor to whom the Owner has a reasonable and timely objection. The Design/Builder shall be responsible to the management of the Subcontractors in the performance of the Work.

11.4.2 Nothing contained in the Design/Builder Contract Documents shall create a professional obligation or contractual relationship between the Owner and any third party.

11.4.3 Contingent Assignment of Subcontract. If this Agreement is terminated, each subcontract agreement shall be assigned by the Design/Builder to the Owner, subject to the prior rights of any surety, provided that:

.1 this Agreement is terminated by the Owner for cause pursuant to Paragraphs 12.1.2 or 12.2.3 of this Agreement; and,

.2 the Owner accepts such assignment, after termination, by notifying the

Subcontractor and Design/Builder in writing, and assumes all rights and obligations of the Design/Builder pursuant to each subcontract agreement.

If the Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive days, following termination, if appropriate, the Subcontractor's compensation shall be equitably adjusted as a result of the suspension.

11.4.4 Binding of Subcontractors and Material Suppliers. The Design/Builder agrees to bind every Subcontractor and Material Supplier (and require every Subcontractor to so bind its Sub-subcontractors and Material Suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the Subcontractors and Material Suppliers portions of the Work.

## 11.5 WORK BY OWNER OR OWNER'S CONTRACTORS

11.5.1 The Owner reserves the right to perform work related to, but not part of, the Project and to award separate contracts in connection with other work at the site. If the Design/Builder claims that delay or additional cost is involved because of such action by the Owner, the Design/Builder shall make such claims as provided in Paragraph 11.6.

11.5.2 The Design/Builder shall afford the Owner's separate contractors reasonable opportunity for introduction and storage on the Project site of their materials and equipment for execution of their work. The Design/Builder shall incorporate and coordinate the Design/Builder's Work with work of the Owner's separate contractors as required by the Contract Documents, provided the Subcontractors have adequate insurance coverage and list Design/Builder as additional insured.

11.5.3 Costs caused by defective or ill-timed work shall be borne by the party responsible.

11.5.4 The Owner shall cause Owner's separate contractors to include the Design/Builder, its officers, employees and agents as additional insureds under its policies of insurance or shall furnish separate certificates and endorsements for the construction of this Project.

## 11.6 CLAIMS FOR DAMAGES

11.6.1 Should either party to this Agreement suffer injury or damage to person or property because of an act of omission of the other party, the other party's employees or agents, or another for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time after such injury or damage is or should have been first observed.

## 11.7 INDEMNIFICATION

11.7.1 To the fullest extent permitted by law, the Design/Builder shall indemnify and hold harmless the Owner and the Owner's consultants, agents and employees from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees and other legal expenses, as well as interest arising out of or resulting from performance of the Work. These indemnification obligations shall be limited to claims, damages, losses or expenses (1) that are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the

Work itself) but only to the extent such claims, damages, losses or expenses are caused by negligent acts or omissions of the Design/Builder, the Design/Builder's contractors, anyone directly or indirectly employed by either or anyone for whose acts either may be liable, regardless of whether or not they are caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to the party or person described in this Paragraph 11.7.

11.7.2 In claims against the Owner or its consultants agents or employees by an employee of the Design/Builder, its contractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Paragraph 11.7 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design/Builder, or a Design/Builder's contractor, under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

## 11.8 SUCCESSORS AND ASSIGNS

11.8.1 This Agreement shall be binding on successors, assigns, and legal representatives of and persons in privity of contract with the Owner or Design/Builder. Neither party shall assign, sublet, or transfer an interest in this Agreement without the written consent of the other.

11.8.2 This Paragraph 11.8 shall survive completion or termination of this Agreement.

11.9 In case of termination of the Design/Builder's Architect or Engineers, the Design/Builder shall provide the services of another lawfully licensed person or entity against whom the Owner makes no reasonable objection and whom shall be in compliance with all requirements of this agreement.

11.10 Waiver. The failure of either party to insist, in one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

## 11.11 EXTENT OF AGREEMENT

11.11.1 This Agreement represents the entire agreement between the Owner and Design/Builder and supersedes prior negotiations, representations, or agreements. This Agreement may be amended only by written instrument signed by both Owner and Design/Builder.

11.12 JOINT DRAFTING. The parties to this Agreement expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

## 12.0 TERMINATION

### 12.1 TERMINATION BY THE OWNER

12.1.1 This Agreement may be terminated by the Owner upon seven (7) days' written notice to the Design/Builder in the event that the Project is abandoned by the Owner or otherwise at the convenience of the Owner. If such termination occurs, the Owner shall pay the Design/Builder for Work completed and for proven loss sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and applicable damages, excluding special, consequential or punitive damages.

12.1.2 If the Design/Builder defaults or persistently fails or neglects to carry out the Work in accordance with the Contract Documents or fails to perform the provisions of this Agreement, the Owner may give written notice that the Owner intends to terminate this Agreement. If the Design/Builder fails to correct the defaults, failure or neglect within seven (7) days after being given notice, the Owner may without prejudice to any other remedy make good such deficiencies and may deduct the cost thereof from the payment due the Design/Builder or, at the Owner's option, may terminate the employment of the Design/Builder and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Design/Builder and finish the Work by whatever method the Owner may deem expedient. If the unpaid balance of the contract sum exceeds the expense of finishing the Work, the excess shall be paid to the Design/Builder, but if the expense exceeds the unpaid balance, the Design/Builder shall pay the difference to the Owner.

12.1.3 In addition to Paragraph 12.1.2, the following events will be deemed a default by the Design/Builder hereunder:

.1 the entry of a decree or order, either voluntarily or involuntarily, for relief by a court or entity having jurisdiction over the Design/Builder in any action involving bankruptcy, insolvency or other similar law, or the appointment of a receiver, liquidator, assignee, custodian, trustee, or sequestrator (or similar official) of or for the Design/Builder, or the ordering of the winding up or liquidation of the Design/Builder's affairs;

.2 The Design/Builder, in the judgment of the Owner, refuses or fails to supply a sufficient number of skilled workmen and supervisory personnel or suitable materials or equipment for performance of the Work;

.3 The Design/Builder fails to follow the instructions of the Owner directed towards requiring results in conformity to the Agreement;

.4 The Design/Builder disregards any law, ordinance, rule, regulation or order of any public authority having jurisdiction.

## **12.2 TERMINATION BY THE DESIGN/BUILDER**

12.2.1 If the Owner fails to make payment when due, the Design/Builder may give written notice of the Design/Builder's intention to terminate this Agreement. If the Design/Builder fails to receive payment within thirty (30) days after receipt of such notice by the Owner, the Design/Builder may give a second written notice and, seven (7) days after receipt of such second written notice by the

Owner, if Owner has not cured its default, Design/Builder may terminate this Agreement and recover from the Owner payment for Work executed and for proven losses sustained upon materials, equipment, tools, and construction equipment and machinery, including reasonable profit and money damages.

12.2.2 The Parties shall have no right to consequential damages arising from any action or inaction relating to the performance obligations of this Agreement, and the Parties hereby waive any and all rights to consequential damages.

### **13.0 BASIS OF COMPENSATION**

13.0.1 The Owner shall compensate the Design/Builder in accordance with Article 5, Payments, and the other provisions of this Agreement as described below.

### **13.1 COMPENSATION**

The basis of compensation under this Agreement shall be the Cost of Work plus a fee with a Guaranteed Maximum Price.

#### **13.1.1 GUARANTEED MAXIMUM PRICE (GMP)**

.1 **GMP PROPOSAL.** At such time as the Owner and the Design/Builder jointly agree, the Design/Builder shall submit a GMP Proposal in a format acceptable to the Owner. Unless the parties mutually agree otherwise, the GMP shall be in the sum of the estimated Cost of the Work, as hereinafter defined, and the Design/Builder's Fee as hereinafter defined. The GMP is subject to modification as provided in Article 8.0. The Design/Builder will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with this Agreement.

If the Design/Build documents are not complete at the time the GMP Proposal is submitted to the Owner, the Design/Builder shall provide in the GMP for further development of the Design/Build Documents consistent with the Owner's Request for Proposal. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which if required, shall be incorporated by Modification.

.2 **BASIS OF GUARANTEED MAXIMUM PRICE.** The Design/Builder shall include with the GMP Proposal a written statement of its basis, which shall include:

.1 A list of the drawings and specifications, including all addenda, which were used in preparation of the GMP Proposal;

.2 A list of allowances and a statement of their basis;

.3 A list of the assumptions and clarifications made by the Design/Builder in the preparation of the GMP Proposal to supplement the information contained in the drawings and specifications;

.4 The Date of Substantial Completion or the Date of Final Completion upon which

the GMP is based, and the Schedule of Work upon which the Date of Substantial Completion or the Date of Final Completion is based;

- .5 A schedule of applicable alternate prices;
- .6 A schedule of additional services included, if any;
- .7 The time limit for acceptance of the GMP Proposal;
- .8 The Design-Builder's Contingency as provided in Subparagraph 13.1.1.7;
- .9 A statement of any work to be self-performed by the Design/Builder, and

.10 A statement identifying all patented or copyrighted materials, methods or systems selected by the Design/Builder and incorporated in the Work that are likely to require the payment of royalties or license fees.

