

Mayor
Rhonda Haight

City Council
William Whaley, Mayor Pro
Tempore
Jack Taylor
Christy Kay
Bill Bivins
Angie Arp



City Clerk
Amy Mintz

City Attorney
Chuck Conerly

City of Blue Ridge
City Council Meeting Agenda
February 20, 2024

6:00 p.m.

Blue Ridge City Hall

480 West First Street

Blue Ridge, Ga 30513

- 1. Call Meeting to Order**
- 2. Prayer and Pledge of Allegiance**
- 3. Approval of Minutes from Previous Meeting**
 - a. January 16, 2024 – Council Meeting
- 4. Approval of Agenda or Motion to Amend Agenda (if applicable)**
- 5. Public Hearings**
 - a. AN ORDINANCE TO AMEND SECTION 24-3 (“WATER AND SEWER SERVICE IMPROVEMENT ACCOUNT”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO INCREASE THE SURCHARGE TO BE PAID BY APPLICANTS FOR WATER AND/OR SEWER SERVICES AT A LOCATION NOT PRESENTLY SERVED OR FOR EXPANDED SERVICES TO A SITE PREVIOUSLY BEING SERVED; TO INCREASE THE TAPS FOR WATER AND SEWER AND TO PROVIDE FOR AN EFFECTIVE DATE. **SECOND READING BR2024-02**

Our Mission Statement

Our mission is to enrich the quality of life in Blue Ridge for all our citizens. We pledge to work in partnership with our residents, all stake holders and the Fannin County government to protect, preserve and secure the quaintness of our small-town community and to enhance the natural beauty of our environment.

- b. A ZONING ORDINANCE/ACTION AMENDING THE ZONING MAP OF THE CITY OF BLUE RIDGE, GEORGIA, BY REZONING A PARCEL OF LAND WITHIN THE CITY OF BLUE RIDGE, BEING TAX PARCELS 0045-20E, 0045-20C01, AND 0045-20C02 OWNED BY CHNA HOLDINGS LLC AND BEING APPROXIMATELY 4.14 ACRES, MORE OR LESS, AS MORE PARTICULARLY DESCRIBED IN THE DEED(S) ATTACHED HERETO AND INCORPORATED BY REFERENCE INTO THIS ZONING ORDINANCE (“PROPERTY”), AND REZONING THE PROPERTY FROM MANUFACTURING (“M-1”) TO COMMUNITY COMMERCIAL (“C-2”); REPEALING CONFLICTING ZONING ORDINANCES APPLICABLE TO THE PROPERTY; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. **FIRST READING BR2024-07.**

6. Consent Agenda

- a. MOTION TO REMOVE CITY ADMINISTRATOR ERIC SOROKA AND CITY CLERK AMY MINTZ AS SIGNATORIES AND TO ADD COURT CLERK BARBARA GERALD, UTILITIES DIRECTOR REBECCA HARKINS, AND CUSTOMER SERVICE MANAGER GINA QUINTON AS ADDITIONAL SIGNATORIES FOR CHECKS ISSUED FROM OR WITHDRAWALS MADE FROM ACCOUNTS MADE BY THE CITY OF BLUE RIDGE.
- b. A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE, STATE OF GEORGIA, TO APPROVE THE AGREEMENT FOR THE DRINKING WATER SRF SERVICE LINE PROGRAM GRANT IN THE AMOUNT OF \$40,500 FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, GRANT NO. DWLSL2022023, AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE. **BR2024-04.**

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- c. A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE, STATE OF GEORGIA, TO ENTER INTO A LOAN AGREEMENT NO. GF2023011 WITH THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY IN THE AMOUNT NOT TO EXCEED \$2,000,000 **BR2024-05**.
- d. MOTION TO ADOPT THE GMEBS RETIREMENT PLAN RESTATED AGREEMENT.
- e. A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE, STATE OF GEORGIA, TO APPROVE THAT CERTAIN SECOND MODIFICATION TO THE SEPTEMBER 8, 2022 LAON FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, LOAN NO. CW2021037, ORIGINAL AMOUNT OF \$3,500,00.

7. Action Agenda Items (Items Requiring the Approval of the City Council)

- a. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLUE RIDGE, GEORGIA AWARDING AND LETTING A BID/CONTRACT FOR C&S PROJECT No. B7970.010, DOWNTOWN BLUE RIDGE STORM SYSTEM IMPROVEMENTS, TO NORTH GEORGIA CONCRETE, INC. AT THE LOW BID PRICE OF \$3,892,362.38; AUTHORIZING THE MAYOR TO EXECUTE THE NOTICE OF AWARD AND ASSOCIATED CONTRACTS; PROVIDING FOR THE APPROPRIATION AND ALLOCATION OF FUNDS FOR SAID BID AWARD; AND PROVIDING FOR AN EFFECTIVE DATE. **BR2024-06**
- b. DOWNTOWN RESTROOM PROJECT
- c. PURCHASING POLICY

8. Discussion Agenda Items

9. Reports

Our Mission Statement

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10. Public Comment

Do not misconstrue this as a question-and-answer session with the Mayor/Council. Limit 3 minutes per person. Please state name and address before comments. All comments should be addressed to the Mayor.

11. Executive Session (If Needed)

12. Adjournment

Our Mission Statement

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Mayor
Rhonda Haight

City Council
Angie Arp, Mayor Pro Tempore
Jack Taylor
Christy Kay
Bill Bivins
William Whaley



City Administrator
Eric M. Soroka

City Clerk
Amy Mintz

City Attorney
Chuck Conerly

City of Blue Ridge
City Council Meeting
Minutes

January 16, 2024

6:00 p.m.

Blue Ridge City Hall

480 West First Street

Blue Ridge, Ga 30513

1. Call Meeting to Order

City Clerk Amy Mintz called the meeting to order at 6:00 PM. Present were Council Members William Whaley, Angie Arp (VIA phone call), Jack Taylor, Christy Kay, Bill Bivins, City Attorney Chuck Conerly, City Administrator Eric Soroka and City Clerk Amy Mintz.

Swearing in of Council Members

City Clerk Amy Mintz Swore in Council Members Bill Bivins, Jack Taylor and Christy Kay.

A motion to make Council Member Whaley Mayor Pro Tempore was offered by Council Member Bivins, seconded by Council Member Kay, passed unanimously.

2. Prayer and Pledge of Allegiance

Led by Council Member Whaley.

3. Approval of Minutes from Previous Meeting

- a. December 12, 2023 (Council Meeting)

Our Mission Statement

Our mission is to enrich the quality of life in Blue Ridge for all our citizens. We pledge to work in partnership with our residents, all stake holders and the Fannin County government to protect, preserve and secure the quaintness of our small-town community and to enhance the natural beauty of our environment.

A motion to approve was offered by Council Member Taylor, seconded by Council Member Bivins, passed unanimously.

4. Approval of Agenda or Motion to Amend Agenda (if applicable)

A motion to amend the agenda to remove item 6B and 7A was offered by Council Member Taylor, seconded by Council Member Bivins, passed unanimously.

5. Public Hearings

City Administrator explained the following for the first reading:

- a. AN ORDINANCE TO AMEND SECTION 24-3 ("WATER AND SEWER SERVICE IMPROVEMNET ACCOUNT") OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO INCREASE THE SURCHARGE TO BE PAID BY APPLICANTS FOR WATER AND/OR SEWER SERVICES AT A LOCATION NOT PRESENTLY SERVED OR FOR EXPANDED SERVICES TO A SITE PREVIOUSLY BEING SERVED; TO INCREASE THE TAPS FOR WATER AND SEWER AND TO PROVIDE FOR AN EFFECTIVE DATE. **FIRST READING BR2024-02**

6. Consent Agenda

Eric explained item A to be voted on:

A motion to approve the consent agenda was offered by Council Member Taylor, seconded by Council Member Bivins, passed unanimously.

- a. RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE SECOND MODIFICATION OF THE PROMISSORY NOTE AND LOAN AGREEMENT BETWEEN THE CITY AND GEORGIA ENVIRONMENTAL FINANCE AUTHORITY (GEFA) IN THE AMOUNT OF \$5,000,000. **BR2024-03**
- b. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLUE RIDGE, GEORGIA ADOPTING THE REVISIONS TO THE CITY OF BLUE RIDGE EMPLOYEE HANDBOOK

Our Mission Statement

Our mission is to enrich the quality of life in Blue Ridge for all our citizens. We pledge to work in partnership with our residents, all stake holders and the Fannin County government to protect, preserve and secure the quaintness of our small-town community and to enhance the natural beauty of our environment.

AND PROVIDING AN EFFECTIVE DATE. **BR2024-01 REMOVED FROM THE AGENDA**

7. Action Agenda Items (Items Requiring the Approval of the City Council)

- a. MOTION TO APPROVE THE SIDEWALK AND STEET INFRASTRUCTURE IMPROVEMENTS CONTAINED IN EXHIBIT A. AS PROPOSED BY THE CITY ADMINISTRATOR FOR 2024. **REMOVED FROM THE AGENDA**

8. Discussion Agenda Items

None.

9. Reports

None.

10. Public Comment

Do not misconstrue this as a question-and-answer session with the Mayor/Council. Limit 3 minutes per person. Please state name and address before comments. All comments should be addressed to the Mayor.

None

11. Executive Session (If Needed)

A motion to enter into executive session was offered by Council Member Whaley, seconded by Council Member Kay. Motion denied with Council Members Bivins, Taylor and Arp voting no.

12. Adjournment

Council Member Whaley adjourned the meeting at 6:12 PM.

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Mayor, Rhonda Haight

City Clerk, Amy Mintz

Date

Our Mission Statement

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FIRST READING January 16, 2024

SECOND READING _____

PASSED _____

AN ORDINANCE NO. BR2024-02

AN ORDINANCE TO AMEND SECTION 24-3 (“WATER AND SEWER SERVICE IMPROVEMENT ACCOUNT”) OF THE CODE OF THE CITY OF BLUE RIDGE, GEORGIA TO INCREASE THE SURCHARGE TO BE PAID BY APPLICANTS FOR WATER AND/OR SEWER SERVICES AT A LOCATION NOT PRESENTLY SERVED OR FOR EXPANDED SERVICES TO A SITE PRESENTLY BEING SERVED; TO INCREASE THE TAPS FOR WATER AND SEWER AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 24 (“Utilities”), Article III (“Water Service”) and Article IV (“Sanitary Sewerage”) of the Code of the City of Blue Ridge, Georgia (“Code”) provide generally for the provision of water and sanitary sewer service within the City; and

WHEREAS, Chapter 24 (“Utilities”), Article III (“Water Service”) and Article IV (“Sanitary Sewerage”) of the Code confer upon the City Council the authority to establish the fees for new taps and service connections as well as the rates for water and sewer service; and

WHEREAS, the City Council previously established a “Water & Sewer Service Improvement Account,” the purpose of which was to pay the costs and expenses for repairing, improving, and upgrading portions of the City’s water and sanitary sewer system deemed inadequate to provide new or expanded service; and

WHEREAS, the City Council previously (by and through the adoption of Ordinance Amendment No. 2015-09-08) established a surcharge to be paid by applicants for water and/or sewer service at a location not presently served or for expanded service to locations presently served, in addition to the usual application and connection fees; and

WHEREAS, the creation of the “Water & Sewer Service Improvement Account” is now codified as Section 24-3 (“Water and Sewer Service Improvement Account”) of the Code; and

WHEREAS, with the increasing costs to construct new or expanded water and sanitary sewer infrastructure and increased costs associated for water and sewer taps, the Mayor and City Council find it in the public interest to increase the surcharges associated with providing new and expanded water and sanitary sewer services and increase the water and sewer tap fees; and

WHEREAS, the City Council finds it in the public interest to increase the surcharge to be paid by applicants for water and/or sewer service at a location not presently served or for expanded service to locations presently served and to increase the water and sewer tap fees.

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED by the authority of the City Charter and general law, that (i) a new schedule for surcharges to be paid by applicants for water and/or sewer service at a location not presently served or for expanded service to locations presently is hereby adopted in Exhibit A; and the water and sewer tap fee are hereby increased as outlined in Exhibit B

SECTION 1.

SURCHARGE FOR APPLICANTS FOR WATER AND/OR SANITARY SEWER SERVICES AT A LOCATION NOT PRESENTLY SERVED OR FOR EXPANDED SERVICE TO A LOCATION PRESENTLY SERVED

The surcharge to be paid by applicants for water and/or sewer service at a location not presently served or for expanded service to locations presently is as set forth in the fee schedule attached as Exhibit "A" hereto and is hereby adopted.

SECTION 2.

WATER AND SEWER TAP FEES

The water and sewer tap fees is as set forth in the fee schedule attached as Exhibit "B" hereto and is hereby adopted.

SECTION 3.

SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this ordinance not so held to be invalid, or the application of this ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Blue Ridge to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 4.

REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF THE CONFLICT.

All parts of prior ordinances, in conflict with the terms of this ordinance are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance, or any provision of any ordinance, or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof, and shall be legally construed to be in favor of upholding this ordinance on behalf of the City of Blue Ridge, Georgia.

SECTION 4.

EFFECTIVE DATE.

The effective date of this ordinance shall be upon its passage by the City Council.

SO ORDAINED this _____ day of _____, 2024.

MAYOR AND CITY COUNCIL OF BLUE RIDGE

Mayor, City of Blue Ridge

Clerk, City of Blue Ridge

EXHIBIT "A"

Chapter 24—Utilities	
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for 3/4-inch residential meter.</p> <p>Inside City Limits \$1,250 \$1,500</p> <p>Outside City Limits \$1,500 \$1,750</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for 3/4-inch commercial meter.</p> <p>Inside City Limits \$3,000 \$3,500</p> <p>Outside City Limits \$3,500 \$4,000</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for one-inch meters.</p> <p>Inside City Limits \$5,500.00 \$6,000</p> <p>Outside City Limits \$6,000 \$6,500</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account fee for water service for meters above one inch.</p> <p>Inside City Limits \$5,500.00 \$6,000 per inch</p> <p>Outside City Limits \$6,000 \$6,500 per inch</p>

EXHIBIT "A"

Chapter 24—Utilities	
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for 3/4-inch residential meter.</p> <p><u>Inside City Limits</u> \$1,250 \$1,500 <u>Outside City Limits</u> \$1,500 \$1,750</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for 3/4-inch commercial meter.</p> <p><u>Inside City Limits</u> \$3,000 \$3,500 <u>Outside City Limits</u> \$3,500 \$4,000</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account surcharge fee for water service for one-inch meters.</p> <p><u>Inside City Limits</u> \$5,500.00 \$6,000 <u>Outside City Limits</u> \$6,000 \$6,500</p>
24-3(b)(1)	<p>Water and Sewer Service Improvement Account fee for water service for meters above one inch.</p> <p><u>Inside City Limits</u> \$5,500.00 \$6,000 per inch <u>Outside City Limits</u> \$6,000 \$6,500 per inch</p>

FIRST READING _____

SECOND READING _____

PASSED _____

A ZONING ORDINANCE/ACTION NO. BR2024-07

A ZONING ORDINANCE/ACTION AMENDING THE ZONING MAP OF THE CITY OF BLUE RIDGE, GEORGIA, BY REZONING A PARCEL OF LAND WITHIN THE CITY OF BLUE RIDGE, BEING TAX PARCELS 0045-20E, 0045-20C01, AND 0045-20C02 OWNED BY CHNA HOLDINGS LLC AND BEING APPROXIMATELY 4.14 ACRES, MORE OR LESS, AS MORE PARTICULARLY DESCRIBED IN THE DEED(S) ATTACHED HERETO AND INCORPORATED BY REFERENCE INTO THIS ZONING ORDINANCE (“PROPERTY”), AND REZONING THE PROPERTY FROM MANUFACTURING (“M-1”) TO COMMUNITY COMMERCIAL (“C-2”); REPEALING CONFLICTING ZONING ORDINANCES APPLICABLE TO THE PROPERTY; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Planning Commission met on January 18, 2024, and recommended to approve CHNA Holdings, LLC’s request to rezone a tract of land from Manufacturing (M-1) to Community Commercial (C-2), said tract of land being 4.14 acres and located at 401 Industrial Park and 405 Industrial Park and identified as tax parcels 0045-20E, 0045-20C01, and 0045-20C02.

BE IT ORDAINED by the City Council of Blue Ridge, Georgia as follows:

SECTION 1
ZONING

That from and after the passage of this zoning ordinance applicable only to the Property described herein within the City of Blue Ridge, said Property shall be zoned and so designated on the zoning map of the City of Blue Ridge as C-2, COMMUNITY COMMERCIAL, being Tax Parcels 0045-20E, 0045-20C01, and 0045-20C02, and being that same property depicted in the attached deed(s).

Legal Description:

The legal description of the above-referenced property, which is being rezoned from M-1 to C-2, is as follows:

All that tract and parcel of land being approximately 4.14 acres and lying and being within the City of Blue Ridge, Fannin County, Georgia, and more particularly described in the deed(s) attached hereto and incorporated by reference.