.3 REVIEW AND ADJUSTMENT TO GMP PROPOSAL. The Design/Builder shall meet with the Owner to review the GMP Proposal. In the event that the Owner has any comments relative to the GMP Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall give prompt written notice of such comments or findings to the Design-builder, who shall make appropriate adjustments to the GMP, its basis or both.

.4 ACCEPTANCE OF GMP PROPOSAL. Upon acceptance by the Owner of the GMP Proposal, as may be amended by the Design/Builder in accordance with Subparagraph 8.0, the GMP and its basis shall be set forth in Amendment No. 1. The GMP and the Date of Substantial Completion or the Date of Final Completion shall be subject to modification in Article 4.0\_.

.5 FAILURE TO ACCEPT THE GMP PROPOSAL. Unless the Owner accepts the GMP Proposal in writing on or before the date specified in the GMP Proposal for such acceptance and so notifies the Design-builder, the GMP Proposal shall not be effective. If the Owner fails to accept the GMP Proposal, or rejects the GMP Proposal, the Owner shall have the right to:

.1 Suggest modifications to the GMP Proposal. If such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted in accordance with Subparagraph 13.1.1.4.

.2 Direct the Design/Builder to proceed on the basis of reimbursement as provided in Articles 2, 3, 4 and 5 without a GMP, in which case all references in this Agreement to the GMP shall not be applicable; or

.3 Terminate the Agreement for convenience in accordance with Paragraph 12.1.1.

.4 In the absence of a GMP the Parties may establish a Date of Substantial Completion or a Date of Final Completion.

.6 PRE-GMP WORK. Prior to the Owner's acceptance of the GMP Proposal, the Design/Builder shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as the Owner may specifically authorize in writing.

.7 DESIGN/BUILDER'S CONTINGENCY. The GMP Proposal will contain as part of the estimated Cost of the Work, the Design/Builder's Contingency, a sum mutually agreed upon and monitored by the Design/Builder and the Owner to cover costs which are properly reimbursable as a Cost of the Work but are not the basis for a Change Order. The Design/Builder's Contingency shall not be used for changes in scope for any item that would be the basis for an increase in the GMP. The Design/Builder shall provide the Owner with an accounting of charges against the Design/Builder's Contingency.

.8 COST REPORTING. The Design/Builder shall keep such full and detailed accounts as are necessary for proper financial management under this Agreement. The Design/Builder shall maintain a complete set of all books and records prepared or used by the Design/Builder with respect to the Project. The Design/Builder's records supporting its performance and billings under this Agreement shall be current, complete and accurate and maintained according to Generally Accepted Accounting Principles. The Owner shall be afforded reasonable access during normal business hours to all the Design-Builder's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement. The Design/Builder shall preserve all such records for a period of three years after the final payment or longer where required by law.

#### 13.1.2 COST OF THE WORK

13.1.2 The Owner agrees to pay the Design/Builder for the Cost of the Work as hereinafter defined. This payment shall be in addition to the Design-Builder's Fee. The cost of Work shall include:

.1 COST ITEMS FOR DESIGN PHASE SERVICES - Compensation for Design Phase services of \$254,600;

.2 COST ITEMS FOR CONSTRUCTION PHASE SERVICES - Wages paid for labor in the direct employ of the Design/Builder in the performance of the Work of \$243,296 as specified in the General Conditions Cost Breakdown;

.1 Salaries of the Design/Builder's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office performing the functions listed below;

.2 Cost of all employee benefits and taxes including but not limited to Workers' Compensation, unemployment compensation, Social Security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Design/Builder's standard personnel policy, insofar as such costs are paid to employees of the Design/Builder who are included in the Cost of the Work under Subparagraphs and;

.3 Reasonable transportation, travel, hotel and moving expenses of the Design-Builder's personnel incurred in connection with the Work;

.4 Cost of all materials, supplies and equipment incorporated in the Work, including costs of inspection and testing if not provided by the Owner, transportation, storage and handling;

.5 Payments made by the Design/Builder to Subcontractors for work performed under this Agreement;

.6 Fees and expenses for design services procured or furnished by the Design-Builder except as provided by the Architect/Engineer and compensated in Paragraph 13.1.2.2.1;

.7 Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value on such items used, but not consumed that remain the property of Design/Builder;

.8 Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from the Design/Builder or Others, including installation, repair and replacement, dismantling, removal, maintenance, transportation and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from the Design-Builder or its affiliates, subsidiaries or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

.9 Cost of the premiums for all insurance and surety bonds which Design/Builder is required to procure or deems necessary, and approved by the Owner, including any additional premium incurred as a result of any increase in the GMP;

.10 Sales, use, gross receipts or other taxes, tariffs or duties related to the Work for which the Design/Builder is liable;

.11 Permits, fees, licenses, tests, royalties, damages for infringement of patents or copyrights including costs of defending related suits for which the Design-Builder is not responsible as set forth in Paragraph and deposits lost for causes other than the Design/Builder's negligence;

.12 Losses, expenses or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work or redesign during the Construction Phase and for a period of one year following the Date of Substantial Completion, provided that such corrective work or redesign did not arise from the negligence of the Design/Builder.

.13 All costs associated with establishing, equipping, operating, maintaining and demobilizing the field office;

.14 Reproduction costs, photographs, facsimile transmissions, long-distance phone calls, data processing services, postage, express delivery charges, data transmission, telephone service, and computer-related costs at the Worksite, to the extent such items are used and consumed

in the performance of the Work or are not capable of use after completion of the Work;

.15 All water, power and fuel costs necessary for the Work;

.16 Cost of removal of all non-hazardous substances, debris and waste materials;

.17 Costs incurred due to an emergency affecting the safety of persons or property;

.18 Legal, mediation and arbitration fees and costs, other than those arising from disputes between the Owner and the Design-Builder, reasonably and properly resulting from the Design-Builder's performance of the Work;

.19 All costs directly incurred in the performance of the work or in connection with the Project, and not included in the Design/Builder's Fee as set forth in Paragraph 13.1.3, which are reasonably inferable from the Contract Documents as necessary to produce the intended results.

13.1.3 DESIGN/BUILDERS FEE Except as otherwise provided in Paragraph 8.1.7 above, the Design/Builder's fee for overhead and profit under this Agreement shall be \$190,000.

13.1.4 DISCOUNTS. All discounts for prompt payment shall accrue to the Owner to the extent such payments are made directly by the Owner. To the extent payments are made with funds of the Design/Builder, all cash discounts shall accrue to the Design-Builder. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

## 14.0 OTHER PROVISIONS

14.1 The Basic Services to be performed shall be commenced on \_\_\_\_\_ and, subject to authorized adjustments and to delays not caused by the Design/Builder, Substantial Completion shall be achieved within 500 **calendar days** thereafter ("Substantial Completion Date"), and Final Completion shall be achieved within 60 days after the Date of Substantial Completion ("Final Completion Date").

14.2 The Design/Builder shall submit an Application for Payment on the Twenty-Fifth (25) of each month. The Design/Builder will provide with the Payment Application a line item breakdown of all previous costs to date plus the amount being applied for.

14.3 The Design/Builder's Bid Proposal includes:

All cost for furnishing to Owner all materials, equipment, and supplies for the any costs incurred in the Design and Construction of the **NEW PARKING DECK STRUCTURE BUILDING**.

14.4 The Design/Builder will provide the following key individuals for the entire duration of the Project. Key individuals cannot be replaced without written approval of the Owner. The Owner may request that a key individual be replaced by another individual meeting the Owner's approval.

- .1 Design/Builder Partner: (Crowell Brim of Construction Company).
- .2 Design/Builder Project Manager: (Ryan Roguskey of Choate Construction Company).
- .3 Design/Builder Superintendent: (Michael Harding of Choate Construction Company).
- .4 Design/Builder Architect Project Manager: (Brian Tanner of Praxis3)
- .5 Project Civil Engineer: (Wathal Bush of EDT)
- .6 Project Structural Engineer: (Victor Iraheta of Walker Parking Consultants).
- .7 Project Mechanical Engineer: (David Lu of MEHA Engineering)
- .8 Project Electrical Engineer: (David Lu of MEHA Engineering)

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

The Design/Builder represents that it employs:

- \_\_\_\_\_ 500 or more employees;
- \_\_\_\_\_ 100 or more employees; or
- \_\_\_\_\_ fewer than 100 employees

(Design/Builder must initial appropriate category).

The Design-builder further agrees that its compliance with the requirements of O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02 is attested to on the executed Design-Builder Affidavit and Agreement attached hereto as **EXHIBIT B**.

If employing or contracting with any subcontractor(s) in connection with this Agreement, Design-builder further agrees;

To secure from the subcontractor(s) such subcontractor(s)' indication of the employee-number category applicable to the subcontractor(s); and

To secure from the subcontractor(s) an affidavit attesting to the subcontractor(s)' compliance with O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02; such affidavit being in the form attached hereto and referenced as **EXHIBIT B-1**; and

To submit such subcontractor affidavit(s) to the Owner when the subcontractor(s) is retained, but in any event, prior to the commencement of work by the subcontractor(s).

The failure of Design-Builder to supply the affidavit of compliance at the time of execution of this

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

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

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

14.8 NON-COLLUSION AFFIDAVIT. Owner and Design/Builder acknowledge that the Georgia statute concerning public works construction contracting requires that any person who procures such work by bidding or proposal shall make an oath in writing that he/she has not prevented or attempted to prevent competition in such bidding [OCGA § 36-91-21(d),(e)]. In compliance with O.C.G.A. § 36-91-21(d),(e) Design/Builder shall make the oath and complete an affidavit in the form as attached hereto as **Exhibit D**. If such oath is false, this agreement shall be void, and all sums paid by the Owner on the Agreement may be recovered by appropriate action.

14.9 OWNER'S GREEN BUILDING POLICY. Design/Builder agrees to perform the Services in compliance with the Owner's Green Building Policy. That policy provides that all new construction and renovation of occupied county buildings, 5000 square feet or more, where feasible, shall be designed and built to achieve a LEED certification. Other construction and renovations less than 5,000 square feet may also be considered where appropriate. The Green Building Policy shall require a payback of no more than ten years for projects designed to the LEED standard. Owner staff shall recommend to the Owner

Board of Commissioners which level of LEED certifications is appropriate for the particular project based on sustainability and life cycle cost analysis. Where no level of certification is feasible, then the project design and construction shall include as many measures as possible based on the LEED checklist.

This Agreement entered into as of the day and year first written above.

**OWNER:**  
**Cobb County**  
100 Cherokee Street  
Marietta, Georgia 30060

**DESIGN/BUILDER:**  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXX  
CONTRACTOR # \_\_\_\_\_

By: \_\_\_\_\_  
Samuel Olens Chairman, Cobb County  
Board of Commissioners

By: \_\_\_\_\_  
Name: \_\_\_\_\_

Attest: \_\_\_\_\_  
County Clerk

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

Approved as to Form:

Attest: \_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
County Attorney

**EXHIBIT A**  
**PAYMENT BOND**

Bond Number: \_\_\_\_\_

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

WHEREAS, the Contractor has entered into a written contract dated \_\_\_\_\_, 20\_\_\_\_ with the Owner for performance of \_\_\_\_\_ in accordance with drawings and/or specifications prepared by or for Cobb County which contract is by reference made a part of this bond by reference as if fully set forth herein, and is hereinafter referred to as the Contract.

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

A. A claimant is defined as an entity having a direct contract with the Contractor or with a Subcontractor of the Contractor for labor, material, or both, used or reasonably required for use in the performance of the Contract, "labor and material" being construed to include but not limited to that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

B. The Contractor and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be due claimant, and have execution thereon. The Owner shall not be liable for the payment of any judgment costs or expenses of any such suit.

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

1. Unless claimant, other than one having a direct contract with the Contractor, shall have given written notice to any two of the following: the Contractor, the Owner, or the Surety above-named, within ninety (90) days after such claimant did or performed the last of the work of labor, or furnished the last of the materials for which said claim is made, stating with substantial specifics and accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Contractor, Owner and/or Surety, at the addresses provided in the Contract or in this bond, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a

public officer.

2. After one (1) year from the completion of Contract and the acceptance by Owner of the work there under, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

3. Other than in a state court of competent jurisdiction in and or the county or of the state in which the project, or any part thereof, is situated.

D. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed on record against said improvement, whether or not claim for the amount of such presented under and against this bond.

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

IN WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each one of which shall be deemed an original, this \_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Principal/Contractor

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

Attest:

By: \_\_\_\_\_

(SEAL)

Surety

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

\_\_\_\_\_  
Typed Name of Attorney-in-Fact

(Bond must not be dated prior to date of Agreement)

(SEAL)

**EXHIBIT A-1**  
**PERFORMANCE BOND**

Bond Number: \_\_\_\_\_

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

WHEREAS, the Builder has entered into a written contract dated \_\_\_\_\_, 20\_\_\_\_\_ with Owner for the construction of \_\_\_\_\_ in accordance with drawings and/or specifications prepared by or for Cobb County which contract is made a part of this bond by reference as if set forth herein and is hereinafter referred to as the "Contract."

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Builder shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

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

Whenever Builder shall be, and declared by Owner to be in default under the Contract, the Owner, having performed Owner's obligations there under, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its 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 Owner and the Surety jointly of the responsible and responsive bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be default or a succession of defaults) under the contract or contracts of completion arranged under this paragraph sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof.

The term "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Owner to Builder under the Contract and any amendments thereto, less the amount paid by Owner to Builder.

Any suit under this Bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due. Notwithstanding the above, in the event of failure by the Builder to perform its obligations under said contract, the Owner may provide written notice of Builder's default to Surety at its address \_\_\_\_\_ and Surety shall cause to be paid within ten (10) days of receipt of Owner's notice such amount certified by Owner to be owing from Builder pursuant to the Contract.

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

The Surety may only cancel this bond by first providing thirty (30) days written notice to Owner and Builder. Such cancellation shall not discharge the Surety from liability already accrued under this bond prior to the expiration of the thirty (30) day period.

IN WITNESS WHEREOF, this instrument is executed in four (4) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Attest:

By: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

\_\_\_\_\_  
Principal/Builder (SEAL)

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
President

Title

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

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

\_\_\_\_\_  
Typed Name of Attorney-in-Fact

**Compliance with Georgia Security and Immigration Compliance Act  
PROCEDURES & REQUIREMENTS  
(Effective 10-28-2010 - Supersedes All Previous Versions)**

**BACKGROUND**

Pursuant to the “Georgia Security and Immigration Compliance Act,” Cobb County cannot enter into a contract for the physical performance of services unless the contractor registers and participates in the federal work authorization program to verify information of all newly hired employees or subcontractors. Neither may any contractor or subcontractor enter a contract with the county in connection with the physical performance of services unless the contractor and/or subcontractor registers and participates in the federal work authorization program to verify information of all new employees. O.C.G.A. § 13-10-91.

Before any bid for the physical performance of services is considered, the bid must include a signed, notarized affidavit from the contractor attesting to the following: (1) the affiant has registered with and is authorized to use the federal work authorization program; (2) the user ID number and date of authorization for the affiant; and (3) the affiant is using and will continue to use the federal work authorization program throughout the contract period. O.C.G.A. § 13-10-91 (b) (1). Affidavits shall be maintained for five years from the date of receipt. O.C.G.A. § 13-10-91 (b) (1).

Upon contracting with a new subcontractor, a contractor or subcontractor shall, as a condition of the contract or subcontract, provide Cobb County with notice of the identity of any and all subsequent subcontractors hired or contracted by that contractor or subcontractor within five (5) business days of entering into a contract or agreement for hire with any subcontractor. Such notice shall include an affidavit including the subcontractor’s name, address, user ID number, and date of authorization to use the federal work authorization program. O.C.G.A. § 13-10-91 (b) (3).

Based upon the County’s experience and desire for full compliance, no work may be commenced by any subsequent subcontractor prior to notice being received by the County that the subcontractor (regardless of tier) is in compliance with the law and the attached Procedures & Requirements, including the preparation and submission of the Contractor (or Subcontractor) Affidavit & Agreement AND the Immigration Compliance Certificate PRIOR to the commencement of any work.

**DEFINITIONS**

Affidavit – a written statement made or taken under oath before an officer of the court or a notary public or other person who duly has been authorized so to act.

Affiant – the person who makes and subscribes to a statement made under oath (affidavit).

Physical Performance of Services – the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to public real property, including the construction, reconstruction, or maintenance of all or part of a public road; or any other performance of labor for a public employer under a contract or other bidding process.