SECTION 2:
REPEAL OF CONFLICTING ORDINANCES TO REMOVE CONFLICT

Any ordinances applicable to the Property in conflict with the terms of this zoning ordinance are hereby repealed to the extent of the conflict, but it is hereby provided that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this zoning action on behalf of the City of Blue Ridge, Georgia.

SECTION 3.
SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any other portion of this Ordinance should be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular person, situation or set of circumstances is declared invalid or unconstitutional, such invalidity shall not be construed to affect the provisions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the legislative intent of the City Council of the City of Blue Ridge, Georgia to provide for separate and divisible parts and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 4.
AMENDMENT TO THE ZONING MAP

This zoning action/ordinance is enacted as an amendment to the zoning map of the City of Blue Ridge.

SECTION 5.
EFFECTIVE DATE

The effective date of this Ordinance shall be immediately upon its passage by the City Council and execution by the Mayor or upon fifteen (15) days expiring.

SO ORDAINED this _____ day of _____, 2024.

MAYOR AND CITY COUNCIL OF BLUE RIDGE

Mayor, City of Blue Ridge

Clerk, City of Blue Ridge

101



Doc ID: 002797230002 Type: WD
Recorded: 09/13/2022 at 03:12:00 PM
Fee Amt: \$485.00 Page 1 of 2
Transfer Tax: \$460.00
Fannin Co. Clerk of Superior Court
DANA CHASTAIN Clerk of Courts
BK 1524 PG 768-769

Map Parcel Number: 0045 20 E

Angela Stewart DeLorme, P.C.
Attorneys at Law
P.O. Box 1549
Blue Ridge, GA 30513

31,626
STATE OF GEORGIA,
COUNTY OF FANNIN.

LIMITED WARRANTY DEED

THIS INDENTURE, made this 8th day of September, in the Year of Our Lord Two Thousand Twenty-Two, between **HAIGHT HOUSE, LLC**, a Georgia limited liability company, of the first part, and **CHNA HOLDINGS, LLC**, a Georgia limited liability company, of the second part;

WITNESSETH: That the said party of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said party of the second part, the following described property:

All that tract or parcel of land lying and being in Land Lot 241 of the 8th District and 2nd Section of Fannin County, Georgia, containing 2.56 acres, as shown on a plat of survey dated November 20, 2019, prepared for Haight House, LLC by Chastain & Associates, P.C., Timothy D. Kyle, G.R.L.S. No. 3330, and recorded in Plat Book F-162, Page 7, office of the Clerk of Superior Court of Fannin County, Georgia. Reference is hereby made to said recorded plat of survey for the purpose of incorporating same herein and for a more complete metes and bounds description of the property herein described.

2

The above described property is conveyed subject to any and all easements, restrictions and rights-of-way as may appear of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said party of the second part, its heirs and assigns, forever, in Fee Simple.

AND THE SAID party of the first part, for its successors and/or assigns, executors and administrators, will warranty and forever defend the right and title to the above described property, unto the said party of the second part, against the claims of all persons owning, holding or claiming by, through or under the said party of the first part.

IN WITNESS WHEREOF, the said party of the first part has hereunto set its hand and affixed its seal, the day and year above written.

Signed, sealed and delivered
in the presence of:

Haight Holdings, LLC:

Donald Miller
Witness

Rhonda Haight (Seal)
By: Rhonda Haight f/k/a
Rhonda Thomas, Sole Member

Angela Stewart DeLorme
Notary Public
My Commission Expires:



405



Doc ID: 002614150002 Type: WD
Recorded: 05/06/2021 at 04:06:00 PM
Fee Amt: \$215.00 Page 1 of 2
Transfer Tax: \$190.00
Fannin Co. Clerk of Superior Court
DANA CHASTAIN Clerk of Courts
BK 1425 PG 457-458

Return recorded document to:
Wilson Hamilton LLC
316 Summit Street
Blue Ridge, GA 30513
File No.: 21-0098-CD COMM

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF FANNIN

THIS INDENTURE is made May 6, 2021, between **A & S Clothing, Inc.** ("Grantor"), and **CHNA Holdings, LLC** ("Grantee"), (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits).

WITNESSETH THAT: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant bargain, sell and convey unto Grantee, the following described property:

All that tract or parcel of land lying and being in the 8th District, 2nd Section, Land Lot 241, Fannin County, Georgia, being 0.68 acres, more or less, as set forth on plat of survey by Bruce W. Hamilton, GRLs No. 2951, dated March 11, 2021 and recorded in Plat Book F267, Page 1, Fannin County Records, to which reference is hereby made for a more complete and accurate legal description.

For informational purposes only: Map Parcel No. 0045 20C 01

TOGETHER WITH right of ingress, egress and utility easement along existing roads to the subject property; AND SUBJECT TO all existing easements, restrictions, reservations and rights of way of record.

Chain of Title: This being the same property as was conveyed to Grantor herein by Warranty Deed from The Fannin County Industrial Development Authority dated May 8, 1992 and recorded in Deed Book 184, Page 739, Fannin County Records.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit, and behoof of Grantee forever in FEE SIMPLE.

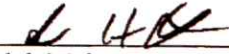
AND GRANTOR will warrant and forever defend the right and title to the above described property unto Grantee against the claims of all persons claiming by, through or under Grantor, but against none other.


IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year above written.


Unofficial Witness

A & S Clothing, Inc.


Notary Public

BY: 
Abdul Adam
CEO

Attest: 
Salma Adam
Secretary



401



Doc ID: 002708860002 Type: WD
Recorded: 01/05/2022 at 03:57:00 PM
Fee Amt: \$375.00 Page 1 of 2
Transfer Tax: \$350.00
Fannin Co. Clerk of Superior Court
DANA CHASTAIN Clerk of Courts
BK 1477 PG 749-750

Return recorded document to:
Wilson Hamilton LLC
589 Highland Crossing
East Ellijay, GA 30540
File No.: E-21-1480 COMM OF

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF Chilmer

THIS INDENTURE is made December 31, 2021, between **JRJohnson Holdings, LLC** ("Grantor"), and **CHNA Holdings, LLC** ("Grantee"), (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits).

WITNESSETH THAT: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant bargain, sell and convey unto Grantee, the following described property:

All that tract or parcel of land lying and being in the 8th District, 2nd Section, Land Lot 241, Fannin County, Georgia, being Lot 4B of the Fannin County Industrial Park, containing 0.86 acre, more or less, as set forth on plat of survey by Mike L. Hampton, GRLS No. 2452, dated November 27, 1990 and recorded in Plat Book 24, Page 219, Fannin County Records, to which reference is hereby made for a more complete and accurate legal description.

For informational purposes only: Map Parcel No. 0045 20C 02


TOGETHER WITH right of ingress, egress and utility easement along existing roads to the subject property; AND SUBJECT TO all existing easements, restrictions, reservations and rights of way of record.

Chain of Title: This being the same property as was conveyed to Grantor herein by Warranty Deed from J. Robert Johnson, Jr. dated February 19, 2020 and recorded in Book 1335, Page 177, Fannin County Records.

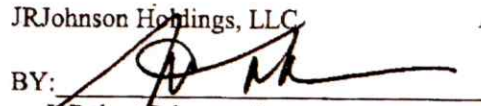
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit, and behoof of Grantee forever in FEE SIMPLE.

AND GRANTOR will warrant and forever defend the right and title to the above described property unto Grantee against the claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year above written.


Unofficial Witness

Sworn and subscribed before me this 31 day
of Dec, 20 21.

JRJohnson Holdings, LLC
BY: 
J. Robert Johnson, Jr.
Sole Member


Notary Public
My commission expires 7/15/24



CITY OF BLUE RIDGE

OFFICE OF THE CITY ADMINISTRATOR

MEMORANDUM

TO: City Council

FROM: Eric M. Soroka, City Administrator



DATE: January 26, 2024

SUBJECT: **Staff Report – Application to Rezone CHNA Holdings LLC tracts of land total 4.14 acres located at 101 Fannin Industrial Park, 401 Industrial Park and 405 Industrial Park, (tax parcels 0045-20E, 0045-20C01 and 0045-20C02) from Manufacturing District (M-1) to Community Commercial District (C-2).**

RECOMMENDATION

It is recommended that the City Council approve the C-2 rezoning request of CHNA Holdings LLC for the three locations provided that a condition limiting the use to Office Buildings: General and Professional as outlined in the Zoning code be placed on the properties. The Planning Commission met on January 18, 2024 and voted to recommended approval to the City Council with the above referenced condition. The proposed rezoning will bring the subject properties into conformity with its existing uses. The recommendation is based on the following findings;

- 1) The subject property is flanked by a limited M-1 zone district,
- 2) No adverse impact to any surrounding properties is expected if this rezoning is approved,
- 3) The Future Land Use Map shows the subject property to be planned for commercial development rather than manufacturing.

THE REQUEST

CHNA Holdings LLC is requesting a rezoning of three tracts of land from Manufacturing M-1 to General Commercial C-2. The three adjacent tracts of land total 4.14 acres and are located at 101 Fannin Industrial Park, 401 Industrial Park and 405 Industrial Park. The tracts of land are identified as tax parcels 0045-20E, 0045-20C01 and 0045-20C02. The buildings located on the parcels are no longer used for manufacturing purposes. The tenant at 101 Fannin Industrial Park is Southern Comfort Cabin Rentals, an operations center for the business. The tenant at 401 Industrial Park is Turnkey Cabins LLC, a business that provides maintenance for homes managed by property management

companies. The property located at 405 Fannin Industrial is currently under contract to be used as an appointment-only dermatology.

Surrounding Zoning

The surrounding uses and zoning are as follows: 1) To the north is an 6.3 acre tract of land that contains a trucking company and is zoned M-1; 2) To the east is an 4.5 acre tract and a 4.9 acre tract that is owned by the Fannin County Development Authority zoned M-1, 3) To the south is Ada Street; and 4) To the north is an 2.4 acre tract of land that contains the Family Connections building and is zoned M-1. All in all, the area surrounding the subject property is predominantly industrial with commercial uses.

Standards for Review found in Section 125-9 of the City of Blue Ridge Code

1) Whether the proposed amendment would allow a use that is generally suitable for the site when compared to other possible uses, and the uses and zoning of adjacent and nearby properties.

The established character of the area is office uses and industrial uses with limited to no manufacturing. Therefore, the request would allow a use that is more suitable to the site with limited impact on the surrounding properties.

2) Whether the proposed amendment would adversely affect the economic value or uses of adjacent and nearby properties.

No impact is expected based upon the existing manufacturing zoning and development of the area surrounding the subject property. This rezoning will be a benefit to the surrounding adjacent properties.

3) Whether the property to be affected by the proposed amendment can be used as currently zoned.

The subject property may only be used and/or developed for manufacturing and industrial use. The current zoning is not reflective of the existing development of the subject property. The proposed C-2 rezoning would allow for the subject property to have a zone district that conforms to the existing use of the subject property. It is recommended that the rezoning be limited to only office uses to avoid retail uses inconsistent with the surrounding uses.

4) Whether the proposed amendment, if adopted, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities.

This area is well served in terms of utilities and roads, and the subject properties would not burden any public infrastructure if it is rezoned C-2.

5) Whether the subject property under the proposed amendment is in conformity with the policies and intent of the adopted Joint Comprehensive Plan for Fannin County and the Cities of Blue Ridge, McCaysville, and Morganton.

The Comprehensive Plan's future land use map shows the subject properties to be planned for commercial land use. The existing uses on the tracts of land have been

commercial in nature and have not been used for manufacturing.

6) Whether there are other conditions or transitional patterns affecting the use and development of the subject property, if applicable, which give grounds either for approval or disapproval of the proposed amendment?

The proposed rezoning better suits the businesses currently occupying the properties and presents no adverse impact to the area.

PUBLIC NOTICE



**CITY OF BLUE RIDGE
NOTICE OF PROPOSED REZONING REQUEST**

Notice is hereby given that the Planning Commission of the City of Blue Ridge will hold a Public Hearing on January 18, 2024, to hear the following rezoning request:

Applicant: CHNA Holdings LLC

Address: The subject property is located at 101 Fannin Industrial Park, 401 Industrial Park and 405 Industrial Park, (tax parcels 0045-20E, 0045-20C01 and 0045-20C02)

Request: Rezone from M1 to C2

The Planning Commission Hearing will be held at 6:00 pm, at Blue Ridge City Hall, 480 West First Street, Blue Ridge, Georgia 30513. All interested parties are invited to attend.

Any opponent to the request shall file a written disclosure statement concerning political contributions made to any member of the Council or Mayor of the City of Blue Ridge. This disclosure shall be filed with the City Clerk a minimum of (5) days prior to the hearing.

Any questions should be directed to the City of Blue Ridge Planning & Zoning Department, 706-632-2091.

Amy Mintz

City Clerk

CHNA HOLDINGS LLC

421 GREYFIELD DRIVE
CANTON, GA 30115
678-313-9219

November 29, 2023

To: City Council of The City of Blue Ridge, Georgia

RE: Rezoning request of real estate

Dear Council Members,

I am the manager and owner of three contiguous properties located at 101, 401, and 405 Fannin Industrial Park. I am requesting a zoning change for all three properties from the manufacturing designation to the C-2 designation. This request stems from the fact that the buildings will no longer be used for manufacturing purposes, and the C-2 designation better suits the businesses currently occupying them. Presently, there are no manufacturing businesses in the Industrial Park, but rather a furniture store, a non-profit organization, a trucking company, a property management operations center, and a construction company. Our request will not impact any adjacent or nearby properties.

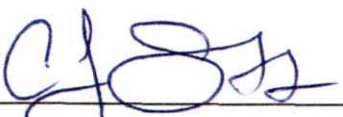
The tenant at 101 Fannin Industrial Park is Southern Comfort Cabin Rentals, LLC, an operations center for the business, of which I own 50%. Employing 50 people, this facility houses our accounting offices and the housekeeping, maintenance, and laundry departments. They have been at this location since 2021.

At 401 Fannin Industrial Park, the tenant is Turnkey Cabins LLC, a business I own 85% of, employing six people. This business provides maintenance for homes managed by property management companies and serves the public. They moved here from the 405 building due to its pending sale and have been in the Industrial Park since 2021.

The property at 405 Fannin Industrial is currently under contract to be sold to Mary Barber, who plans to use it as an appointment-only dermatology and skin care office. She specializes in treating patients with specific needs rather than the general public, operating 3-4 days per week. Currently affiliated with Blue Ridge Dermatology, she will employ approximately four employees and cater to a specialized client base. Her business requires C-2 zoning to operate.

If approved, this rezoning will not adversely affect adjacent or nearby properties. There are three different exits and entries on the property for employees and customers, and public utilities are already in place, so no changes are needed to support a C-2 zoned business. There will be no excessive or burdensome use of services by other businesses in the area. The requested zoning aligns with the policy and intent of the area's land use plan, and there will not be any significant or noticeable change in the daily operations of businesses or the city in general. The current manufacturing zoning does not accurately reflect the businesses presently or prospectively occupying the property.

Thank you in advance for reviewing my request. The sale of the 405 Industrial Building is pending, so I would appreciate your prompt attention. Should you have any questions, please contact me or my business manager, Jackie Self, at 706-455-9016. We are available at any time to facilitate this request.