## PROCEDURES & REQUIREMENTS

1. Bid Documents: Bid documents should contain information regarding the contract language and contractual requirements described below.
2. Responsive Bid Documents: Responsive bid documents MUST INCLUDE a signed, notarized affidavit from the contractor in the form attached as EXHIBIT A (CONTRACTOR AFFIDAVIT & AGREEMENT). **If the affidavit is not submitted at the time of the bid, the applicant will be disqualified.**

**THIS AFFIDAVIT MUST BE SIGNED, NOTARIZED AND SUBMITTED WITH ANY BID REQUIRING THE PERFORMANCE OF PHYSICAL SERVICES. IF THE AFFIDAVIT IS NOT SUBMITTED AT THE TIME OF THE BID, THE BID WILL BE DETERMINED TO BE NON-RESPONSIVE AND WILL BE DISQUALIFIED.**

3. Contract Language & Contractual Requirements: Affirmative language shall be contained in agreements for the performance of services to cover all statutory and County requirements; such language shall require:
  - (a) That affidavits in the form attached to these “Procedures & Requirements” be executed from a contractor (and any subcontractors, regardless of tier) and notarized, showing compliance with the requirements of O.C.G.A. § 13-10-91 and that such be made part of the contract and/or subcontracts;
  - (b) That the contractor (and any subcontractors, regardless of tier) fully comply with the requirements for completing and submitting the “Immigration Compliance Certification” and that such certification be received by the County prior to the commencement of any work under the contract or subcontract;
  - (c) That the contractor (or any subcontractor, regardless of tier) notify the County within five (5) business days of entering into a contract or other agreement for hire with any subcontractor(s), regardless of tier;
  - (d) That the contractor be responsible for obtaining and providing to the County the “Subcontractor Affidavit & Agreement” and “Immigration Compliance Certification” attached to and required under these “Procedures & Requirements” from each subcontractor, regardless of tier, employed or retained for work under the contract prior to the commencement of any work under the contract or any subcontract;
  - (e) That Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
  - (f) That any contractor and/or subcontractor retaining any other subcontractor to perform services under the contract provide legal notice to any subcontractor of the requirements of Cobb County for immigration compliance and further provide notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
  - (g) That failure to comply with any of the requirements and procedures of the County (i.e., failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or

reviews of records by County or State officials upon request; and/or failure to continue to meet any of the statutory or County obligations during the life of the contract) shall constitute a material breach of the agreement and shall entitle the County to dismiss any general contractor or to require the dismissal of any subcontractor or sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements;

- (h) That upon notice of a material breach of these provisions, the contractor (or subcontractor, regardless of tier) shall be entitled to cure the breach within ten (10) days and provide evidence of such cure. Should the breach not be cured, the County shall be entitled to all available remedies, including termination of the contract, the requirement that a subcontractor be dismissed from performing work under the contract, and any and all damages permissible by law.

- 4. Immigration Compliance Certification: Prior to commencing work under any contract for the physical performance of services, the contractor shall complete the “IMMIGRATION COMPLIANCE CERTIFICATION” form attached to these “Procedures & Requirements” and submit the same to the County.

Prior to allowing any other subcontractor to perform work under the contract, the contractor shall obtain a completed “IMMIGRATION COMPLIANCE CERTIFICATION” from each subcontractor (regardless of tier) and submit the same to the County.

***FORM ATTACHMENTS:***

- 1. CONTRACTOR AFFIDAVIT & AGREEMENT (EXHIBIT A);
- 2. SUBCONTRACTOR AFFIDAVIT & AGREEMENT (EXHIBIT A-1);
- 3. IMMIGRATION COMPLIANCE CERTIFICATION (EXHIBIT A-2).

**CONTRACTOR AFFIDAVIT & AGREEMENT  
(EXHIBIT A)**

**This affidavit must be signed, notarized and submitted with any bid requiring the performance of physical services. If the affidavit is not submitted at the time of the bid, the bid will be determined non-responsive and will be disqualified.**

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

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

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

\_\_\_\_\_  
EEV (E-Verify) Program User ID Number

\_\_\_\_\_  
EEV Program Date of Authorization

BY: Authorized Officer or Agent  
[Contractor Name]

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

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

\_\_\_\_\_  
Date

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

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

***Effective 10-28-2010***

**SUBCONTRACTOR AFFIDAVIT & AGREEMENT  
(EXHIBIT A-1)**

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

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

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

\_\_\_\_\_  
EEV (E-Verify) Program User ID Number

\_\_\_\_\_  
EEV Program Date of Authorization

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

\_\_\_\_\_  
Subcontractor Business Name

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

\_\_\_\_\_  
Date

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

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

*Effective 10-28-2010*

**IMMIGRATION COMPLIANCE CERTIFICATION**  
*(Required to be completed by Contractors and all Subcontractors)*  
**(EXHIBIT A-2)**

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to:

_____ <i>(Project Name/Description)</i>		
_____	_____	_____
_____	_____	_____
_____	_____	_____

I further certify to Cobb County, Georgia the following:

- The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
- We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed.
- If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the project.
- I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9's are accurate.
- To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States.
- If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

**Sworn to by:**

**Employer Name & Address:**

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_

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

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

*Effective 10-28-2010*

**EXHIBIT C**  
**CONFLICT OF INTEREST AFFIDAVIT**

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

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

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

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

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

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

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

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

**EXHIBIT D**  
**OFFICER'S OATH**

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

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

Company Name: Choate Construction Company

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

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

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

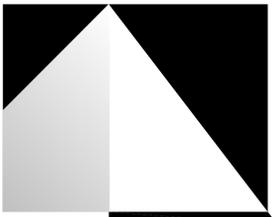
SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 201\_\_

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



# COBB COUNTY SENIOR CENTER BRIDGING DOCUMENTS

AUSTELL POWDER SPRINGS ROAD  
AUSTELL, GA 30106



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REVISIONS

REV. NO	DATE	DESCRIPTION	BY



THIS PROJECT TO ACHIEVE  
LEED v3 CERTIFICATION



ENVIRONMENTAL DESIGN STANDARDS:  
THIS PROJECT IS REGISTERED WITH THE UNITED STATES GREEN BUILDING COUNCIL (USGBC) LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN FOR NEW CONSTRUCTION (LEED-NC v2.2) RATING SYSTEM.

COBB COUNTY  
SENIOR CENTER

BRIDGING DOCUMENTS

PROJECT NO. 20-11015.10

DATE 1 APR 2011

SHEET TITLE

COVER SHEET

SHEET NO. **CS0.0**

OWNER

**OWNER**  
COBB COUNTY BOARD OF COMMISSIONERS  
C/O ALLEN KRONENBERGER - PROPERTY MANAGER  
57 WADDELLI STREET NE  
MARIETTA, GA 30060-1964  
PHONE: 770.528.2187  
FAX: 770.528.2148  
CONTACT: ALLEN KRONENBERGER  
EMAIL: ALLEN.KRONENBERGER@COBBCOUNTY.ORG

PROJECT TEAM

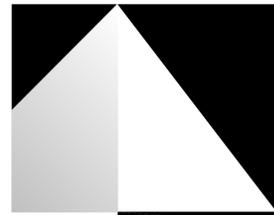
**ARCHITECT**  
PIEPER O'BRIEN HERR ARCHITECTS  
3000 ROYAL BLVD. SOUTH  
ALPHARETTA, GA 30022  
PHONE: 770.569.1706  
FAX: 770.569.1786  
CONTACT: EARL SMITH  
EMAIL: EARL.SMITH@POHARCHITECTS.COM

**SHEET INDEX**

SHEET NO.	SHEET NAME	ISSUE DATE	DESCRIPTION																	
CS0.0	COVER SHEET			X																
CS0.1	SHEET INDEX, ARCHITECTURAL SYMBOLS AND ABBREVIATIONS	1-Apr-11	BRIDGING DOCUMENTS	X																

**ARCHITECTURAL - PIEPER O'BRIEN HERR ARCHITECTS**

A1.1	SITE PLAN	X																		
A2.1	FLOOR PLAN	X																		
A3.1	INTERIOR FINISH PLAN	X																		
A4.1	REFLECTED CEILING PLAN	X																		
A5.1	EXTERIOR ELEVATIONS	X																		
A6.1	EXTERIOR PERSPECTIVES	X																		



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REV. NO.	DATE	DESCRIPTION	BY



**COBB COUNTY  
SENIOR CENTER**

**BRIDGING DOCUMENTS**

**PROJECT NO. 20-11015.10**

**DATE 1 APR 2011**

**SHEET TITLE**

**DRAWING INDEX  
ARCHITECTURAL SYMBOLS  
ABBREVIATIONS**

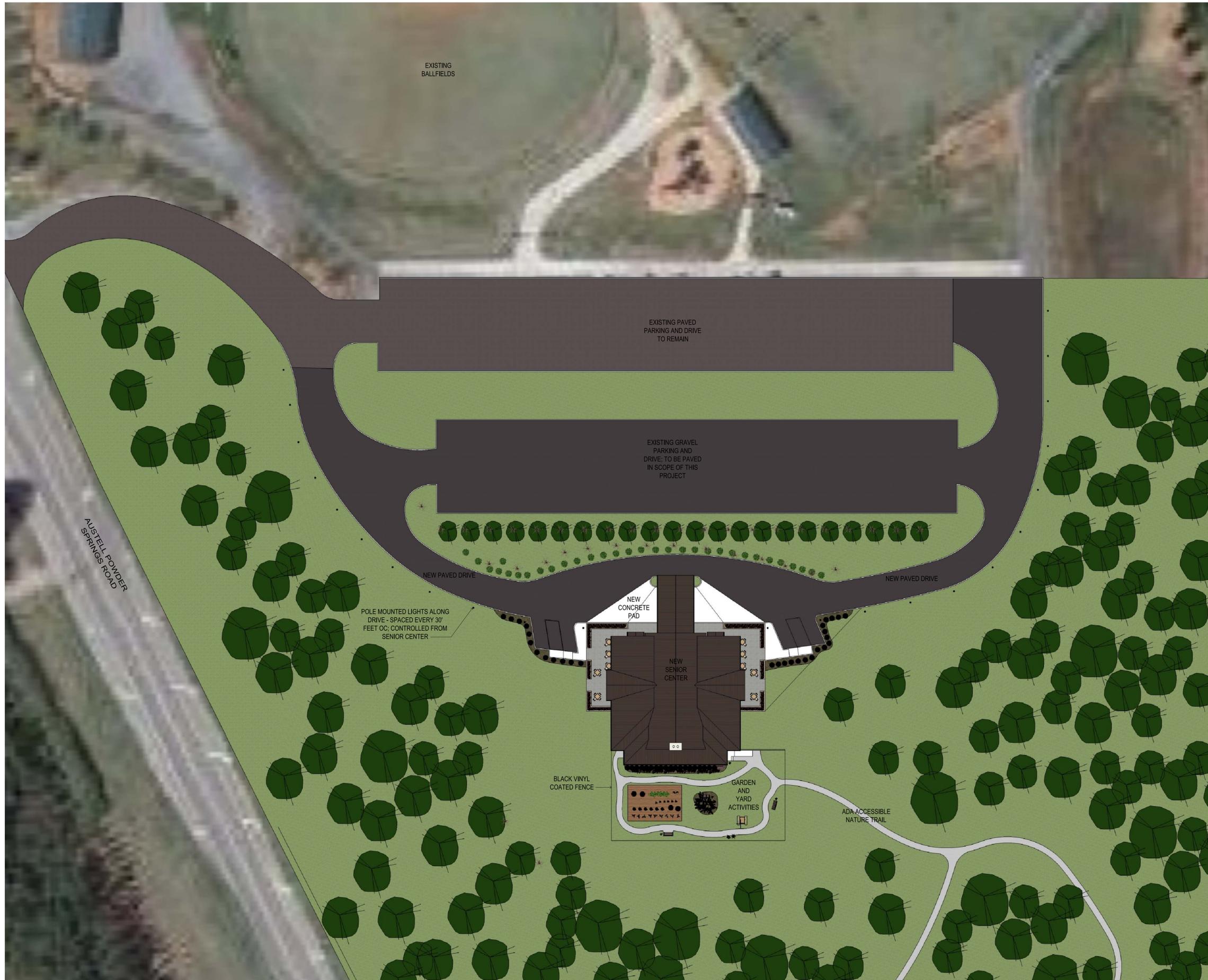
**SHEET NO. CS0.1**

**SYMBOL LEGEND**

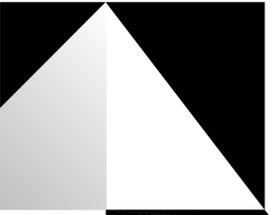
	REVISION INDICATOR		AREA OF REVISION
	COLUMN CENTERLINE		EXISTING COLUMN CENTERLINE
	DIMENSION FROM FACE TO FACE OF OBJECT		DIMENSION FROM FACE TO CENTERLINE OF OBJECT
	BUILDING SECTION INDICATOR		EXTERIOR ELEVATION INDICATOR
	WALL SECTION INDICATOR		PARTIAL ELEVATION INDICATOR

**ABBREVIATIONS**

ABV	ABOVE	FOM	FACE OF MASONRY	PERF	PERFORATED
AC	AIR CONDITIONING	FOS	FACE OF STUD	PERM	PERIMETER
ACT	ACOUSTICAL CEILING TILE	FOW	FACE OF WALL	PL	PLASTIC LAMINATE
ADD	ADDENDUM	FR	FIRE RESISTANT	PLMBG	PLUMBING
AFF	ABOVE FINISHED FLOOR	FT	FEET	PLWD	PLYWOOD
AGG	AGGREGATE	FTG	FOOTING	PNL	PANEL
ALUM	ALUMINUM	FURN	FURNITURE, FURNISHED	PREFIN	PREFINISHED
ANOD	ANODIZED	FV	FIELD VERIFY	PROJ	PROJECT
APPROX	APPROXIMATE			PROP	PROPERTY
ARCH	ARCHITECT	GA	GAUGE	PT	PRESURE TREATED
ASSY	ASSEMBLY	GALV	GALVANIZED	PTD	PAINTED
		GEN	GENERAL		
		GL	GLASS	RCP	REFLECTED CEILING PLAN
		GWB	GYPSUM WALL BD.	RD	ROOF DRAIN
		GYP	GYPSUM	RECD	RECEIVED
				RE	REFERENCE
BD	BOARD	HB	HOSE BIBB	REQ	REQUIRED
BLDG	BUILDING	HC	HANDICAPPED	REV	REVISION
BLKG	BLOCKING	HCS	HOLLOW CORE SLAB	RH	RIGHT HAND
BM	BEAM	HDWD	HARDWOOD	RM	ROOM
BOS	BOTTOM OF STEEL	HDWR	HARDWARE	RO	ROUGH OPENING
BRG	BEARING	HGT	HEIGHT	RTU	ROOF TOP UNIT
BTWN	BETWEEN	HM	HOLLOW METAL		
		HORIZ	HORIZONTAL		
				SAB	SOUND ATTENUATION BATTS
CJ	CONTROL JOINT			SCHED	SCHEDULE
CLG	CEILING	IN	INCH	SF	SQUARE FEET
CLR	CLEAR	INCL	INCLUDED	SHT	SHEET
CMU	CONCRETE MASONRY UNIT	INFO	INFORMATION	SIM	SIMILAR
COL	COLUMN	INSUL	INSULATION	SPKR	SPEAKER
CONC	CONCRETE	INT	INTERIOR	SPR	SPRINKLER
CONST	CONSTRUCTION			SQ	SQUARE
CONT	CONTINUOUS	JAN	JANITOR	STD	STANDARD
CONTR	CONTRACTOR	JB	JUNCTION BOX	STL	STEEL
CORR	CORRUGATED	JST	JOIST	STOR	STORAGE
CU	CONDITIONING UNIT			STRUCT	STRUCTURAL
		KD	KNOCK-DOWN	SUSP	SUSPENDED
		KO	KNOCK OUT	SYM	SYMMETRICAL
		LAM	LAMINATE	TEL	TELEPHONE
		LAV	LAVATORY	TEMP	TEMPERED
		LB	POUND	THRESH	THRESHOLD
		LBL	LABEL	TOC	TOP OF CONCRETE
		LF	LINEAR FEET	TOF	TOP OF FOOTING
		LH	LEFT HAND	TOM	TOP OF MASONRY
		LIN	LINEAR	TOP	TOP OF PARAPET
				TOS	TOP OF STEEL
				TYP	TYPICAL
		MAS	MASONRY	UL	UNDERWRITERS LABORATORIES
		MAT	MATERIAL	UNO	UNLESS NOTED OTHERWISE
		MAX	MAXIMUM		
		MFR	MANUFACTURER		
		MIN	MINIMUM		
		MISC	MISCELLANEOUS	VAR	VARIABLES
		MLD	MOULDING	VCT	VINYL COMPOSITION TILE
		MO	MASONRY OPENING	VENT	VENTILATION
		MOD	MODULAR	VERT	VERTICAL
		MR	MOISTURE RESISTANT	VEST	VESTIBULE
		MTD	MOUNTED	VTR	VENT THROUGH ROOF
		MTL	METAL		
		MUL	MULLION		
		NAT	NATURAL	W/	WITH
		NIC	NOT IN CONTRACT	WQ	WITHOUT
		NOM	NOMINAL	WC	WATER CLOSET
		NTS	NOT TO SCALE	WD	WOOD
				WH	WATER HEATER
				WIN	WINDOW
				WWF	WELDED WIRE FABRIC
		OC	ON CENTER		
		OH	OPPOSITE HAND		
		OPNG	OPENING		
		OPP	OPPOSITE		



**A1.101 SITE PLAN**  
SCALE: 1" = 30'-0"



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**COBB COUNTY  
SENIOR CENTER**