Cornelis J Stam III



Overview



Legend

-  Parcels
-  Parcel Numbers
- Zoning**
-  C-1
-  C-2
-  CBD
-  M-1
-  R-1
-  R-2
-  R-3
-  R-A
-  R/W
-  <all other values>
- Roads**

Date created: 11/30/2023

Last Data Uploaded: 11/30/2023 6:32:09 AM

Developed by  **Schneider**
GEOSPATIAL

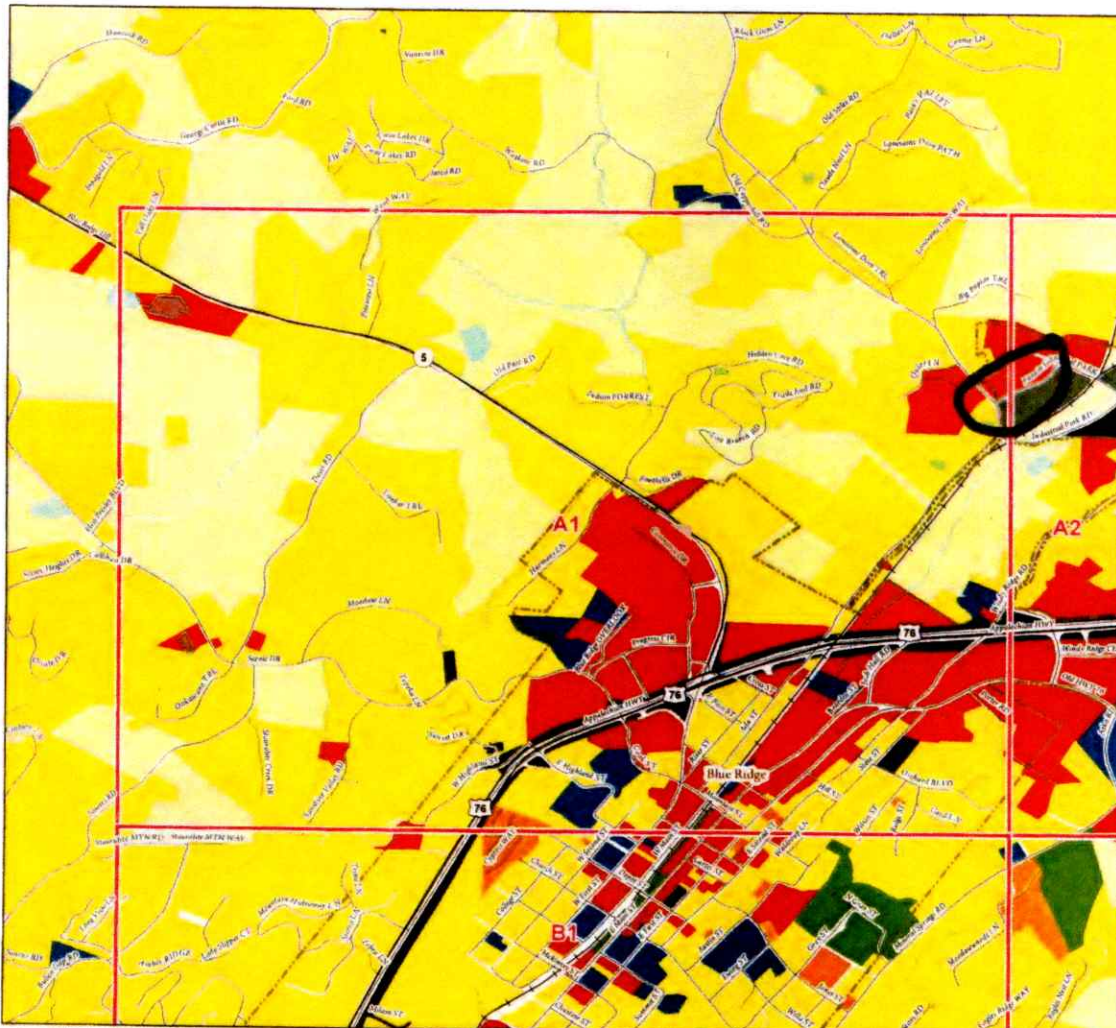
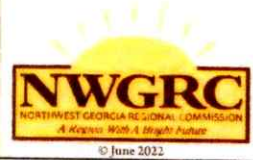
Future Land Use Map Blue Ridge, GA

- Roads
- Highways
- Railroads
- City Limits

- Agriculture/Forestry
- Commercial
- Industrial
- Multi-Family Residential
- Park/Recreation/Conservation
- Public/Institutional
- Single Family Residential
- Transportation/Utilities



1 in = 0.3 miles



Section A1

This is a copy of the Northwest Georgia Regional Commission's long-range future land use plan for Blue Ridge, Georgia. The map is not intended to be used as a legal document. The map is not intended to be used as a legal document. The map is not intended to be used as a legal document. The map is not intended to be used as a legal document.

CHNA HOLDINGS LLC
421 GREYFIELD DRIVE
CANTON, GA 30115
678-313-9219


November 29, 2023

To: City Council of The City of Blue Ridge, Georgia


RE: Rezoning request of real estate

The title holder of the properties located at 405 Fannin Industrial Park, 401 Fannin Industrial Park, and 101 Fannin Industrial Park, Blue Ridge, Georgia 30513 is CHNA Holdings, LLC. The manager of the LLC is Cornelis J Stam III. Mr. Stam is requesting the City Council review and approve his request for rezoning of said properties to the C-2 zoning status. The purpose of the request is to receive the status necessary to operate at correct zoning levels of businesses at those locations.

Under oath, Cornelis J Stam III swears that he is the individual who is authorized to sign on behalf of CHNA Holdings LLC in all legal and business matters including rezoning applications. He is also the individual who can execute this specific rezoning application. Further, he occupies the official position of Manager and is in the position to duly authorize and execute documents on behalf of the company. His signature below is genuine as attested by the notary public.




Cornelis J Stam III



Notary Public

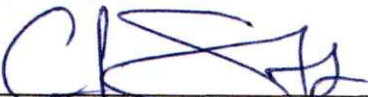


We have investigated the site as to the existence of archeological and/or architectural landmarks. I hereby certify that there are/are no such assets. If any exist, provide documentation with this application.



(applicant's signature)

We have investigated the site as to the existence of any cemetery located on the above property. I hereby certify that there is/is not such a cemetery. If any exist, provide documentation with this application.



(applicant's signature)

PROPERTY/FINANCIAL DISCLOSURE REPORT¹ BY APPLICANT²
(A separate form must be completed by each applicant)

Does any member of the Blue Ridge City Council or Blue Ridge Planning Commission have a property interest (direct or indirect ownership, including any percentage of ownership less than total) in the subject property? no

If so, describe the nature and extent of such interest: _____


Does any member of the Blue Ridge City Council or Blue Ridge Planning Commission have a financial interest (direct ownership interests of the total assets or capital stock where such ownership interest is ten percent (10%) or more) of a corporation, partnership, limited partnership, firm, enterprise, franchise, association, or trust, which has a property interest (direct or indirect ownership, including any percentage of ownership less than total) upon the subject property? no

If so, describe the nature and extent of such interest: _____

Does any member of the Blue Ridge City Council or Blue Ridge Planning Commission have a spouse, mother, father, brother, sister, son or daughter who has any interest as described above? no

If so, describe the relationship and the nature and extent of such interest: _____

I certify that the foregoing information is true and correct, this 29 day of November, 2023.



Applicant's Signature

¹If the answer to any of the above is "Yes," then the member of the Blue Ridge City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council for the City of Blue Ridge, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

²Applicant means any person who applies for a rezoning action and any attorney, or other person representing or acting on behalf of a person who applies for a rezoning action.

**CAMPAIGN DISCLOSURE REPORT³ BY APPLICANT⁴
OR PERSON SPEAKING IN OPPOSITION**

(A separate form must be completed by each applicant or person speaking in opposition⁵)

Has the applicant made, within two (2) years immediately preceding the filing of this application for rezoning, campaign contributions aggregating two hundred fifty dollars (\$250.00) or more or made gifts having in the aggregate a value of two hundred fifty dollars (\$250.00) or more to a member or members of Blue Ridge City Council or Blue Ridge Planning Commission who will consider the application?

NO

If so, the applicant and the attorney representing the applicant must file a disclosure report with the City Council of the City of Blue Ridge within ten (10) days after this application is first filed.

Please apply the following information that will be considered as the required disclosure:

The name of the member(s) of the City Council or Planning Commission to whom the campaign contribution or gift was made: _____

The dollar amount of each campaign contribution made by the applicant to the member(s) of the City Council or Planning Commission during the two (2) years immediately preceding the filing of this application and the date of each such contribution: _____

An enumeration and description of each gift having a value of two hundred fifty dollars (\$250.00) or more made by the applicant to the member(s) of the City Council or Planning Commission during the two (2) years immediately preceding the filing of this application: _____

I certify that the foregoing information is true and correct, this 29 day of November, 2023



Applicant's Signature

³ If the answer to any of the above is "Yes," then the member of the City Council or Planning Commission must immediately disclose the nature and extent of such interest, in writing, to the City Council for the City of Blue Ridge, Georgia. A copy should be filed with this application. Such disclosures shall be a public record and available for public inspection at any time during normal working hours.

⁴ Applicant means any person who applies for a rezoning action and any attorney or other person representing or acting on behalf of a person who applies for a rezoning action.

⁵ Any person wishing to speak in opposition to a rezoning application must also file a Campaign Disclosure Report.

SITE PLAN REQUIREMENTS

- Site Plan stamped with seal of Engineer, Land Surveyor, etc.
- North arrow
- Land lot lines
- District Lines
- Lot lines
- Angles
- Total acreage
- Bearing and distance
- Adjoining street width right-of-way (present and proposed)
- Paving widths
- Exact size and location of all buildings along with intended use
- Building setback and/or parking deck location
- Buffer areas
- Parking spaces - not shown on plat but exist at each
- Lakes and streams
- Utility easements
- Limits of the 100-year flood plain and acreage of flood plain
- Cemeteries
- Wetlands
- Access points
- Architectural or Archeological landmarks
- Detention/Retention areas
- Stream Buffers with required widths

General note: If any of the above requirements do not apply to property, please list which ones do not apply.

See attached survey for each location.

- no lakes or streams
- no flood plane
- no cemetery
- no wetlands
- no Detention/Retention areas
- no streams or stream buffers
- no Architectural or Archeological landmarks
- no parking decks

Summary of Intent for Rezoning

Part 1. Residential Rezoning Information (attach additional information if needed)

- (a) Proposed unit square-footage(s): N/A
- (b) Proposed building architecture: N/A
- (c) List all requested variances: N/A

Part 2. Non-residential Rezoning Information (attach additional information if needed)

- (a) Proposed use(s): 405 - ^{Dermatology} medical office, 401 - Office + Storage, 101 - office + operations center for vacation rental mgmt co.
- (b) Proposed building architecture: no changes to be made to exterior or major interior changes.
- (c) Proposed hours/days of operation: M-F 8:30-5:30 (101 + 401)
405 - 3 to 4 days per week
- (d) List all requested variances: We wish to change to C2 zoning to be in compliance with city requirements for the medical office. We also feel the C2 level is more appropriate for the existing and future business who could occupy the buildings

Part 3. Other Pertinent Information (List or attach additional information if needed)

NO structural or major changes to the land/building will be made with new zoning request.

Part 4. Is any of the property included on the proposed site plan owned by the Local, State, or Federal Government? (Please list all Right-of-Ways, Government owned lots, City owned parcels and/or remnants, etc., and attach a plat clearly showing where these properties are located). NO

Fannin County, GA

Search Results

3 Results

Parcel ID	Alternate ID	Owner	Property Address	City	Acres	Class	Map
 0045 20C02	16066	 CHNA HOLDINGS LLC	401 FANNIN INDUSTRIAL PARK		0.86	Commercial	Map
 0045 20C01	16228	 CHNA HOLDINGS LLC	405 FANNIN INDUSTRIAL PARK		0.68	Commercial	Map
 0045 20E	7684	 CHNA HOLDINGS LLC	101 FANNIN INDUSTRIAL PARK		2.6	Commercial	Map

The Fannin County Assessor makes every effort to produce the most accurate information available. No warranty, expressed or implied, is provided for the data herein, its use or interpretation. The assessment information is from the last certified tax roll. All other data is subject to change.

[User Privacy Policy](#) | [GDPR Privacy Notice](#)
Last Data Upload: 11/24/2023, 11:34:50 PM

Contact Us

Developed by



401

Doc ID: 002708860002 Type: WD
 Recorded: 01/05/2022 at 03:57:00 PM
 Fee Amt: \$375.00 Page 1 of 2
 Transfer Tax: \$350.00
 Fannin Co. Clerk of Superior Court
 DANA CHASTAIN Clerk of Courts
 BK 1477 PG 749-750

Return recorded document to:
 Wilson Hamilton LLC
 589 Highland Crossing
 East Ellijay, GA 30540
 File No.: E-21-1480 COMM OF

LIMITED WARRANTY DEED

STATE OF GEORGIA
 COUNTY OF Colmer

THIS INDENTURE is made December 31, 2021, between **JRJohnson Holdings, LLC** ("Grantor"), and **CHNA Holdings, LLC** ("Grantee"), (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits).

WITNESSETH THAT: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant bargain, sell and convey unto Grantee, the following described property:

All that tract or parcel of land lying and being in the 8th District, 2nd Section, Land Lot 241, Fannin County, Georgia, being Lot 4B of the Fannin County Industrial Park, containing 0.86 acre, more or less, as set forth on plat of survey by Mike L. Hampton, GRLS No. 2452, dated November 27, 1990 and recorded in Plat Book 24, Page 219, Fannin County Records, to which reference is hereby made for a more complete and accurate legal description.

For informational purposes only: Map Parcel No. 0045 20C 02

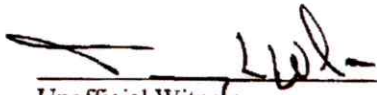
TOGETHER WITH right of ingress, egress and utility easement along existing roads to the subject property; AND SUBJECT TO all existing easements, restrictions, reservations and rights of way of record.

Chain of Title: This being the same property as was conveyed to Grantor herein by Warranty Deed from J. Robert Johnson, Jr. dated February 19, 2020 and recorded in Book 1335, Page 177, Fannin County Records.

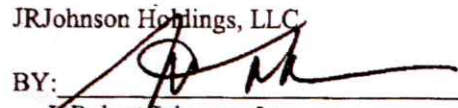
TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit, and behoof of Grantee forever in FEE SIMPLE.

AND GRANTOR will warrant and forever defend the right and title to the above described property unto Grantee against the claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year above written.




Unofficial Witness

JRJohnson Holdings, LLC
BY: 

J. Robert Johnson, Jr.
Sole Member

Sworn and subscribed before me this 31 day
of Dec, 20 21.



Notary Public
My commission expires 7/15/24



405



Doc ID: 002614150002 Type: WD
Recorded: 05/06/2021 at 04:06:00 PM
Fee Amt: \$215.00 Page 1 of 2
Transfer Tax: \$190.00
Fannin Co. Clerk of Superior Court
DANA CHASTAIN Clerk of Courts
BK 1425 PG 457-458

Return recorded document to:
Wilson Hamilton LLC
316 Summit Street
Blue Ridge, GA 30513
File No.: 21-0098-CD COMM

LIMITED WARRANTY DEED

STATE OF GEORGIA
COUNTY OF FANNIN

THIS INDENTURE is made May 6, 2021, between **A & S Clothing, Inc.** ("Grantor"), and **CHNA Holdings, LLC** ("Grantee"), (the words "Grantor" and "Grantee" to include their respective heirs, successors, and assigns where the context requires or permits).

WITNESSETH THAT: Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant bargain, sell and convey unto Grantee, the following described property:

All that tract or parcel of land lying and being in the 8th District, 2nd Section, Land Lot 241, Fannin County, Georgia, being 0.68 acres, more or less, as set forth on plat of survey by Bruce W. Hamilton, GRLs No. 2951, dated March 11, 2021 and recorded in Plat Book F267, Page 1, Fannin County Records, to which reference is hereby made for a more complete and accurate legal description.

For informational purposes only: Map Parcel No. 0045 20C 01


TOGETHER WITH right of ingress, egress and utility easement along existing roads to the subject property; AND SUBJECT TO all existing easements, restrictions, reservations and rights of way of record.

Chain of Title: This being the same property as was conveyed to Grantor herein by Warranty Deed from The Fannin County Industrial Development Authority dated May 8, 1992 and recorded in Deed Book 184, Page 739, Fannin County Records.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit, and behoof of Grantee forever in FEE SIMPLE.

AND GRANTOR will warrant and forever defend the right and title to the above described property unto Grantee against the claims of all persons claiming by, through or under Grantor, but against none other.

IN WITNESS WHEREOF, Grantor has signed and sealed this deed, the day and year above written.

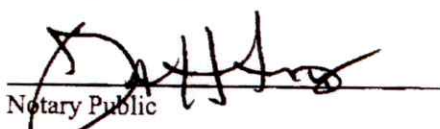


Unofficial Witness


A & S Clothing, Inc.

BY: 

Abdul Adam
CEO



Notary Public

Attest: 

Salma Adam
Secretary



101



Doc ID: 002797230002 Type: WD
Recorded: 09/13/2022 at 03:12:00 PM
Fee Amt: \$485.00 Page 1 of 2
Transfer Tax: \$460.00
Fannin Co. Clerk of Superior Court
DANA CHASTAIN Clerk of Courts
BK 1524 PG 768-769

Map Parcel Number: 0045 20 E

Angela Stewart DeLorme, P.C.
Attorneys at Law
P.O. Box 1549
Blue Ridge, GA 30513

31,626
STATE OF GEORGIA,
COUNTY OF FANNIN.

LIMITED WARRANTY DEED

THIS INDENTURE, made this 8th day of September, in the Year of Our Lord Two Thousand Twenty-Two, between **HAIGHT HOUSE, LLC**, a Georgia limited liability company, of the first part, and **CHNA HOLDINGS, LLC**, a Georgia limited liability company, of the second part;

WITNESSETH: That the said party of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and conveyed, and by these presents does grant, bargain, sell, and convey unto the said party of the second part, the following described property:

All that tract or parcel of land lying and being in Land Lot 241 of the 8th District and 2nd Section of Fannin County, Georgia, containing 2.56 acres, as shown on a plat of survey dated November 20, 2019, prepared for Haight House, LLC by Chastain & Associates, P.C., Timothy D. Kyle, G.R.L.S. No. 3330, and recorded in Plat Book F-162, Page 7, office of the Clerk of Superior Court of Fannin County, Georgia. Reference is hereby made to said recorded plat of survey for the purpose of incorporating same herein and for a more complete metes and bounds description of the property herein described.

The above described property is conveyed subject to any and all easements, restrictions and rights-of-way as may appear of record.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoof of the said party of the second part, its heirs and assigns, forever, in Fee Simple.