BRIDGING DOCUMENTS

PROJECT NO. 20-11015.10

DATE 1 APR 2011

SHEET TITLE

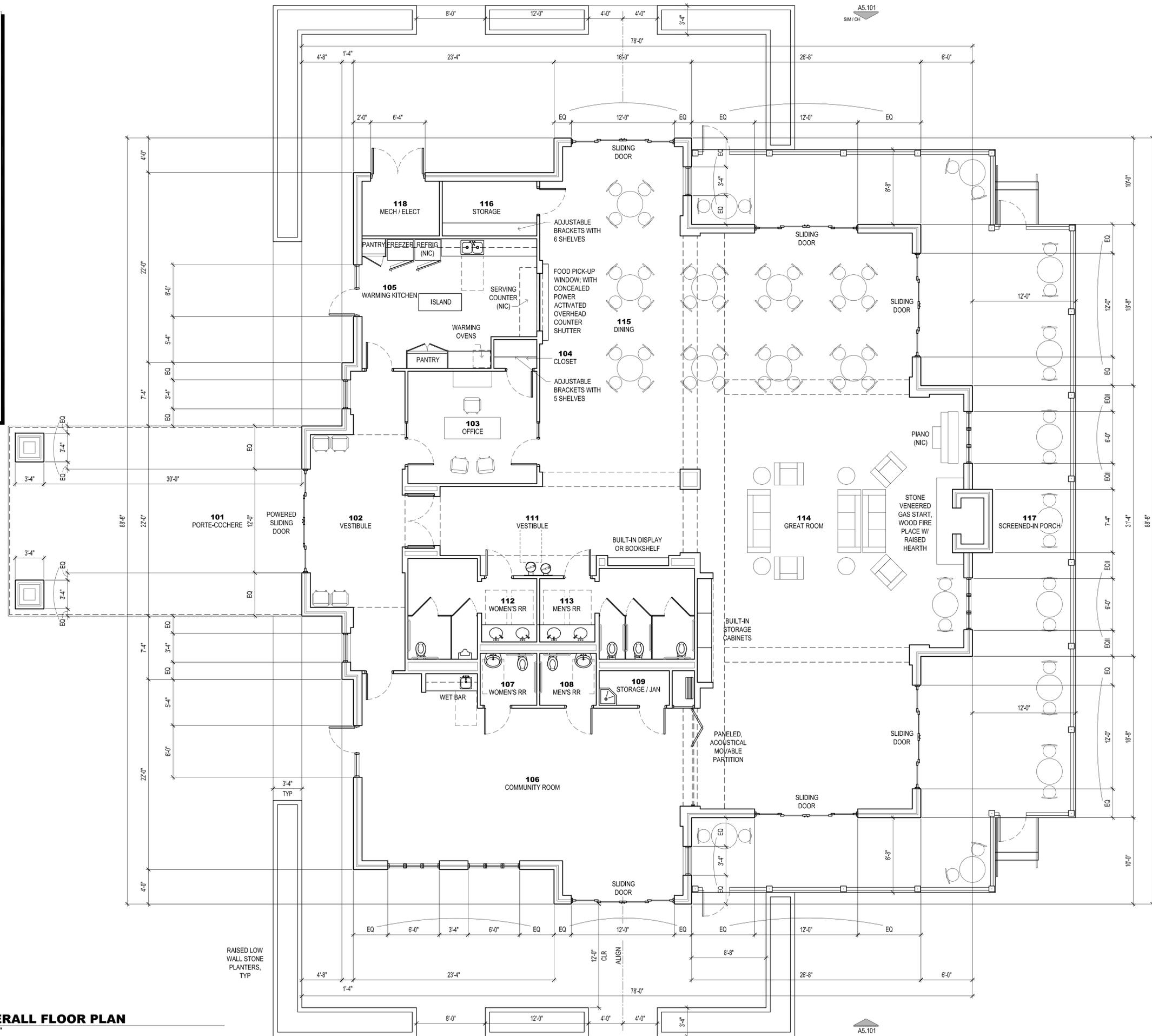
SITE PLAN

SHEET NO. **A1.1**

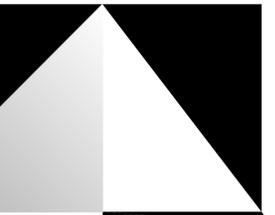
**GENERAL NOTES**

- SEE SHEET A5 FOR EXTERIOR MATERIAL TYPES
- SEE SHEET A4 FOR INTERIOR MATERIAL TYPES
- ALL UTILITIES ARE ELECTRIC
- ALL FURNITURE SHOWN IS FOR REFERENCE ONLY AND IS NOT IN CONTRACT
- NO EXPOSED PLUMBING VENTS TO BE PLACED IN CONCEALED LOCATIONS
- PROVIDE PROPANE TANK FOR FIREPLACE GAS STARTER
- ALL TOILETS TO BE WALL HUNG
- ALL TOILET FIXTURES AND TOILET ACCESSORIES TO BE MOUNTED PER ADA RECOMMENDATIONS
- ALL TOILET STALLS TO BE ADA ACCESSIBLE, EQUIPPED WITH GRAB BARS
- PROVIDE WOOD BLOCKING IN WALL @ SUPPORT FOR GRAB BARS AND ANY OTHER ACCESSORY PER MANUFACTURER'S RECOMMENDATION
- ALL TOILET PARTITIONS TO BE CEILING MOUNTED, BRACED AS NECESSARY.

- IN EACH RESTROOM PROVIDE:
- GRAB BARS IN EACH STALL AS SHOWN - BOBRICK # B-6806 LINE OR EQUAL
  - 1 RECESSED PAPER TOWEL DISPENSER AND WASTE RECEPTACLE - BOBRICK: B-4369 OR EQUAL
  - TOILET TISSUE DISPENSER FOR EACH TOILET STALL - BOBRICK # B-2840 OR EQUAL
  - RECESSED SANITARY NAPKIN DISPOSAL FOR EACH WOMEN'S RR STALL - BOBRICK # B-353 OR EQUAL
  - LAVATORY MOUNTED SOAP DISPENSER AT EACH LAVATORY AND SINK - BOBRICK # B-8226 OR EQUAL



**A2.101 OVERALL FLOOR PLAN**  
SCALE: 3/16" = 1'-0"



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REV. NO	DATE	DESCRIPTION	BY



**COBB COUNTY  
SENIOR CENTER**

BRIDGING DOCUMENTS

PROJECT NO. 20-11015.10  
DATE 1 APR 2011  
SHEET TITLE FLOOR PLAN

SHEET NO. **A2.1**

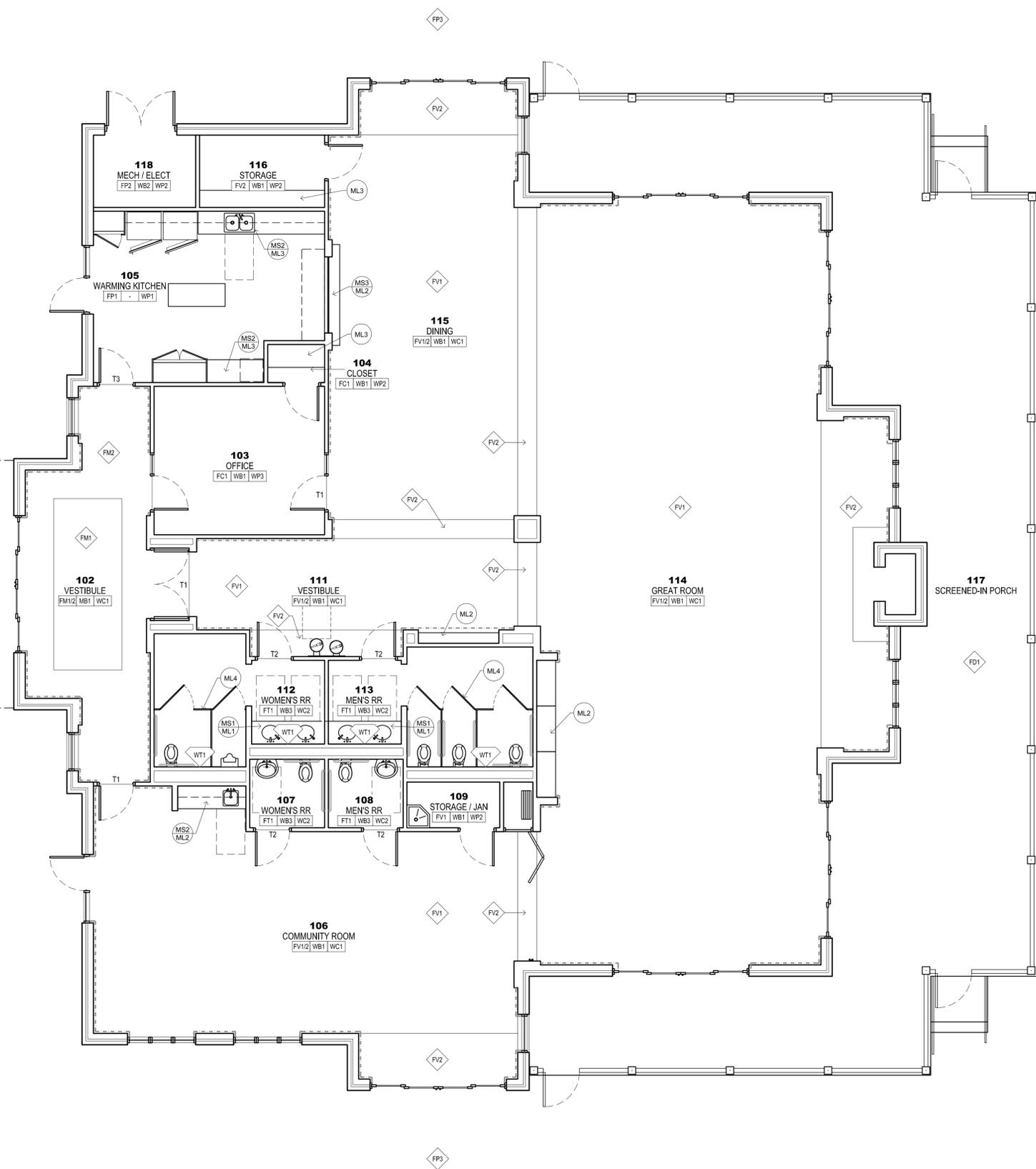
**GENERAL NOTES**

- 101 INDICATES ROOM NUMBER
- ENTRY INDICATES ROOM NAME
- FC1 FB1 FPT ROOM WALL FINISH
- ROOM BASE TYPE
- ROOM FLOOR FINISH
- C1 DENOTES FLOOR FINISH TYPE WHERE DIFFERENT FROM TYPICAL ROOM FINISH
- WT1 DENOTES WALL FINISH TYPE WHERE DIFFERENT FROM TYPICAL ROOM FINISH
- MS1 ML1 DENOTES COUNTER AND BACKSPLASH MATERIAL
- DENOTES BASE AND WALL CABINET MATERIAL
- DENOTES EXTENT OF WOOD WALL PANEL WAINSCOT AND CHAIR RAIL - TYPE MP3
- INTERIOR DOORS TO BE STAINED WOOD DOORS WITH RAISED PANELS

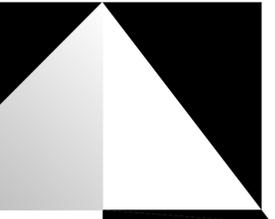
**FINISH SCHEDULE**

SYM.	MATERIAL	GENERAL DESCRIPTION	UNIT COST
<b>FLOOR FINISHES</b>			
FC	FLOOR - CARPET		
FC 1	Carpet Tile		\$25 per yard installed
FD	FLOOR - VINYL		
FD 1	Composite decking		
FM	FLOOR - MATS / GRATES		
FM 1	Carpet - Walk of carpet		\$27 per yard installed
FM 2	Carpet - Walk of carpet		\$27 per yard installed
FP	FLOOR - PAINT / SEALER		
FP 1	Seamless Epoxy with integral cove base		\$12.00 per s.f. installed
FP 2	Sealed Concrete		
FP 3	Stamped Concrete	Integral color with colored shake hardener for antiquing	
FT	FLOOR - TILE		
FT 1	Ceramic Tile	Two colors 6" x 6" tile turned 45 degrees with pattern	\$8.00 per s.f. installed
FV	FLOOR - VINYL		
FV 1	Cork Flooring - Color 1		\$10.50 per s.f. installed
FV 2	Cork Flooring - Color 2		\$10.50 per s.f. installed
<b>FLOOR TRANSITION TYPES</b>			
T	FLOOR TRANSITION		
T 1	Vinyl Transition Strip (Carpet to Vinyl)	Standard profile by Johnsonite or equal	
T 2	Marble Transition Strip (Vinyl to Ceramic Tile)		
T 3	Vinyl Transition Strip (Carpet to Epoxy)	Standard profile by Johnsonite or equal	
<b>WALL FINISHES</b>			
WC	WALL - WALL COVERING		
WC 1	Vinyl Wall Covering	Type II	\$22 per yard installed
WC 2	Vinyl Wall Covering	Type II	\$22 per yard installed
WP	WALL - PAINT		
WP 1	Epoxy Paint (semi-gloss)	Two coats plus primer.	\$20 per s.f. installed
WP 2	Latex Paint (semi-gloss)	Two coats plus primer.	
WP 3	Latex Paint (egg shell)	Two coats plus primer. Provide one accent wall	
WT	WALL - TILE		
WT 1	Ceramic Tile	6" x 6" with accent band at 5'-6"	\$7.00 per s.f. installed
<b>WALL BASE TYPES</b>			
WB	WALL BASE		
WB 1	Integral color profile rubber base	Johnsonite reveal or equal	
WB 2	Cove base (straight)	Rail goods with pre-molded corners	
WB 3	Ceramic Tile Base	Coved 6" x 6"	\$7.00 per s.f. installed
<b>MISCELLANEOUS FINISHES</b>			
ML	MISCELLANEOUS - LAMINATES		
ML 1	Plastic Laminate	Patterned Wood grained standard by Wilsonart or equal	
ML 2	Plastic Laminate	Patterned Wood grained standard by Wilsonart or equal	
ML 3	Plastic Laminate	Patterned laminate by Wilsonart or equal	
ML 4	Plastic Laminate Shell on Phenolic Core	Patterned laminate by Wilsonart or equal	
MP	MISCELLANEOUS - PANELS		
MP 1	Wainscot board with chair rail (painted)	1/4" MDF vertical bead board with 3-1/2" chairrail cap	
MS	MISCELLANEOUS - SOLID SURFACE		
MS 1	Restroom surfaces	Corian solid surface with pattern or equal	
MS 2	Food prep. surfaces	Stainless Steel Counter - 14 Gauge	
MS 3	Food service counter	Stainless Steel Counter - 14 Gauge	

101 PORTE-COCHERE



**A3.101 FINISH PLAN**  
SCALE: 3/16" = 1'-0"



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PROJECT NO. 20-11015.10

DATE 1 APR 2011

SHEET TITLE

FINISH PLAN

SHEET NO. **A3.1**

**CEILING LEGEND**

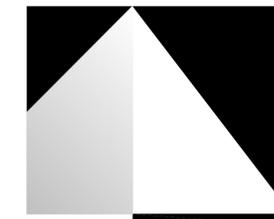
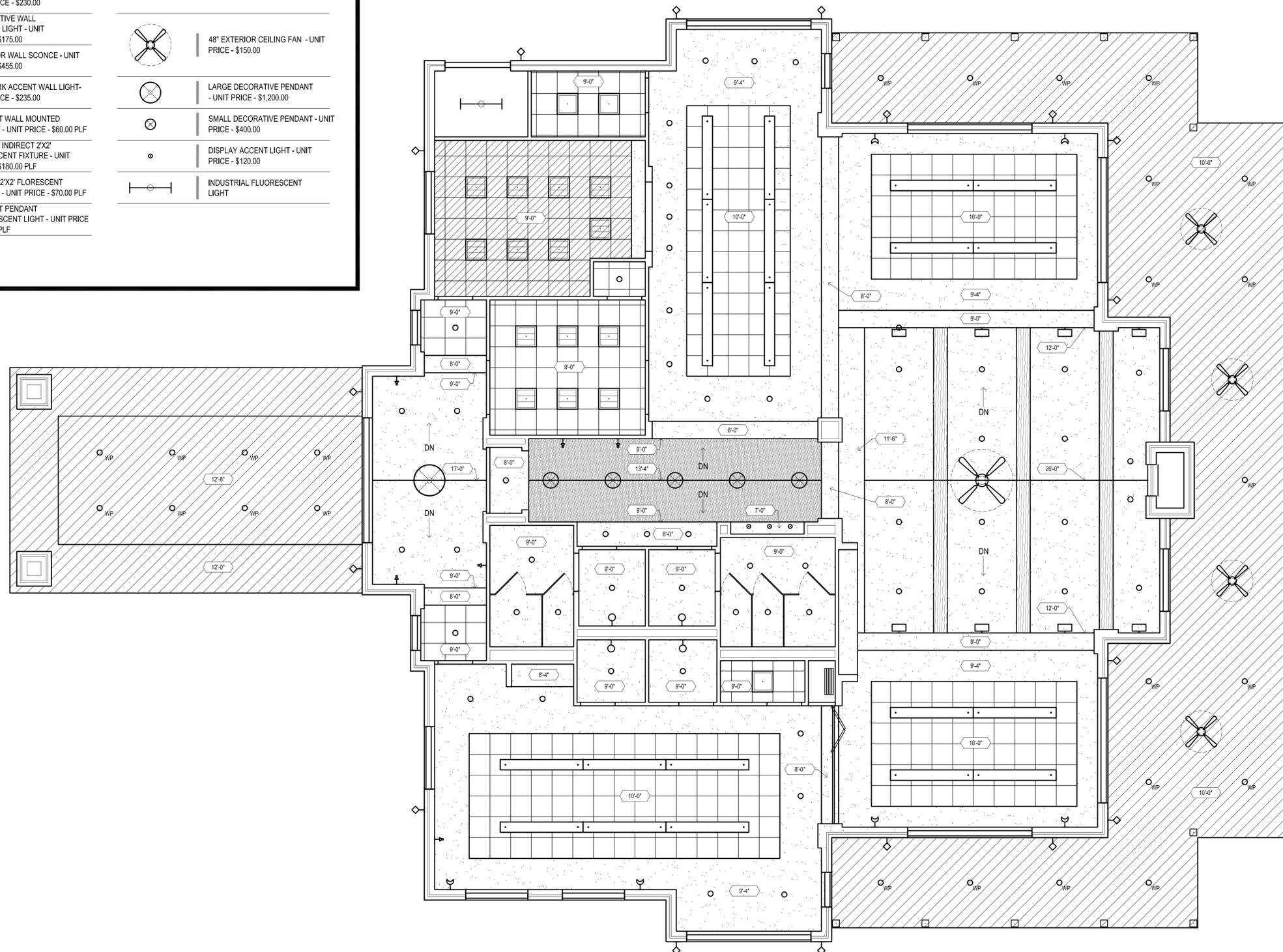
9'-0" DENOTES CEILING TYPE