AND THE SAID party of the first part, for its successors and/or assigns, executors and administrators, will warranty and forever defend the right and title to the above described property, unto the said party of the second part, against the claims of all persons owning, holding or claiming by, through or under the said party of the first part.

IN WITNESS WHEREOF, the said party of the first part has hereunto set its hand and affixed its seal, the day and year above written.

Signed, sealed and delivered
in the presence of:

Haight Holdings, LLC:

Kimberly Miller
Witness

Rhonda Haight (Seal)
By: Rhonda Haight f/k/a
Rhonda Thomas, Sole Member

Angela Stewart DeLorme
Notary Public
My Commission Expires:



Fannin County, GA

Summary

Parcel Number 0045 20C02
Account/Realkey 16066
Location Address 401 FANNIN INDUSTRIAL PARK
Legal Description 8-2 LL241 LOT 4B DB1477-749* 0.86 AC
 (Note: Not to be used on legal documents)
Class C3-Commercial
 (Note: This is for tax purposes only. Not to be used for zoning.)
Tax District BLUE RIDGE (District 02)
Millage Rate 19.035
Acres 0.86
Neighborhood Industrial (G1000)
Account Number 16066
Homestead Exemption No (S0)
Landlot/District 241 / 08

[View Map](#)

Owner

CHNA HOLDINGS LLC
 421 GREYFIELD DRIVE
 CANTON, GA 30115

Land

Type	Description	Calculation Method	Square Footage	Frontage	Depth	Acres	Lots
Commercial	Comm-Fannin Ind Park	Acres	37,462	0	0	0.86	1

Commercial Improvement Information

Description Inds Light MFG-AV
Value \$302,712
Actual Year Built 1987
Effective Year Built
Square Feet 4800
Wall Height 16
Wall Frames
Exterior Wall 50%
Roof Cover
Interior Walls
Floor Construction
Floor Finish 75%
 25%
Ceiling Finish
Lighting
Heating
Number of Buildings 1

Accessory Information

Description	Year Built	Dimensions/Units	Identical Units	Value
*Comm. Paving-Asphalt	2021	0x0 / 1600	1	\$3,040
*Comm. Paving-Asphalt	2004	0x0 / 6500	1	\$6,760
*Comm-Site Imp (B)	1987	0x0 / 1	1	\$5,000

Sales

Sale Date	Deed Book / Page	Plat Book / Page	Sale Price	Reason	Grantor	Grantee
12/31/2021	1477 749	C297 219	\$350,000	Fair Market Value	JR JOHNSON HOLDINGS LLC	CHNA HOLDINGS, LLC
2/19/2020	1335 177		\$0	Pers to Corp	JOHNSON J ROBERT JR	JR JOHNSON HOLDINGS LLC
11/22/1995	236 800	24 219	\$62,800	Fair Market Value		JOHNSON J ROBERT JR

Valuation

	2023	2022	2021	2020	2019
Previous Value	\$336,788	\$200,244	\$200,244	\$200,244	\$171,014
Land Value	\$18,920	\$18,920	\$57,500	\$57,500	\$57,500
+ Improvement Value	\$302,712	\$302,712	\$142,744	\$142,744	\$142,744
+ Accessory Value	\$14,800	\$15,156	\$0	\$0	\$0
= Current Value	\$336,432	\$336,788	\$200,244	\$200,244	\$200,244

Fannin County, GA

Summary

Parcel Number 0045 20E
Account/Realkey 7684
Location Address 101 FANNIN INDUSTRIAL PARK
Legal Description 8-2 LL241 DB1524-768* 2.60 ACS
 (Note: Not to be used on legal documents)
Class C3-Commercial
 (Note: This is for tax purposes only. Not to be used for zoning.)
Tax District BLUE RIDGE (District 02)
Millage Rate 19.035
Acres 2.6
Neighborhood Comm-Warehouse (G0009)
Account Number 7684
Homestead Exemption No (50)
Landlot/District 241 / 08

[View Map](#)

Owner

CHNA HOLDINGS LLC
 421 GREYFIELD DR
 CANTON, GA 30115

Land

Type	Description	Calculation Method	Square Footage	Frontage	Depth	Acres	Lots
Commercial	Comm-Fannin Ind Park	Acres	113,256	0	0	2.6	1

Commercial Improvement Information

Description Warehouse-Storage-AV
Value \$272,625
Actual Year Built 1989
Effective Year Built
Square Feet 9736
Wall Height 12
Wall Frames
Exterior Wall
Roof Cover
Interior Walls
Floor Construction
Floor Finish
Ceiling Finish
Lighting
Heating 10%
Number of Buildings 1

Accessory Information

Description	Year Built	Dimensions/Units	Identical Units	Value
*Comm. Paving-Asphalt	2021	0x0 / 15300	1	\$29,070
*Pavillion	2018	10x12 / 0	1	\$1,858
*Comm-Site Imp (B)	1989	0x0 / 1	1	\$5,000

Sales

Sale Date	Deed Book / Page	Plat Book / Page	Sale Price	Reason	Grantor	Grantee
9/13/2022	1524 768	F162 7	\$460,000	Corporation to Corporation	HAIGHT HOUSE LLC	CHNA HOLDINGS LLC
2/26/2020	1335 363*	F162 7	\$0	Deed of Correction	ANGELA STEWART DeLORME ATTORNEY	HAIGHT HOUSE LLC
12/28/2019	1326 667*	F162 7	\$0	Executive Deed	HAIGHT DAVID H JR ESTATE	HAIGHT HOUSE LLC
6/8/1995	228 363	A200 4	\$120,000	Fair Market Value		HAIGHT DAVID H
1/3/1995	223 224*	22 106	\$0	Foreclosure		HOME BANK OF TENNESS
12/11/1989	154 739	22 105	\$0	Change		DEVAN HOUSE INC

401

Printed: 11/28/2023 17:20:30 PM



Official Tax Receipt
Fannin County, GA
400 West Main Street, Suite 103
Blue Ridge, 30513
--Online Receipt--

Phone: 706-632-2645

Trans No	Map Code	Property ID & District Description	Original Due	Interest & Penalty	Amount Due	Amount Paid	Transaction Balance
2023-005502	0045 20C 02	8-2 LL241 LOT 4B DB1477-749*	\$1,372.11	\$0.00 Fees: \$0.00	\$0.00	\$1,372.11	\$0.00
Totals:			\$1,372.11	\$0.00	\$0.00	\$1,372.11	\$0.00

Paid Date: 10/16/2023

Charge Amount: \$1,372.11

CHNA HOLDINGS LLC
421 GREYFIELD DRIVE
CANTON, GA 30115



Scan this code with your mobile phone to view this bill

101

Printed: 11/28/2023 17:18:35 PM



Official Tax Receipt
Fannin County, GA
400 West Main Street, Suite 103
Blue Ridge, 30513
--Online Receipt--

Phone: 706-632-2645

Trans No	Map Code	Property ID & District Description	Original Due	Interest & Penalty	Amount Due	Amount Paid	Transaction Balance
2023-005503	0045 20E	8-2 LL241 DB1524-768* 2.60 ACS	\$1,491.68	\$0.00 Fees: \$0.00	\$0.00	\$1,491.68	\$0.00
Totals:			\$1,491.68	\$0.00	\$0.00	\$1,491.68	\$0.00

Paid Date: 10/16/2023

Charge Amount: \$1,491.68

CHNA HOLDINGS LLC
421 GREYFIELD DR
CANTON, GA 30115



Scan this code with your mobile phone to view this bill

Fannin County, GA - Property Tax

405

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[Overview & Pay](#)

[Change Address](#)

[View Receipt](#)

[E-ALERTS](#)

[Print Receipt](#)

[Print Bill](#)

[Email Bill](#)

Printed: 11/28/2023 17:16:31 PM



Official Tax Receipt
Fannin County, GA
400 West Main Street, Suite 103
Blue Ridge, 30513
--Online Receipt--

Phone: 706-632-2645

Trans No	Map Code	Property ID & District Description	Original Due	Interest & Penalty	Amount Due	Amount Paid	Transaction Balance
2023-005504	0045 20C 01	8-2 LL241 DB1425-457* 0.68	\$1,463.88	\$0.00 Fees: \$0.00	\$0.00	\$1,463.88	\$0.00
Totals:			\$1,463.88	\$0.00	\$0.00	\$1,463.88	\$0.00

Paid Date: 10/16/2023

Charge Amount: \$1,463.88

CHNA HOLDINGS LLC
421 GREYFIELD DR
CANTON, GA 30115



Scan this code with your mobile phone to view this bill

Translate

Fannin County, GA

Tax Commissioner
Rita Newton

CITY OF BLUE RIDGE
CASH RECEIPT

Receipt No: 427353
Date: 11/30/2023
Time: 1:51:56PM

Received From: 20328
CHNA HOLDINGS LLC

001119:	552.56
Total received:	<u>552.56</u>

For:
TAXPAY TAX PAYMENT 552.56
Balance due: 0.00

Received By: CM

CITY OF BLUE RIDGE
CASH RECEIPT

Receipt No: 427354
Date: 11/30/2023
Time: 1:52:15PM

Received From: 20329
CHNA HOLDINGS LLC

001119:	589.51
Total received:	<u>589.51</u>

For:
TAXPAY TAX PAYMENT 589.51
Balance due: 0.00

Received By: CM

CITY OF BLUE RIDGE
CASH RECEIPT

Receipt No: 427355
Date: 11/30/2023
Time: 1:52:29PM

Received From: 20329
CHNA HOLDINGS LLC

001119:	<u>600.71</u>
Total received:	600.71

For:
TAXPAY TAX PAYMENT 600.71
Balance due: 0.00

Received By: CM



CITY OF BLUE RIDGE

480 WEST FIRST STREET, BLUE RIDGE, GA
706-632-2091

PUBLIC NOTICE

NOTICE OF PROPOSED REZONING REQUEST

Notice is hereby given that the Planning Commission of the City of Blue Ridge will hold a Public Hearing on January 18, 2024, to hear the following rezoning request:

Applicant: CHNA Holdings LLC

Address: The subject property is located at 101 Fannin Industrial Park, 401 Industrial Park and 405 Industrial Park, (tax parcels 0045-20E, 0045-20C01 and 0045-20C02)

Request: Rezone from M1 to C2

The Planning Commission Hearing will be held at 6:00 pm, at Blue Ridge City Hall, 480 West First Street, Blue Ridge, Georgia 30513. All interested parties are invited to attend.

Any opponent to the request shall file a written disclosure statement concerning political contributions made to any member of the Council or Mayor of the City of Blue Ridge. This disclosure shall be filed with the City Clerk a minimum of (5) days prior to the hearing.

Any questions should be directed to the City of Blue Ridge Planning & Zoning Department, 706-632-2091.

**Amy Mintz,
City Clerk**

RESOLUTION NO. BR2024-04

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE, STATE OF GEORGIA, TO APPROVE THE AGREEMENT FOR THE DRINKING WATER SRF SERVICE LINE PROGRAM GRANT IN THE AMOUNT OF \$40,500 FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, GRANT NO. DWLSL2022023, AUTHORIZING THE MAYOR TO EXECUTE AGREEMENT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 1.12(b)(7) of the Charter of the City of Blue Ridge, Georgia (hereinafter, the "City") authorizes the City "[t]o enter into contracts and agreements with other governments and entities and with private persons, firms, and corporations;" and

WHEREAS, Section 3.22(12) of the Charter authorizes the Mayor to "[s]ign, as a matter of course, all written contracts, ordinances, and other instruments executed by the city . . .;" and

WHEREAS, the City Council finds it in the public interest and in the best interest of the City to authorize the Mayor on the City's behalf to execute and otherwise enter into the attached **AGREEMENT FOR THE DRINKING WATER SRF SERVICE LINE PROGRAM GRANT IN THE AMOUNT OF \$40,500 FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, GRANT NO. DWLSL2022023**

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Blue Ridge does hereby approve the **AGREEMENT FOR THE DRINKING WATER SRF SERVICE LINE PROGRAM GRANT IN THE AMOUNT OF \$40,500 FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, GRANT NO. DWLSL2022023** and authorizes the Mayor to execute on the City's behalf. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by _____ who moved its adoption. The motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Councilmember Angie Arp	_____
Councilmember Jack Taylor	_____
Councilmember Christy Kay	_____
Councilmember Bill Bivins	_____
Councilmember William Whaley	_____

PASSED AND ADOPTED this ___ day of February, 2024.

RHONDA HAIGHT, MAYOR

ATTEST:

AMY MINTZ
CITY CLERK

Georgia Environmental Finance Authority



Brian P. Kemp
Governor

Hunter Hill
Executive Director

January 11, 2024

Received
1/29/24

Mr. Eric Soroka
City Administrator
City of Blue Ridge
480 W First St
Blue Ridge, GA 30513

Re: City of Blue Ridge - Grant No. DWLSL2022023

Dear Mr. Soroka:

Enclosed are the grant documents for your Georgia Environmental Finance Authority (GEFA) grant that was allotted to the city of Blue Ridge. We look forward to working with you on your project. In this package you will find:

1. Two copies of the Grant Agreement
 - a. Exhibits A - F
2. Signature Card
3. Vendor Authorization Agreement for ACH Credit

Grant Agreement

Two copies of the grant agreement are enclosed. Each copy is an original counterpart and each must be executed. Have the appropriate official sign each grant agreement and the appropriate person attest the signature. Once signed, return BOTH grant agreements with the other documents to GEFA so that they may be executed. We will then return your counterpart to you.

Signature Card (blue card stock)

All draw requests must be signed by a designated official(s) of the recipient. It is the recipient's option to decide who signs and how many signatures are required. On this blue card, you may designate up to four individuals and indicate whether one or two signatures are required. Draws will not be processed without the appropriate signature(s); therefore, we suggest that more than one person be authorized to sign the draw form. The attesting signature at the bottom of the card must not be from an individual who is being given authorization to sign a drawdown request.

Authorization Agreement for ACH Credits and Debits

This form designates the financial institution, the routing number, and account number to which GEFA will transfer funds. The recipient's federal employer identification number (EIN) should be included on this form. Return the completed form with a voided check or deposit slip for account number verification.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kelvin Castro', written over a horizontal line.

Kelvin Castro
Project Manager

Enclosures:

cc: Matt Smith, P.E. / Carter & Sloope, Inc. (w/o enclosures)



DOCUMENTS AND INFORMATION NEEDED FOR GRANT EXECUTION

As part of our efforts to promptly make funds available to borrowers and to manage lending capacity efficiently, we require that each borrower execute their grant agreement by February 1, 2024. In order to execute these grant documents in a timely manner, please utilize the checklist below and follow the instructions provided therein.

- Grant Agreement. Two copies of the grant agreement are enclosed. Each copy is an original counterpart and each must be executed. Have the appropriate official sign each grant agreement and the appropriate person attest the signature. Once signed, return **both** grant agreements with the other documents to GEFA for execution. We will return your counterpart to you.

- Exhibit F – Recipient Affidavit. This affidavit verifies that the recipient is in compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation that is engaged in the physical performance of services on behalf of the **Georgia Environmental Finance Authority** has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91.

- Signature Card (blue card stock). All draw requests must be signed by a designated official(s) of the borrower. It is the borrower's option to decide who signs and how many signatures are required. On this blue card, you may designate up to four individuals and indicate whether one or two signatures are required. Draws will not be processed without the appropriate signature(s); therefore, we suggest that more than one person be authorized to sign the draw form. The attesting signature at the bottom of the card must not be from an individual who is being given authorization to sign a drawdown request.

- Authorization Agreement for ACH Credits and Debits. This form designates the financial institution, the routing number, and account number to which GEFA will transfer funds. The borrower's federal employer identification number (EIN) should be included on this form. Return the completed form with a voided check or deposit slip for account number verification.

- Project Performance Worksheet. Use the following link to enter the project-related information: <https://georgiaenvironmentalfinanceauthority.quickbase.com/db/bjnv3ccc5?a=nwr>. Read the instructions prior to completing this project performance worksheet.





Brian P. Kemp
Governor

Hunter Hill
Executive Director

Recipient Execution Checklist

Borrower Name: City of Blue Ridge

Grant Number: DWLSL2022023

For your convenience, this checklist will help you complete all pertinent documents that must be returned to GEFA for execution. Please **initial** each item below to verify the items are completed. Please return this initialed checklist with your executed grant documents by February 1, 2024.

_____ **(2) Grant Agreements**

- Both grant agreements are signed and marked with the borrower's seal

_____ **Exhibit F: Exhibit F: Recipient Affidavit**

- Signed, dated, and notarized. **This affidavit verifies the recipient's compliance with O.C.G.A 13-10-91.**
- The same people must sign all the documents.**

_____ **Signature Card**

- Completed, box checked, attested (not one of the signers), and dated

_____ **Vendor Authorization for ACH Electronic Funds Transfer**

- Completed, signed, and dated with a voided check/deposit ticket attached

_____ **Letter from Borrower's Auditor**

- GEFA project manager will provide a template.