**CEILING TYPES**

-  PAINTED GYP BOARD CEILING
-  PAINTED WOOD FASCIA BEAMS
-  HUNTER DOUGLAS CONTRACT-NATURA (OR EQUAL) WOOD CEILING SYSTEM
-  2' x 2' SUSPENDED CEILING 1/8" GRID W/ TEGULAR ACOUSTICAL LAY-IN CEILING TILE - COST \$2.50 SQFT
-  MYLAR FACED 2' x 2' SUSPENDED CEILING 1/8" GRID W/ TEGULAR ACOUSTICAL LAY-IN CEILING TILE (IN KITCHEN) - COST \$3.50 SQFT
-  .032 ALUMINUM FLUSH SOFFIT PANEL W/ KYNAR 500 FACTORY FINISH
-  EXPOSED CEILING TO PAINTED STRUCTURE ABOVE

**LIGHT FIXTURE TYPES** ALL LIGHT FIXTURES TO BE COMMERCIAL GRADE FIXTURES

-  RECESSED DOWN LIGHT - LED UNIT PRICE - \$227.50
-  EXTERIOR RATED WATERPROOF RECESSED DOWN LIGHT - LED UNIT PRICE - \$227.50
-  RESTROOM WALL SCONCE LIGHT - UNIT PRICE - \$230.00
-  DECORATIVE WALL SCONCE LIGHT - UNIT PRICE - \$175.00
-  EXTERIOR WALL SCONCE - UNIT PRICE - \$455.00
-  ARTWORK ACCENT WALL LIGHT - UNIT PRICE - \$235.00
-  INDIRECT WALL MOUNTED UPLIGHT - UNIT PRICE - \$60.00 PLF
-  DIRECT / INDIRECT 2'x2' FLORESCENT FIXTURE - UNIT PRICE - \$180.00 PLF
-  LENSED 2'x2' FLORESCENT FIXTURE - UNIT PRICE - \$70.00 PLF
-  INDIRECT PENDANT FLORESCENT LIGHT - UNIT PRICE - \$75.00 PLF
-  72" DECORATIVE CEILING FAN - UNIT PRICE - \$600.00
-  48" EXTERIOR CEILING FAN - UNIT PRICE - \$150.00
-  LARGE DECORATIVE PENDANT - UNIT PRICE - \$1,200.00
-  SMALL DECORATIVE PENDANT - UNIT PRICE - \$400.00
-  DISPLAY ACCENT LIGHT - UNIT PRICE - \$120.00
-  INDUSTRIAL FLORESCENT LIGHT



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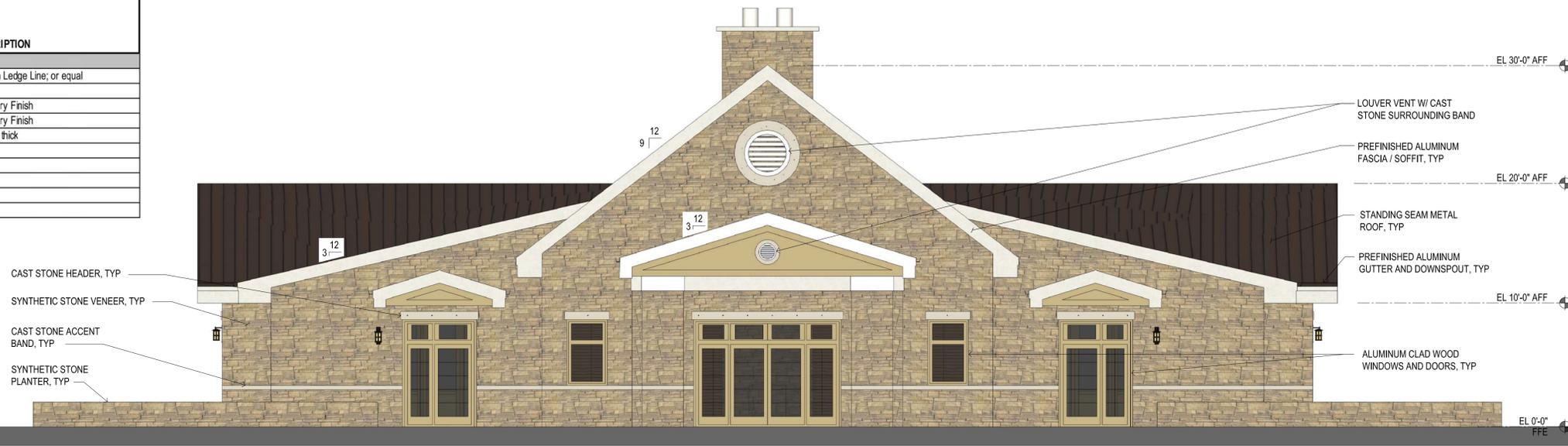
REFLECTED CEILING PLAN

SHEET NO. **A4.1**

**A4.101 REFLECTED CEILING PLAN**

SCALE: 3/16" = 1'-0"

MATERIAL	GENERAL DESCRIPTION
Synthetic Stone Veneer	Eldorado Stone Dry Stacked Veneer - Mountain Ledge Line, or equal
Cast Stone Band, Header, and Accent	By Custom Cast Stone, Ariscraft, or equal
Prefinished Aluminum Soffit / Fascia Panels	.032 Aluminum Flush Panel w/ Kynar 500 Factory Finish
Prefinished Aluminum Column Cladding	.032 Aluminum Flush Panel w/ Kynar 500 Factory Finish
Standing Seam Metal Roof	Zinc-coated (galvanized) steel sheet, 24 guage thick
Prefinished Aluminum Gutter and Downspouts	
Aluminum Clad Wood	Pella Architectural Series or equal
Aluminum Clad Wood Fixed Windows	Pella Architectural Series or equal
Prefinished Aluminum Styles, Rails & Panels	w/ Kynar 500 Factory Finish



**A5.103 NORTH EXTERIOR ELEVATION**

SCALE: 3/16" = 1'-0"



**A5.102 SOUTH EXTERIOR ELEVATION**

SCALE: 3/16" = 1'-0"



**A5.101 SIDE EXTERIOR ELEVATIONS**

SCALE: 3/16" = 1'-0"



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EXTERIOR ELEVATIONS

SHEET NO. **A5.1**



**A5.204 SIDE EXTERIOR ELEVATIONS**  
SCALE: NTS



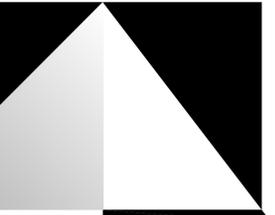
**A5.203 SIDE EXTERIOR ELEVATIONS**  
SCALE: NTS



**A5.202 SIDE EXTERIOR ELEVATIONS**  
SCALE: NTS



**A5.201 SIDE EXTERIOR ELEVATIONS**  
SCALE: NTS



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SHEET TITLE

EXTERIOR PERSPECTIVES

SHEET NO. **A5.2**