_____ **Project Performance Worksheet**

- <https://georgiaenvironmentalfinanceauthority.quickbase.com/db/bjnv3ccc5?a=nwr>



**AGREEMENT FOR THE DRINKING WATER SRF
LEAD SERVICE LINE REPLACEMENT PROGRAM
ADMINISTERED BY GEORGIA ENVIRONMENTAL FINANCE AUTHORITY**

(a public corporation duly created and
existing under the laws of
the State of Georgia)
as GRANTOR

and

CITY OF BLUE RIDGE

(a public body corporate and politic duly created and existing
under the laws of the State of Georgia)
as Grantee

GRANT AGREEMENT

**AGREEMENT FOR THE DRINKING WATER SRF
LEAD SERVICE LINE REPLACEMENT PROGRAM
BY AND BETWEEN
THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY
AND
CITY OF BLUE RIDGE**

THIS AGREEMENT made by and between the Georgia Environmental Finance Authority, hereinafter referred to as "GEFA", and the **CITY OF BLUE RIDGE**, an eligible local government unit, hereafter referred to as "Recipient".

WHEREAS, the state of Georgia is authorized to assist Georgia's municipalities, counties and authorities with loans and grants for construction of environmental facilities projects; and

WHEREAS, said assistance is consistent with the powers and duties of GEFA as specified in O.C.G.A. §50-23-5; and

WHEREAS, certain funds are available for the purposes set forth herein; and

WHEREAS, Recipient warrants that it has the authority to expend monies for the purposes set forth herein.

NOW THEREFORE, for and in consideration of the covenants and agreements contained herein, the parties hereto agree as follows:

1. **SCOPE OF PROJECT.** GEFA agrees to grant, and Recipient accepts, funds to be used by Recipient for the purposes of the project as specified in **Exhibit A (the "Project")**, which is incorporated by reference and made a part of this Agreement. The Environmental Protection Division of the Department of Natural Resources of the State of Georgia, (hereinafter "EPD" has completed or will complete all existing statutory reviews and issue Categorical Exclusion (hereinafter "CE") approvals, as required by Section 50-23-9 of the Official Code of Georgia Annotated, for the Project that is either prepared by the Recipient or prepared by the Recipient's engineer (the "**Engineer**"). Any changes to the scope of the Project must receive prior approval from GEFA in writing.

2. **REPRESENTATIONS.** Recipient is a Local Government and hereby represents that:

(a) The Local Government is a public body corporate and politic duly created and validly existing under the laws of the State of Georgia and has all requisite power and authority to execute and deliver the Agreement and to perform its obligations there under; and

(b) The execution of this Agreement and the project for which the Grant Award will be made have been duly authorized; and

(c) The representations made in this Agreement and all exhibits hereto, including but not limited to the Application, do not contain any untrue statements and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading.

3. PROJECT BUDGET. Subject to the availability of funds for such purpose, GEFA agrees to grant, and Recipient accepts, the sum of **\$40,500** funds to be used by Recipient for the purposes as specified in **Exhibit B**, which is incorporated by reference and made a part of this Agreement. Any changes to the project budget, including amount of funds expended, must receive prior approval from GEFA in writing.

Compensation. The total compensation under this contract shall not exceed **FORTY THOUSAND FIVE HUNDRED DOLLARS AND ZERO CENTS (\$40,500)**. Said amount shall constitute full and complete compensation for the scope of services as described in **Exhibit A**.

4. METHOD OF PAYMENT. The Recipient shall submit a monthly invoice (hereinafter "Invoice") by the 15th or 30th day of each month for reimbursement of expenses incurred during the previous month, and a written report using the format described in section 3 below. Payment shall be contingent upon the statutory review and CE approval from EPD, as specified in Section 50-23-9 of the Official Code of Georgia Annotated. The Recipient shall certify in writing the accuracy of each invoice and provide a description of the work performed or services rendered. Payment shall be made upon determination by GEFA that the scope of services items contained in this agreement, including deliverables and reporting requirements, for the period have been provided and have been approved by GEFA. If approved, GEFA will make payment to Recipient within 30 days of receipt by GEFA of a complete and proper invoice. GEFA will transfer funds to the account designated by Recipient. Payments made and use of the proceeds thereof shall be limited to payment of costs of the Project set forth in the Project budget included as part of **Exhibit B**.

Each invoice shall, at a minimum, contain:

- (1) A requisition for such payment, stating the amount to be disbursed.
- (2) A certificate executed by the Authorized Recipient Representative attached to the requisition and certifying:

(A) that an obligation in the stated amount has been incurred by the Recipient and that the same is a cost of the Project and is presently due and payable or has been paid by the Recipient and is reimbursable hereunder and stating that the bill or statement of account for such obligation, or a copy thereof, is attached to the certificate;

(B) that the Recipient has no notice of any vendor's, mechanic's, or other liens or rights to liens, chattel mortgages, or conditional sales contracts that should be satisfied or discharged before such payment is made; and

(C) that each item on such requisition has not been paid or reimbursed, as the case may be, and such requisition contains items representing payment on account of any expenses incurred.

(i) Project invoices shall be reviewed (at the time each requisition is submitted) by the Recipient, and the Recipient shall certify to GEFA that all project costs or associated activities funded under the appropriation of this funding: (A) are directly connected to the identification, planning, and inventory of lead service lines (B) involve the replacement design and planning of the entire lead service line, not just a portion, unless a portion has already been replaced, and (C) the acquisition of any equipment and/or devices are purchased specifically to assist in the identification and completion of the lead service line inventory.

(3) The accompanying written Project Information Form, must contain:

(A) General Information (Recipient Name, Project Name, Proposed Total Project Costs, Total Number of Service Connections, Project Start/Completion Dates, Recipient Contact Information, and Engineering Firm Contact Information, if applicable)

(B) Detailed description on the type of work being conducted or service provided, work status, work progress, and project results of the proposed project to either identify lead service lines or develop a lead service line replacement plan.

(C) Detailed description of the type of device(s) or equipment purchased to specifically assist in the identification and completion of the lead service line inventory, to include the procurement requirements specified in Exhibit D.

(D) Readiness to Proceed (Inventory Information, State Environmental Review Process Information),

(E) Recipient Authorization and Signature Information

5. AGREEMENT TO ACQUIRE, CONSTRUCT, AND INSTALL THE PROJECT.

Recipient agrees to complete the Project as promptly as practicable and with all reasonable dispatch after the date of this Agreement. Without limiting the foregoing sentence, Recipient shall commence and complete each activity or event by the deadline stated in the Project Schedule specified in **Exhibit C**. **If the project or activity has not commenced within six (6) months of the execution date, the grant award under the appropriation of the Lead Service Line Replacement funding will be subject to forfeiture and reallocation to other community projects.**

6. ESTABLISHMENT OF COMPLETION DATE. The date of completion of the Project (the "**Completion Date**") shall be evidenced to GEFA by a certificate of completion signed by the Authorized Recipient Representative, stating that the Project was completed in accordance with the laws of the state of Georgia, the federal requirements of the Drinking Water State Revolving Fund (DWSRF) Lead Service Line Replacement Program, and the policies of GEFA as set forth in **Exhibit E**. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or that may subsequently come into being. It shall be the duty of Recipient to cause the certificate contemplated by this paragraph to be furnished as soon as the Project is completed. Any Advances and/or proceeds thereof shall not violate any applicable law, regulation, injunction, or order of any government or court.

7. COMMITMENT EXPIRATION DATE. Recipient agrees that the grant funds specified herein will expire on **FEBRUARY 1, 2025**. This expiration date is in accordance with the Environmental Protection Agency's Lead and Copper Rule Revisions (LCRR) under Executive Order 13990, which mandates the compliance deadline to complete lead service line inventories is October 16, 2024. All costs not submitted for reimbursement by the expiration date herein will automatically subject the grant award to forfeiture and be reallocated to other community projects under the appropriation of the Lead Service Line Replacement funding.

8. HOLD HARMLESS OBLIGATIONS. To the extent allowable by law, Recipient hereby agrees to the following hold harmless provisions:

(a) Recipient shall hold GEFA, its agents, and employees, harmless from and shall defend it against any and all claims resulting from or arising out of the grant, including, without limitation, damage claims for injury to persons or property.

(b) Recipient has submitted a grant application for the funds herein and expressly acknowledges that GEFA, its agents and employees, in passing through such funds, has neither assumed nor undertaken any legal duties to Recipient or others. Recipient agrees to make no claims or demands against GEFA, its agents, or employees, for any damages that may result from or arise out of the disbursement of the funds hereunder, even if such claims or demands are made against Recipient.

9. CONFLICTS OF INTEREST. Recipient hereby attests that all of the officials of Recipient have certified that they have not violated any applicable conflict of interest law under either state law (O.C.G.A. §§ 45-10-20 through 45-10-28 and 36-67A-1 through 36-67A-4) or under any local ordinance, charter, rule or regulation and that they shall comply with the same throughout the terms of this Agreement.

10. LAWS AND ORDINANCES. Recipient will comply with all applicable federal and state laws, and local ordinances, including those that govern the procurement of goods and services.

11. MONITORING AND AUDITS. Upon request, Recipient agrees to provide GEFA or State Auditor with any information GEFA deems necessary to monitor the performance of this agreement, and further agrees that these funds shall be included in the next regularly scheduled audit or financial statement and all subsequent ones until such audits or statements account for all grant funds. Recipient understands that any unresolved findings, whether based on an audit report, financial statement, or the final report, shall preclude Recipient from applying for and receiving any further grants from GEFA.

12. OPEN RECORDS AND OPEN MEETINGS. All documents collected or produced by Recipient for use by a private person, firm, or corporation pursuant to a contract or other agreement or understanding with any governmental entity are public records and are subject to disclosure by Recipient under the Georgia Open Records Act, O.C.G.A. §50-18-70 *et seq* (hereinafter "Act"). Non-compliance with the Act may constitute a criminal act. Recipient shall notify GEFA no later than 24 hours after receipt of a request under the Act. Failure to comply with the Act is a material breach of this Agreement that may result in termination for cause. Recipient also certifies that in approving this Agreement, it has complied with the requirements of O.C.G.A. § 50- 14-1 regarding Open Meetings.

13. COMPLIANCE WITH EXECUTIVE ORDERS CONCERNING ETHICS. Recipient represents that it is familiar with and complies where applicable to the Governor's Executive Orders concerning ethics matters, including the Executive Order dated April 1, 2021, and all previous ethics Executive Orders. In this regard, Recipient certifies that any lobbyist employed or retained by Recipient, or his firm has both registered and made the required disclosures required by the Executive Orders.

14. COMPLIANCE WITH THE GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT. Recipient certifies that it will comply with O.C.G.A. § 13-10- 91 relating to the verification of the status of newly hired employees as specified in **Exhibit F**, attached hereto and incorporated herein by reference.

15. RECORD RETENTION AND ACCESS. Recipient shall retain all books, records, documents, and other material relevant to this Agreement for six years from the end of the grant term following the year in which the actual grant funds were directed. GEFA or the State Auditor, through any authorized representative shall have access to and the right to examine all records, books, papers, or documents related to the Agreement.

16. ALL EXHIBITS CONTAINED HEREIN. All exhibits and attachments to this Agreement and the introductory whereas clauses are incorporated herein.

17. ENFORCEABILITY OF PROVISIONS. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

7

18. AGREEMENT ALTERATIONS AND AMENDMENTS. Any amendments, to this agreement shall not be binding unless and until said changes are in writing and signed by authorized signors of the respective parties to this agreement.

19. CONSTRUCTION OF AGREEMENT. The parties acknowledge and agree that both parties substantially participated in negotiating the provisions of the Agreement; and, therefore, the parties agree that this Agreement shall not be construed more favorably toward one party than the other party as a result of one party primarily drafting the Agreement. The Section and other headings in this Agreement are for convenience of reference only and shall not be construed, expressly or by implication, so as to affect the meaning or interpretation of any of the provisions hereof. This Section and other headings in this Agreement are for convenience of reference only and shall not affect, expressly or by implication, the meaning or interpretation of any of the provisions hereof.

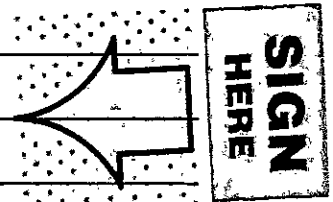
20. COUNTERPARTS. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

21. ALL WRITING CONTAINED HEREIN. This Agreement contains all terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

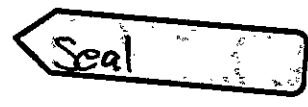
IN WITNESS WHEREOF, the parties have executed this Agreement as of this _____ day of _____ 20____.

CITY OF BLUE RIDGE

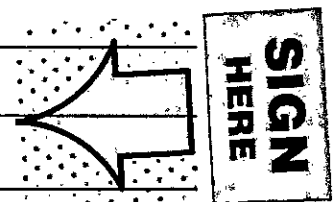
Signature: _____
Print Name: _____
Title: _____



(SEAL)



Attest Signature: _____
Print Name: _____
Title: _____



**GEORGIA ENVIRONMENTAL
FINANCE AUTHORITY**

Signature: _____
Hunter Hill
Executive Director

(SEAL)

Attest Signature: _____
Print Name: _____

DESCRIPTION OF THE PROJECT

SCOPE OF WORK

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

The city of Blue Ridge seeks to conduct an inventory to identify existing lead service lines in its drinking water system through investigation activities, such as employee interviews, acquisition of tax records or engineering site plans, predictive and statistical modeling, field investigations, and/or potholing.

DESCRIPTION OF THE PROJECT

PROJECT BUDGET

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

ITEM	TOTAL	LSLR GRANT AWARD	OTHER CONTRIBUTIONS
Engineering & Administration	\$6,750	\$6,750	-
Service Line Investigation & Potholing	6,750	6,750	-
Devices & Equipment	6,750	6,750	-
Communication & Outreach Plan	6,750	6,750	-
LSL Replacement Plan	6,750	6,750	-
Contingency	6,750	6,750	-
TOTAL	\$40,500	\$40,500	-

*This project budget is for the Lead Service Line Replacement Set-Asides Grant program. Grantee may adjust the amounts within the various budget items without prior GRANTOR approval with the exception of Devices & Equipment (which require GRANTOR approval). In no event shall the GRANTOR be liable for any amount exceeding the grant amount contained in Section 3 of the Grant Agreement.

DESCRIPTION OF THE PROJECT

PROJECT SCHEDULE

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

ACTION	DATE
Lead Service Line Inventory Project Commencement	OCTOBER 2023
Bid Opening	FEBRUARY 2024
Notice to Proceed	APRIL 2024
Lead Service Line Inventory Project Completion	OCTOBER 2024

BIDDING AND PROCUREMENT REQUIREMENTS

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

- I. Competitive procurement by public bidding is required for lead service line inventory services, materials, devices, and equipment.
- II. Recipient must advertise for bids by conspicuously posting the notice in its office and by advertising in the local newspaper that is the legal organ or on its Internet website or on an Internet site designated for its legal advertisements. The bid or proposal opportunity must be advertised in the Georgia Procurement Registry, provided that such posting is at no cost to the governmental entity.
- III. Advertisements must appear at least twice. The first advertisement must appear at least four weeks prior to the bid opening date. The second advertisement must follow at least two weeks after the first advertisement. Website advertisements must remain posted for at least four weeks. The Project must be available for inspection by the public on the first day of the advertisement. The advertisement must include details to inform the public of the extent and character of work to be performed, any pre-qualification requirements, any pre-bid conferences, and any federal requirements.
- IV. Recipient must require at least a 5 percent bid bond or certified check or cash deposit equal to 5 percent of the contract amount.
- V. Sealed bids, with a public bid opening, are required.
- VI. Recipient must award the contract to the low, responsive, and responsible bidder or bidders, with reservation of right to reject all bids.
- VII. Recipient may modify bidding documents only by written addenda with notification to all potential bidders not less than 72 hours prior to the bid opening, excluding Saturdays, Sundays, and legal holidays.
- VIII. Recipient must require 100 percent payment and performance bonds, if applicable.
- IX. Change orders may not be issued to evade the purposes of required bidding procedures. Change orders may be issued for changes consistent with the scope of the original project contract documents.

X. Prior to disbursement of project-related funds, Recipient shall provide GEFA with copies of the following:

- A. Proof of advertising;
- B. Certified detailed bid tabulation;
- C. Recipient or Engineer's award recommendation;
- D. Governing body's award resolution;
- E. Executed contract documents;
- F. Project deliverables, invoices and payment schedules; and
- G. Notice to proceed;

XI. If other funding sources are involved that have stricter bidding requirements or if applicable laws or ordinances require stricter requirements, these stricter requirements shall govern.

XII. If Recipient wishes to fund work that may not fully meet the bidding requirements of this Agreement, then, prior to bidding this work, it shall submit a written request to GEFA that specific requirements be waived. Based on specific circumstances of the request, GEFA may require submission of additional information necessary to document that State laws and local ordinances are not violated and that the intent of the bid procedures set forth in this **Exhibit D** (public, open, and competitive procurement) is satisfied through alternate means.

XIII. Recipient is required to notify GEFA at least two weeks prior to the commencement of work funded under this Agreement and to schedule meetings so that a representative from GEFA may participate.

FEDERAL REQUIREMENTS

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

1. Recipient covenants that the Project will comply with the federal requirements applicable to activities supported with federal funds. Recipient further covenants that the Project will be constructed in compliance with state of Georgia objectives for participation by women's and minority business enterprises in projects financed with federal funds under the federal Safe Drinking Water Act. Recipient will comply with all federal and state of Georgia laws, rules, and regulations relating to maintenance of a drug-free workplace at the Project.
2. Recipient covenants to comply with the requirements of the Federal Single Audit Act, to the extent it applies to the expenditure of federal funds, including the Grant or any portion thereof. Recipient agrees to submit to GEFA copies of any audit prepared and filed pursuant to the requirements of this Section.
3. It is the policy of GEFA to promote a fair share award of sub-agreements to small and minority and women's businesses on contracts performed under GEFA. If the successful bidder plans to subcontract a portion of the Project, the bidder must submit to GEFA, with copy to Recipient within 10 days after bid opening, evidence of the positive steps taken to utilize small, minority, and women's businesses. Such positive efforts shall include:
 - a) including qualified small and minority and women's businesses on solicitation lists;
 - b) assuring that small and minority and women's businesses are solicited whenever they are potential sources;
 - c) dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation of small and minority and women's businesses;
 - d) establishing delivery schedules, where the requirements of the work permit, to encourage participation by small and minority and women's businesses;
 - e) using the services and assistance of the U.S. Small Business Administration and the Office of Minority Business Enterprise of the U.S. Department of Commerce;
 - f) requiring each party to a subagreement to take the affirmative steps outlined in paragraphs (a) through (e) of this section.

4. Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier transactions. Recipient acknowledges that failure to disclose the information as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epis.gov. This term and condition supersedes EPA Form 5700-49. "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

5. Recipient shall insert in full in any contract in excess of \$2,000 which is entered into for actual construction, alteration and/or repair, including painting and decorating, financed in whole or in part from Federal funds and which is subject to the requirements of the Davis-Bacon Act, the document entitled "Supplemental General Conditions for Federally Assisted State Revolving Grant Fund Construction Contracts."
6. Recipient certifies to the best of its knowledge and belief that: No Federal appropriated funds have been paid in full or will be paid, by or on behalf of the Recipient, to any person 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 any of the following covered Federal actions: 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.

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 or a Member of Congress in connection with this grant agreement, then Recipient shall fully disclose same to GEFA, and shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with instructions.

7. Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Recipient will comply with all sections of Executive Order 11246 – Equal Employment Opportunity.

8. Recipient will not discriminate against any employee or applicant for employment because of a disability. Recipient will comply with section 504 of the Rehabilitation Act of 1973.
9. Reserved.
10. Recipient will comply with all federal requirements outlined in the Water Resources Reform and Development Act of 2014 and related Drinking Water State Revolving Fund Policy Guidelines, which the Recipient understands includes, among other requirements, that all of the iron and steel products used in the Project (as described in Exhibit A) are to be produced in the United States ("American Iron and Steel Requirement" – section 608 and/or "Build America Buy America Requirement") unless (i) the Recipient has requested from GEFA and obtained a waiver from the Environmental Protection Agency pertaining to the Project or (ii) GEFA has otherwise advised Recipient in writing that the American Iron and Steel Requirement or Build America Buy America Requirement is not applicable to the Project.
11. Recipient will comply with all federal requirements outlined in the Water Resources Reform and Development Act of 2014 and related Drinking Water State Revolving Fund Policy Guidelines, which Recipient understands includes, among other requirements, the development of a Fiscal Sustainability Plan (FSP) for the Project. Recipient has either certified that the FSP has been developed and is being implemented for the portion of the treatment works in the Project or Recipient has certified that an FSP will be developed and implemented for the portion of the treatment works in Project prior to the final disbursement of funds unless GEFA has otherwise advised the Recipient in writing that the development and implementation of an FSP is not applicable to the Project.
12. Recipient will comply with all record keeping and reporting requirements under the Safe Drinking Water Act, including any reports required by the Environmental Protection Agency or GEFA such as performance indicators of program deliverables, information on costs and project progress. Recipient understands that (i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities and (ii) failure to comply with the Safe Drinking Water Act and this Agreement may be a default hereunder that results in a repayment of the Grant in advance and/or other remedial actions.
13. Recipient shall insert in full in any contract which is entered into for construction, alteration, maintenance, or repair of a public water system or treatment works, financed in whole or in part from Federal funds, the document entitled "American Iron and Steel Special Conditions and Information for Federally Assisted State Revolving Loan Fund Construction Contracts."

14. Recipient will comply with the requirements and obligations of Title VI of the Civil Rights Act in accordance with 40 CFR Part 5 and 7. Among the requirements, Recipients must have a nondiscrimination notice, operate programs or activities that are accessible to individuals with disabilities, designate a civil rights coordinator, have a language access services policy, and maintain demographic data on the race, color, national origin, sex, age, or handicap of the population it serves.
15. As required by 40 CFR Part 33.501(b), the Environmental Protection Agency (EPA) Disadvantaged Business Enterprise Rule requires State Revolving Loan recipients to create and maintain a bidders list. The purpose of a bidders list is to provide the Recipient who conducts competitive bidding with a more accurate database of the universe of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) and non-MBE/WBE prime and subcontractors. The list must include all firms that bid on EPA-assisted projects, including both MBE/WBEs and non-MBE/WBEs. The bidders list must be kept active until the project period for the grant has ended.

The bidders list must contain the following information from all prime contractors and subcontractors:

- 1) Bidder's name with point of contact;
- 2) Bidder's mailing address, telephone number, and email address;
- 3) The procurement item on which the bidder bid or quoted, and when
- 4) Bidder's status as an MBE/WBE or non-MBE/WBE.

Recipients receiving a combined total of \$250,000 or less in federal funding in any one fiscal year, are exempt from the requirements to maintain a bidders list.

16. Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (APR 2014);
 - 1) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
 - 2) Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
 - 3) Recipient shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

RECIPIENT AFFIDAVIT

Recipient: CITY OF BLUE RIDGE

Grant Number: DWLSL2022023

By executing this affidavit, the undersigned Recipient verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation that is engaged in the physical performance of services on behalf of the **Georgia Environmental Finance Authority** has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned Recipient will continue to use the federal work authorization program throughout the contract period and the undersigned Recipient will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Recipient hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification Number (E-Verify Number)

Date of Authorization

Name of Recipient

Name of Project

Name of Public Employer

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

Executed on _____, ____, 202__, in ____ (city), _____(state).

date

Signature of Authorized Officer or Agent



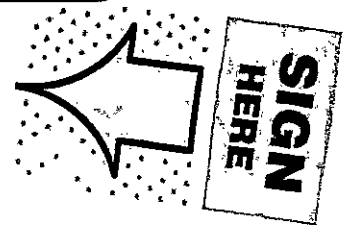
Printed Name and Title of Authorized Officer or Agent

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

date

NOTARY PUBLIC

My Commission Expires:_____



RESOLUTION NO. BR2024-05

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE,
STATE OF GEORGIA, TO ENTER INTO A LOAN AGREEMENT NO. GF2023011
WITH THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY IN AN AMOUNT
NOT TO EXCEED \$2,000,000**

WHEREAS, the governing body of the City of Blue Ridge, Georgia (the "Borrower") has determined to borrow an amount not to exceed **\$2,000,000** from the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender") to finance a portion of the costs of acquiring, constructing, and installing the environmental facilities described in Exhibit A to the hereinafter defined Loan Agreement (the "Project"), pursuant to the terms of a Loan Agreement (the "Loan Agreement") between the Borrower and the Lender, the form of which has been presented at this meeting; and

WHEREAS, the Borrower's obligation to repay the loan made pursuant to the Loan Agreement will be evidenced by a Promissory Note (the "Note") of the Borrower, the form of which has been presented at this meeting.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borrower that the forms, terms, and conditions and the execution, delivery, and performance of the Loan Agreement and the Note are hereby approved and authorized.

BE IT FURTHER RESOLVED by the governing body of the Borrower that the terms of the Loan Agreement and the Note (including the interest rate provisions, which shall be as provided in the Note) are in the best interests of the Borrower for the financing of the Project, and the governing body of the Borrower designates and authorizes the following persons to execute and deliver, and to attest, respectively, the Loan Agreement, the Note, and any related documents necessary to the consummation of the transactions contemplated by the Loan Agreement.

Rhonda Haight

Mayor

Amy Mintz

City Clerk

ADOPTED this ____ day of _____, 2024.

MAYOR AND CITY COUNCIL OF BLUE RIDGE

Mayor, City of Blue Ridge

Clerk, City of Blue Ridge

Georgia Environmental Finance Authority



Brian P. Kemp
Governor

Hunter Hill
Executive Director

January 29, 2024

Mr. Eric Soroka
City Administrator
City of Blue Ridge
480 West First Street
Blue Ridge, GA 30513

Re: City of Blue Ridge – Loan No. GF2023011

Dear Mr. Soroka:

The board of directors of the Georgia Environmental Finance Authority (GEFA) approved your loan application for a Georgia Fund loan in the amount of \$2,000,000 on January 29, 2024. GEFA looks forward to working with you on this loan. Enclosed is a checklist to assist you in executing the loan agreement.

Carefully read the loan agreement, promissory note and all related documents before completing, signing and returning them. We are happy to answer questions that you may have. Based on the questions we most commonly receive we've prepared the following list of important terms for your convenience.


1. Origination Fee. The origination fee is payable in one payment of \$30,000 by the 15th day of the second month following the date that GEFA executes the loan agreement. An electronic bill will be sent prior to the payment being debited from the bank account indicated on the ACH debit agreement.
2. Loan Continuation Fee. Section 4(c) of the loan agreement states that in the event the Borrower fails to draw funds within six months of loan agreement execution, GEFA will assess a Loan Continuation Fee as published in the Lender Fee Schedule, which is available on GEFA's website. The Loan Continuation Fee will be assessed every month thereafter until the Borrower makes an initial draw of funds from the loan for the project or reverts the loan commitment.
3. Construction Interest. Interest accrued on funds drawn during construction will be billed and collected monthly during construction by use of electronic debit transactions. Construction interest will be charged and collected monthly only on the outstanding balance of funds disbursed to date.
4. Amortization Schedule. The monthly installment amount is not provided within the loan documents because the Borrower may drawdown less than the entire loan amount. As a courtesy to our customers, GEFA provides an estimated installment amount based on information provided within the loan documents. If the full amount of funds indicated in the loan documents is disbursed to the project and all requirements for this project are met, the installment amount will be approximately \$9,256.97 per month throughout the life of repayment.



5. Future Audits and Financial Compliance. Within six months after the end of each fiscal year, the Borrower will deliver to GEFA a copy of the Borrower's financial statements as required under the state audit requirements (O.C.G.A. Section 36-81-7) and a compliance certificate stating the Borrower is meeting the 1.05 times debt service coverage ratio, as detailed in the Loan Agreement.

If you have any questions, please contact me at 404-584-1039 or jcherry@gefa.ga.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cherry". The signature is fluid and cursive, with a large loop at the end of the last name.

Jamelle Cherry
Project Manager

Enclosures

cc: Matt Smith / Carter & Sloope, Inc (w/o enclosures)



DOCUMENTS AND INFORMATION NEEDED FOR LOAN EXECUTION

As part of our efforts to promptly make funds available to borrowers and to manage lending capacity efficiently, we require that each borrower execute their loan agreement within six months of approval by the board of directors of the Georgia Environmental Finance Authority (GEFA). In order to execute these loan documents in a timely manner, please utilize the checklist below and follow the instructions provided therein.

- Loan Agreement. Two copies of the loan agreement are enclosed. Each copy is an original counterpart and each must be executed. **Do not** fill in the date on page one of the loan agreement. Have the appropriate official sign each loan agreement and the appropriate person attest the signature. Once signed, return **both** loan agreements with the other documents to GEFA for execution. We will return your counterpart to you. **Do not sign the "specimen" promissory note in Exhibit B of the loan agreement.**
- Exhibit E – Opinion of Borrower’s Attorney. Exhibit E is a sample letter that must be prepared by the borrower’s attorney on the attorney’s letterhead. This letter ensures that the documents have been properly reviewed. On the signature page of the loan agreement (page 14) and the signature page of the promissory note, the borrower’s attorney must also sign on both documents where indicated “Approved as to form.”
- Exhibit F – Resolution of Governing Body. This resolution must be passed at a meeting of the borrower’s governing body. It authorizes one chief elected official of the borrower to sign and another official of the borrower to attest both copies of the loan agreement, the promissory note, and any related documents necessary to execute the loan agreement.
- Promissory Note (blue paper backing). The note, as now drafted, assumes that all dates and dollar amounts found in Exhibit A are correct. The promissory note must be signed, dated, and returned to GEFA prior to a draw being approved. A specimen of this note is located in Exhibit B of the loan agreement. **Do not** sign the specimen note found in Exhibit B.
- Signature Card (blue card stock). All draw requests must be signed by a designated official(s) of the borrower. It is the borrower’s option to decide who signs and how many signatures are required. On this blue card, you may designate up to four individuals and indicate whether one or two signatures are required. Draws will not be processed without the appropriate signature(s); therefore, we suggest that more than one person be authorized to sign the draw form. The attesting signature at the bottom of the card must **not** be from an individual who is being given authorization to sign a drawdown request.



- Authorization Agreement for ACH Credits and Debits. This form designates the financial institution, the routing number, and account number to which GEFA will transfer funds. This form also provides GEFA the information needed to initiate the electronic debit transactions for the origination fee and other fees that may be charged from time to time in accordance with the loan agreement. The borrower's federal employer identification number (EIN) should be included on this form. Return the completed form with a voided check or deposit slip for account number verification.

- 8038-G and Tax Certificate. Complete, sign and attest as required the 8038-G form for Tax-Exempt Governmental Obligations and tax certificate. Refer to the enclosed sheet for further instructions concerning the completion of these forms.

- Accountant's Letter. Your accountant should complete the enclosed form of the accountant's letter. This letter should cover: (1) all completed annual audits and (2) the period starting immediately after the last annual audit through the most recent interim operating statements. A copy is also available on GEFA's website at:
http://gefa.georgia.gov/sites/gefa.georgia.gov/files/related_files/document/Accountants-Letter.pdf

- Project Performance Worksheet. Use the following link to enter the project-related information: <https://georgiaenvironmentalfinanceauthority.quickbase.com/db/bjnv3ccc5?a=nwr>. Read the instructions prior to completing this project performance worksheet.



Brian P. Kemp
Governor

Hunter Hill
Executive Director

Recipient Execution Checklist

Borrower Name: CITY OF BLUE RIDGE

Loan Number: GF2023011

For your convenience, this checklist will help you complete all pertinent documents that must be returned to GEFA for execution. Please **initial** each item below to verify the items are completed. Please return this initialed checklist with your executed loan documents by JULY 29, 2024, the contract execution expiration date as outlined in item (13)(d) of the loan agreement.

 (2) Loan Agreements

Both loan agreements are signed and marked with the borrower's seal

 Exhibit E: Opinion of Borrower's Counsel

Signed, dated, and on the attorney's letterhead

 Exhibit F: Resolution of Governing Body

Signed, dated, and marked with the borrower's seal. **This resolution authorizes the signer and attestor. The same people must sign all the documents.**

 Promissory Note

Signed, dated, and marked with the borrower's seal

 IRS 8038-G Form

Sections #3a, #3b, #10a, and #10b are completed
 Signed and dated by the mayor, chairman, sole commissioner, or director

 Tax Certificate

Signed, dated, and marked with the borrower's seal

 Signature Card

Completed, box checked, attested (not one of the signers), and dated

 Vendor Authorization for ACH Electronic Funds Transfer

Completed, signed, and dated with a voided check/deposit ticket attached

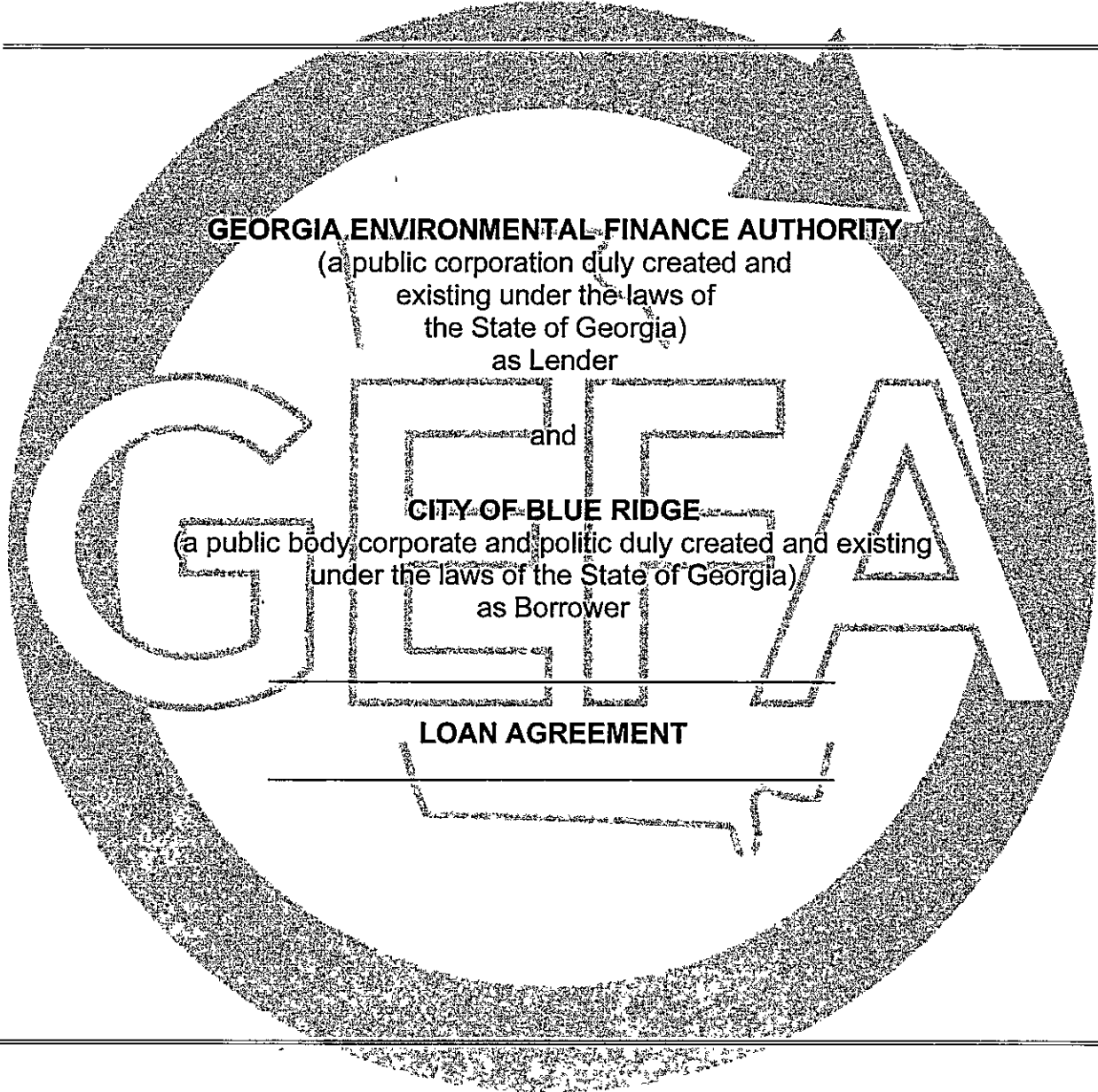
 Letter from Borrower's Auditor

GEFA project manager will provide a template.

 Project Performance Worksheet

<https://georgiaenvironmentalfinanceauthority.quickbase.com/db/bjnv3ccc5?a=nwr>





GEORGIA ENVIRONMENTAL FINANCE AUTHORITY

(a public corporation duly created and existing under the laws of the State of Georgia)
as Lender

and

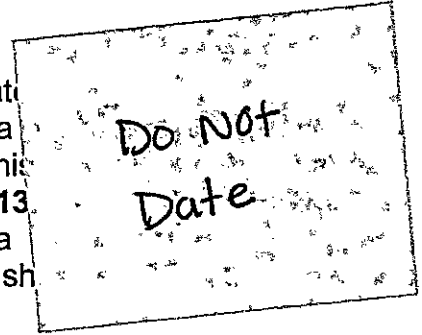
CITY OF BLUE RIDGE

(a public body corporate and politic duly created and existing under the laws of the State of Georgia)
as Borrower

LOAN AGREEMENT

LOAN AGREEMENT

This **LOAN AGREEMENT** (this "**Agreement**") dated 20____, by and between **CITY OF BLUE RIDGE**, a Georgia political entity (the "**Borrower**"), whose address for purposes of this Agreement is **WEST FIRST STREET, BLUE RIDGE, GA, 30513**, and **ENVIRONMENTAL FINANCE AUTHORITY**, a Georgia political entity (the "**Lender**"), whose address for purposes of this Agreement shall be **Fifth Floor, Atlanta, GA 30334**.



1. **Background** - The Lender desires to loan to the Borrower **TWO MILLION DOLLARS AND ZERO CENTS (\$2,000,000)** from the **GEORGIA FUND** (the "**Fund**") to finance the costs of acquiring, constructing, and installing the environmental facilities described in Exhibit A attached hereto (the "**Project**"). The Environmental Protection Division ("**EPD**") of the Department of Natural Resources of the State of Georgia has completed all existing statutory reviews and approvals with respect to the Project, as required by Section 50-23-9 of the Official Code of Georgia Annotated, and has approved or will approve the detailed plans and specifications (the "**Plans and Specifications**") for the Project prepared or to be prepared by the Borrower's engineer (the "**Engineer**"), which may be amended from time to time by the Borrower but subject to the approval of the EPD.

2. **Loan** - Subject to the terms and conditions of this Agreement, the Lender agrees to make the following loan or loans (collectively, the "**Loan**") available to the Borrower:

(a) The Lender agrees to advance to the Borrower, on or prior to the earlier of (1) the Completion Date (as hereinafter defined), (2) **JULY 1, 2025**, or (3) the date that the loan evidenced by this Note is fully disbursed, the Loan in a principal amount of up to **\$2,000,000** which Loan may be disbursed in one or more advances but each such disbursement shall reduce the Lender's loan commitment hereunder and any sums advanced hereunder may not be repaid and then re-borrowed.

(b) The Lender's commitment in paragraph (a) above to make advances to the Borrower shall be a limited obligation of the Lender, to be funded solely from available moneys in the Fund and from no other source of funds, including other funds of the Lender.

(c) The Borrower's obligation to pay the Lender the principal of and interest on the Loan shall be evidenced by the records of the Lender and by the Note described below.

3. **Note** - The Loan shall be evidenced by the Promissory Note, dated this date, executed by the Borrower in favor of the Lender in an original stated principal amount equal to the maximum amount of the Loan as described above (the "**Note**," which term shall include any extensions, renewals, modifications, or replacements thereof). The Note shall be in substantially the form attached to this Agreement as Exhibit B.

4. Interest, Fees, and Other Charges - In consideration of the Loan, the Borrower shall pay the Lender the following interest, fees, and other charges:

(a) The Loan shall bear interest at the rate or rates per annum specified in the Note and such interest shall be calculated in the manner specified in the Note.

(b) The Borrower agrees to pay all reasonable out-of-pocket costs and expenses of the Lender incurred in connection with its negotiation, structuring, documenting, and closing the Loan, including, without limitation, the reasonable fees and disbursements of counsel for the Lender. The Borrower agrees to pay all reasonable out-of-pocket costs and expenses of the Lender incurred in connection with its administration or modification of, or in connection with the preservation of its rights under, enforcement of, or any refinancing, renegotiation, restructuring, or termination of, any Credit Document (as hereinafter defined) or any instruments referred to therein or any amendment, waiver, or consent relating thereto, including, without limitation, the reasonable fees and disbursements of counsel for the Lender. Such additional loan payments shall be billed to the Borrower by the Lender from time to time, together with a statement certifying that the amount billed has been incurred or paid by the Lender for one or more of the above items. Amounts so billed shall be paid by the Borrower within thirty (30) days after receipt of the bill by the Borrower.

(c) In the event the Borrower fails to request any advances under the Loan within six (6) months after the dated date of this Agreement, the Borrower shall pay the Lender a fee equal to the Lender's Loan Continuation Fee, as published from time to time in the Lender's fee schedules, if the Lender requests the Borrower to pay such fee in writing within twelve (12) months after the dated date of this Agreement, such fee to be payable within fifteen (15) days of such written request.

(d) The Borrower shall pay the Lender an origination fee for the loan in the amount of one and 50/100 percent (1.50%) of the maximum amount of the Loan, payable on the dates specified by the Lender on not less than thirty (30) days written advance notice.

5. Prepayment - The Loan shall be prepayable in accordance with the terms and conditions of the Note.

6. Authorized Borrower Representative and Successors - The Borrower shall designate a person to act on behalf of the Borrower under this Agreement (the "**Authorized Borrower Representative**") by written certificate furnished to the Lender, containing the specimen signature of such person and signed on behalf of the Borrower by its chief executive officer. Such certificate or any subsequent or supplemental certificate so executed may designate an alternate or alternates. In the event that any person so designated and his alternate or alternates, if any, should become unavailable or unable to take any action or make any certificate provided for or required in this Agreement, a successor shall be appointed in the same manner.

7. Conditions to the Loan - At the time of the making of each advance under the Loan by the Lender to the Borrower under this Agreement (each an "**Advance**"), the following conditions shall have been fulfilled to the Lender's satisfaction:

(a) This Agreement and the Note shall have been duly executed and delivered by all required parties thereto and in form and substance satisfactory to the Lender, and the Lender shall have received (1) a signed opinion of counsel to the Borrower, substantially in the form of Exhibit E attached hereto, and (2) a certified copy of the resolution adopted by the Borrower's governing body, substantially in the form of Exhibit F attached hereto.

(b) There shall then exist no Event of Default under this Agreement (or other event that, with the giving of notice or passage of time, or both, would constitute such an Event of Default).

(c) All representations and warranties by the Borrower in this Agreement and the Note (collectively the "**Credit Documents**") shall be true and correct in all material respects with the same effect as if such representations and warranties had been made on and as of the date of such advance.

(d) Since the date of the most recent annual financial statements of the Borrower delivered to the Lender, there shall have been no material adverse change in the financial condition, assets, management, control, operations, or prospects of the Borrower.

(e) The Advance to be made and the use of the proceeds thereof shall not violate any applicable law, regulation, injunction, or order of any government or court.

(f) The Borrower shall submit requests for Advances not more frequently than monthly and at least 21 days before the requested disbursement date.

(g) The Advance to be made and the use of the proceeds thereof shall be limited to payment of costs of the Project set forth in the Project budget included as part of Exhibit A and contemplated by the Plans and Specifications approved by the EPD.

(h) There shall be filed with the Lender:

(1) A requisition for such Advance, stating the amount to be disbursed.

(2) A certificate executed by the Authorized Borrower Representative attached to the requisition and certifying:

(A) that an obligation in the stated amount has been incurred by the Borrower and that the same is a cost of the Project and is presently due and payable or has been paid by the Borrower and is reimbursable hereunder and stating that the bill or statement of account for such obligation, or a copy thereof, is attached to the certificate;

(B) that the Borrower has no notice of any vendor's, mechanic's, or other liens or rights to liens, chattel mortgages, or conditional sales contracts that should be satisfied or discharged before such payment is made; and

(C) that each item on such requisition has not been paid or reimbursed, as the case may be, and such requisition contains no item representing payment on account of any retained percentages that the Borrower is, at the date of any such certificate, entitled to retain or payment for labor performed by employees of the Borrower.

(i) The completed construction on the Project shall be reviewed (at the time each requisition is submitted) by the Engineer, and the Engineer shall certify to the Lender as to (A) the cost of completed construction, (B) the percentage of completion, and (C) compliance with the Plans and Specifications.

8. Representations and Warranties - The Borrower hereby represents and warrants to the Lender:

(a) Creation and Authority. The Borrower is a public body corporate and politic duly created and validly existing under the laws of the State of Georgia and has all requisite power and authority to execute and deliver the Credit Documents and to perform its obligations thereunder.

(b) Pending Litigation. Except as disclosed in writing to the Lender, there are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Borrower, after making due inquiry with respect thereto, threatened against or affecting the Borrower in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the properties, activities, prospects, profits, operations, or condition (financial or otherwise) of the Borrower, or the ability of the Borrower to perform its obligations under the Credit Documents, or the transactions contemplated by the Credit Documents or which, in any way, would adversely affect the validity or enforceability of the Credit Documents or any agreement or instrument to which the Borrower is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Borrower aware of any facts or circumstances presently existing that would form the basis for any such actions, suits, or proceedings. Except as disclosed in writing to the Lender, the Borrower is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, governmental authority, or arbitration board or tribunal.

(c) Potential Litigation (post contract execution). Borrower acknowledges its ongoing duty to provide Lender with details of any legal or administrative action involving the Borrower unless it is clear that the legal or administrative action cannot be considered material in the context of Credit Documents and/or the project itself. Said notification shall be promptly provided in writing once any litigation has been instituted, pending or threatened.

(d) Credit Documents are Legal and Authorized. The execution and delivery by the Borrower of the Credit Documents, the consummation of the transactions therein contemplated, and the fulfillment of or the compliance with all of the provisions thereof (i) are within the power, legal right, and authority of the Borrower; (ii) are legal and will not conflict with or constitute on the part of the Borrower a violation of or a breach of or a default under, any organic document, indenture, mortgage, security deed, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Borrower is a party or by which the Borrower or its properties are otherwise subject or bound, or any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the Borrower or any of its activities or properties; and (iii) have been duly authorized by all necessary and appropriate official action on the part of the governing body of the Borrower. The Credit Documents are the valid, legal, binding, and enforceable obligations of the Borrower. The officials of the Borrower executing the Credit Documents are duly and properly in office and are fully authorized and empowered to execute the same for and on behalf of the Borrower.

(e) Governmental Consents. Neither the Borrower nor any of its activities or properties, nor any relationship between the Borrower and any other person, nor any circumstances in connection with the execution, delivery, and performance by the Borrower of its obligations under the Credit Documents, is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Borrower in connection with the execution, delivery, and performance of the Credit Documents or the consummation of any transaction therein contemplated, except as shall have been obtained or made and as are in full force and effect and except as are not presently obtainable. To the knowledge of the Borrower, after making due inquiry with respect thereto, the Borrower will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of governmental authorities as may be required on or prior to the date the Borrower is legally required to obtain the same.

(f) No Defaults. No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of the Borrower, after making due inquiry with respect thereto, the Borrower is not in default or violation in any material respect under any organic document or other agreement or instrument to which it is a party or by which it may be bound, except as disclosed in writing to the Lender.

(g) Compliance with Law. To the knowledge of the Borrower, after making due inquiry with respect thereto, the Borrower is not in violation of any laws, ordinances, or governmental rules or regulations to which it or its properties are subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (which are presently obtainable) necessary to the ownership of its properties or to the conduct of its affairs, which violation or failure to obtain might materially and adversely affect the properties, activities, prospects, profits, and condition (financial or otherwise)

of the Borrower, and there have been no citations, notices, or orders of noncompliance issued to the Borrower under any such law, ordinance, rule, or regulation, except as disclosed in writing to the Lender.

(h) Restrictions on the Borrower. The Borrower is not a party to or bound by any contract, instrument, or agreement, or subject to any other restriction, that materially and adversely affects its activities, properties, assets, operations, or condition (financial or otherwise), except as disclosed in writing to the Lender. The Borrower is not a party to any contract or agreement that restricts the right or ability of the Borrower to incur indebtedness for borrowed money or to enter into loan agreements, except as disclosed in writing to the Lender. Any contract or agreement of the Borrower that pledges the revenues of the Borrower permits such pledged revenues to be used to make payments due under the Credit Documents.

(i) Disclosure. The representations of the Borrower contained in this Agreement and any certificate, document, written statement, or other instrument furnished by or on behalf of the Borrower to the Lender in connection with the transactions contemplated hereby, do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. There is no fact that the Borrower has not disclosed to the Lender in writing that materially and adversely affects or in the future may (so far as the Borrower can now reasonably foresee) materially and adversely affect the acquisition, construction, and installation of the Project or the properties, activities, prospects, operations, profits, or condition (financial or otherwise) of the Borrower, or the ability of the Borrower to perform its obligations under the Credit Documents or any of the documents or transactions contemplated hereby or thereby or any other transactions contemplated by this Agreement, which has not been set forth in writing to the Lender or in the certificates, documents, and instruments furnished to the Lender by or on behalf of the Borrower prior to the date of execution of this Agreement in connection with the transactions contemplated hereby.

(j) Project Compliance. The Project complies or will comply with all presently applicable building and zoning, health, environmental, and safety ordinances and laws and all other applicable laws, rules, and regulations of any and all governmental and quasi-governmental authorities having jurisdiction over any portion of the Project.

(k) Financial Statements. The financial statements of the Borrower that have been provided to the Lender in connection with the Loan present fairly the financial position of the Borrower as of the date thereof and the results of its operations and its cash flows of its proprietary fund types for the period covered thereby, all in conformity with generally accepted accounting principles (subject to normal year-end adjustments in the case of interim statements). Additionally, the Borrower agrees that all future financial statements that are required to be submitted to the Authority will be prepared in conformity with generally accepted accounting principles, including infrastructure provisions of GASB 34. Since the date of the most recent annual financial statements for the Borrower delivered to the Lender in connection with the Loan, there has been no

material adverse change in the Borrower's financial condition, assets, management, control, operations, or prospects.

(l) Reaffirmation. Each request by the Borrower for an advance under the Loan shall constitute a representation and warranty by the Borrower to the Lender that the foregoing statements are true and correct on the date of the request and after giving effect to such advance.

(m) Borrower's Tax Certificate. The representations and warranties of the Borrower set forth in the Borrower's Tax Certificate, dated the date hereof, are hereby incorporated herein and made a part hereof by this reference thereto, as if fully set forth herein, and are true and correct as of the date hereof.

9. Security for Payments under Credit Documents - (a) As security for the payments required to be made and the obligations required to be performed by the Borrower under the Credit Documents, the Borrower hereby pledges to the Lender its full faith and credit and revenue-raising power (including its taxing power) for such payment and performance. The Borrower covenants that, in order to make any payments required by the Credit Documents when due from its funds to the extent required hereunder, it will exercise its power of taxation and its power to set rates, fees, and charges to the extent necessary to pay the amounts required to be paid under the Credit Documents and will make available and use for such payments all rates, fees, charges, and taxes levied and collected for that purpose together with funds received from any other sources. The Borrower further covenants and agrees that in order to make funds available for such purpose in each fiscal year, it will, in its revenue, appropriation, and budgetary measures through which its tax funds or revenues and the allocation thereof are controlled or provided for, include sums sufficient to satisfy any such payments that may be required to be made under the Credit Documents, whether or not any other sums are included in such measure, until all payments so required to be made under the Credit Documents shall have been made in full. The obligation of the Borrower to make any such payments that may be required to be made from its funds shall constitute a general obligation of the Borrower and a pledge of the full faith and credit of the Borrower to provide the funds required to fulfill any such obligation. In the event for any reason any such provision or appropriation is not made as provided in this Section 9, then the fiscal officers of the Borrower are hereby authorized and directed to set up as an appropriation on their accounts in the appropriate fiscal year the amounts required to pay the obligations that may be due from the funds of the Borrower. The amount of such appropriation shall be due and payable and shall be expended for the purpose of paying any such obligations, and such appropriation shall have the same legal status as if the Borrower had included the amount of the appropriation in its revenue, appropriation, and budgetary measures, and the fiscal officers of the Borrower shall make such payments required by the Credit Documents to the Lender if for any reason the payment of such obligations shall not otherwise have been made.

(b) The Borrower covenants and agrees that it shall, to the extent necessary, levy an annual ad valorem tax on all taxable property located within the territorial or

corporate limits of the Borrower, as now existent and as the same may hereafter be extended, at such rate or rates, within any limitations that may be prescribed by law, as may be necessary to produce in each year revenues that will be sufficient to fulfill the Borrower's obligations under the Credit Documents, from which revenues the Borrower agrees to appropriate sums sufficient to pay in full when due all of the Borrower's obligations under the Credit Documents. Nothing herein contained, however, shall be construed as limiting the right of the Borrower to make the payments called for by the Credit Documents out of any funds lawfully available to it for such purpose, from whatever source derived (including general funds or enterprise funds).

10. Borrower Covenants - The Borrower agrees to comply with the following covenants so long as this Agreement is in effect:

(a) Information. The Borrower shall deliver to the Lender, within 180 days after the end of each fiscal year, an electronic copy of the financial statements required under state audit requirements (O.C.G.A. Section 36-81-7). Borrower's annual financial statements shall be prepared in accordance with generally accepted accounting principles and otherwise in form and substance satisfactory to the Lender, which financial statements shall be accompanied by a certificate of the Borrower (1) to the effect that the Borrower is not in default under any provisions of the Credit Documents and has fully complied with all of the provisions thereof, or if the Borrower is in default or has failed to so comply, setting forth the nature of the default or failure to comply, and (2) stating the Fixed Charges Coverage Ratio, the Fixed Charges, and the Income Available for Fixed Charges of the Borrower for the fiscal year. The Borrower also shall promptly provide the Lender (A) upon receipt thereof, a copy of each other report submitted to the Borrower by its accountants in connection with any annual, interim, or special audit made by them of the books of the Borrower (including, without limitation, any management report prepared in connection with such accountants' annual audit of the Borrower) and (B) with such other information relating to the Borrower and the Project as the Lender may reasonably request from time to time.

(b) Access to Property and Records. The Borrower agrees that the Lender, the EPD, and their duly authorized representatives and agents shall have the right, upon reasonable prior notice, to enter the Borrower's property at all reasonable times for the purpose of examining and inspecting the Project, including any construction or renovation thereof. The Borrower shall keep accurate and complete records and books of account with respect to its activities in which proper entries are made in accordance with generally accepted accounting principles reflecting all of its financial transactions. The Lender and the EPD shall also have the right at all reasonable times to examine and make extracts from the books and records of the Borrower, insofar as such books and records relate to the Project or insofar as necessary to ascertain compliance with this Agreement, and to discuss with the Borrower's officers, employees, accountants, and engineers the Project and the Borrower's activities, assets, liabilities, financial condition, results of operations, and financial prospects.

(c) Agreement to Acquire, Construct, and Install the Project. The Borrower covenants to cause the Project to be acquired, constructed, and installed without

material deviation from the Plans and Specifications and warrants that the acquisition, construction, and installation of the Project without material deviation from the Plans and Specifications will result in facilities suitable for use by the Borrower and that all real and personal property provided for therein is necessary or appropriate in connection with the Project. The Borrower may make changes in or additions to the Plans and Specifications; provided, however, changes in or additions to the Plans and Specifications that are material shall be subject to the prior written approval of the Engineer and the EPD. The Borrower agrees to complete the acquisition, construction, and installation of the Project as promptly as practicable and with all reasonable dispatch after the date of this Agreement. Without limiting the foregoing sentence, the Borrower shall commence and complete each activity or event by the deadline stated in the Project Schedule included as part of Exhibit A attached hereto. The Borrower shall comply with the bidding and preconstruction requirements set forth in Exhibit C attached hereto.

(d) Establishment of Completion Date. The date of completion of the acquisition, construction, and installation of the Project (the "**Completion Date**") shall be evidenced to the Lender and the EPD by a certificate of completion signed by the Authorized Borrower Representative and approved by the Engineer, stating that construction of the Project has been completed without material deviation from the Plans and Specifications and all labor, services, materials, and supplies used in such construction have been paid or provided for. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights against third parties that exist at the date of such certificate or that may subsequently come into being. It shall be the duty of the Borrower to cause the certificate contemplated by this paragraph to be furnished as soon as the construction of the Project shall have been completed.

(e) Indemnity. (1) To the extent provided by law, in addition to the other amounts payable by the Borrower under this Agreement (including, without limitation, Section 4 hereof), the Borrower hereby agrees to pay and indemnify the Lender from and against all claims, liabilities, losses, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses) that the Lender may (other than as a result of the gross negligence or willful misconduct of the Lender) incur or be subjected to as a consequence, directly or indirectly, of (i) any actual or proposed use of any proceeds of the Loan or the Borrower's entering into or performing under any Credit Document, (ii) any breach by the Borrower of any representation, warranty, covenant, or condition in, or the occurrence of any other default under, any of the Credit Documents, including without limitation all reasonable attorneys' fees or expenses resulting from the settlement or defense of any claims or liabilities arising as a result of any such breach or default, (iii) allegations of participation or interference by the Lender in the management, contractual relations, or other affairs of the Borrower, (iv) allegations that the Lender has joint liability with the Borrower to any third party as a result of the transactions contemplated by the Credit Documents, (v) any suit, investigation, or proceeding as to which the Lender is involved as a consequence, directly or indirectly, of its execution of any of the Credit Documents, the making of the Loan, or any other event or transaction contemplated by any of the Credit Documents, or (vi) the conduct or management of or any work or thing done on the Project and any condition of or operation of the Project.

(2) Nothing contained in this paragraph (e) shall require the Borrower to indemnify the Lender for any claim or liability that the Borrower was not given any opportunity to contest or for any settlement of any such action effected without the Borrower's consent. The indemnity of the Lender contained in this paragraph (e) shall survive the termination of this Agreement.

(f) Fixed Charges Coverage Ratio. The Borrower shall not permit the Fixed Charges Coverage Ratio for any fiscal year to be less than 1.05. The following terms are defined terms for purposes of this Agreement:

"Fixed Charges" means, for any period, the sum of all cash outflows that the Borrower cannot avoid without violating the Borrower's long-term contractual obligations (those obligations that extend for a period greater than one year, determined in accordance with generally accepted accounting principles) and that are accounted for in the enterprise fund containing the Borrower's water or sewer operations, including, but not limited to, (i) interest on long-term debt, determined in accordance with generally accepted accounting principles, (ii) payments under long-term leases (whether capitalized or operating), and (iii) scheduled payments of principal on long-term debt.

"Fixed Charges Coverage Ratio" means, for any period, the ratio of Income Available for Fixed Charges to Fixed Charges.

"Income Available For Fixed Charges" means, for any period, net income of the Borrower, plus amounts deducted in arriving at such net income for (i) interest on long-term debt (including the current portion thereof), (ii) depreciation, (iii) amortization, (iv) payments under long-term leases, and (v) transfers to other funds of the Borrower.

(g) Tax Covenants. The Borrower covenants that it will not take or omit to take any action nor permit any action to be taken or omitted that would cause the interest on the Note to become includable in the gross income of any owner thereof for federal income tax purposes. The Borrower further covenants and agrees that it shall comply with the representations and certifications it made in its Borrower's Tax Certificate dated the date hereof and that it shall take no action nor omit to take any action that would cause such representations and certifications to be untrue.

11. Events of Default and Remedies – (a) Each of the following events shall constitute an Event of Default under this Agreement:

(1) Failure by the Borrower to make any payment with respect to the Loan (whether principal, interest, fees, or other amounts) when and as the same becomes due and payable (whether at maturity, on demand, or otherwise); or

(2) The Borrower shall (A) apply for or consent to the appointment of or the taking of possession by a receiver, custodian, trustee, or liquidator of the Borrower or of all or a substantial part of the property of the Borrower; (B) admit in writing the inability of the Borrower, or be generally unable, to pay the debts of the Borrower as such debts become due; (C) make a general assignment for the benefit of the creditors of the Borrower; (D) commence a voluntary case under the federal bankruptcy law (as

now or hereafter in effect); (E) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts; (F) fail to controvert in a timely or appropriate manner, or acquiesce in writing to, any petition filed against the Borrower in an involuntary case under such federal bankruptcy law; or (G) take any action for the purpose of effecting any of the foregoing; or

(3) A proceeding or case shall be commenced, without the application of the Borrower, in any court of competent jurisdiction, seeking (A) the liquidation, reorganization, dissolution, winding-up, or composition or readjustment of debts of the Borrower; (B) the appointment of a trustee, receiver, custodian, liquidator, or the like of the Borrower or of all or any substantial part of the assets of the Borrower; or (C) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition and adjustment of debts, and such proceeding or case shall continue undismissed, or an order, judgment, or decree approving or ordering any of the foregoing shall be entered and continue in effect, for a period of sixty (60) days from commencement of such proceeding or case or the date of such order, judgment, or decree, or any order for relief against the Borrower shall be entered in an involuntary case or proceeding under the federal bankruptcy law; or

(4) Any representation or warranty made by the Borrower in any Credit Document shall be false or misleading in any material respect on the date as of which made (or deemed made); or

(5) Any default by the Borrower shall occur in the performance or observance of any term, condition, or provision contained in any Credit Document and not referred to in clauses (1) through (4) above, which default shall continue for thirty (30) days after the Lender gives the Borrower written notice thereof; or

(6) Any material provision of any Credit Document shall at any time for any reason cease to be valid and binding in accordance with its terms on the Borrower, or the validity or enforceability thereof shall be contested by the Borrower, or the Borrower shall terminate or repudiate (or attempt to terminate or repudiate) any Credit Document; or

(7) Default in the payment of principal of or interest on any other obligation of the Borrower for money borrowed (or any obligation under any conditional sale or other title retention agreement or any obligation secured by purchase money mortgage or deed to secure debt or any obligation under notes payable or drafts accepted representing extensions of credit or on any capitalized lease obligation), or default in the performance of any other agreement, term, or condition contained in any contract under which any such obligation is created, guaranteed, or secured if the effect of such default is to cause such obligation to become due prior to its stated maturity; provided that in each and every case noted above the aggregate then outstanding principal balance of the obligation involved (or all such obligations combined) must equal or exceed \$100,000; or

(8) Default in the payment of principal of or interest on any obligation of the Borrower for money borrowed from the Lender (other than the Loan) or default in the performance of any other agreement, term, or condition contained in any contract under which any such obligation is created, guaranteed, or secured if the effect of such default is to entitle the Lender to then cause such obligation to become due prior to its stated maturity (the parties intend that a default may constitute an Event of Default under this paragraph (8) even if such default would not constitute an Event of Default under paragraph (7) immediately above); or

(9) The dissolution of the Borrower; or

(10) Any material adverse change in the Borrower's financial condition or means or ability to perform under the Credit Documents; or

(11) The occurrence of any other event as a result of which the Lender in good faith believes that the prospect of payment in full of the Loan is impaired.

(b) Upon the occurrence of an Event of Default, the Lender, at its option, without demand or notice of any kind, may declare the Loan immediately due and payable, whereupon all outstanding principal and accrued interest shall become immediately due and payable.

(c) Upon the occurrence of an Event of Default, the Lender, without notice or demand of any kind, may from time to time take whatever action at law or in equity or under the terms of the Credit Documents may appear necessary or desirable to collect the Loan and other amounts payable by the Borrower hereunder then due or thereafter to become due, or to enforce performance and observance of any obligation, agreement, or covenant of the Borrower under the Credit Documents.

(d) In the event of a failure of the Borrower to pay any amounts due to the Lender under the Credit Documents within 15 days of the due date thereof, the Lender shall perform its duty under Section 50-23-20 of the Official Code of Georgia Annotated to notify the state treasurer of such failure, and the Lender may apply any funds allotted to the Borrower that are withheld pursuant to Section 50-23-20 of the Official Code of Georgia Annotated to the payment of the overdue amounts under the Credit Documents.

(e) Upon the occurrence of an Event of Default, the Lender may, in its discretion, by written notice to the Borrower, terminate its remaining commitment (if any) hereunder to make any further advances of the Loan, whereupon any such commitment shall terminate immediately.

12. Assignment or Sale by Lender - (a) The Credit Documents, and the obligation of the Borrower to make payments thereunder, may be sold, assigned, or otherwise disposed of in whole or in part to one or more successors, grantors, holders, assignees, or subassignees by the Lender. Upon any sale, disposition, assignment, or reassignment, the Borrower shall be provided with a notice of such assignment. The Borrower shall keep a complete and accurate register of all such assignments in form

necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended.

(b) The Borrower agrees to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, setoff, or counterclaim whatsoever that the Borrower may from time to time have against the Lender. The Borrower agrees to execute all documents, including notices of assignment, which may be reasonably requested by the Lender or its assignee to protect its interests in the Credit Documents.

(c) The Borrower hereby agrees that the Lender may sell or offer to sell the Credit Documents (i) through a certificate of participation program, whereby two or more interests are created in the Credit Documents or the payments thereunder or (ii) with other similar instruments, agreements, and obligations through a pool, trust, limited partnership, or other entity.

13. Miscellaneous - (a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Georgia, exclusive of such state's rules regarding choice of law.

(b) This Agreement shall be binding upon and shall inure to the benefit of the Borrower, the Lender, and their respective heirs, legal representatives, successors, and assigns, but the Borrower may not assign or transfer any of its rights or obligations hereunder without the express prior written consent of the Lender.

(c) This Agreement may not be waived or amended except by a writing signed by authorized officials of the Lender and the borrower.

(d) This Agreement shall be effective on the date on which the Borrower and the Lender have signed one or more counterparts of it and the Lender shall have received the same, provided the Lender receives the same executed by the Borrower by **JULY 29, 2024**. At such time as the Lender is no longer obligated under this Agreement to make any further advances under the Loan and all principal, interest, or other amounts owing with respect to the Loan and hereunder have been finally and irrevocably repaid by the Borrower to the Lender, this Agreement shall terminate.

(e) All notices, certificates, requests, demands, or other communications hereunder shall be sufficiently given and shall be deemed given upon receipt, by hand delivery, mail, overnight delivery, telecopy, or other electronic means, addressed as provided at the beginning of this Agreement. Any party to this Agreement may, by notice given to the other party, designate any additional or different addresses to which subsequent notices, certificates, or other communications shall be sent. For purposes of this Section, "electronic means" shall mean telecopy or facsimile transmission or other similar electronic means of communication that produces evidence of transmission.

(f) This Agreement may be executed in one or more counterparts.

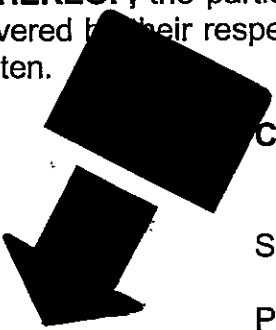
(g) All pronouns used herein include all genders and all singular terms used herein include the plural (and vice versa).

(h) In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(i) Statements in Exhibit D attached hereto shall govern the matters they address.

(j) This Agreement and the Note constitute the entire agreement between the Borrower and the Lender with respect to the Loan and supersede all prior agreements, negotiations, representations, or understandings between such parties with respect to such matters.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officials hereunto duly authorized on the date first above written.



CITY OF BLUE RIDGE

Approved as to form:

By: _____
Borrower's Attorney

Signature: _____

Print Name: _____

Title: _____

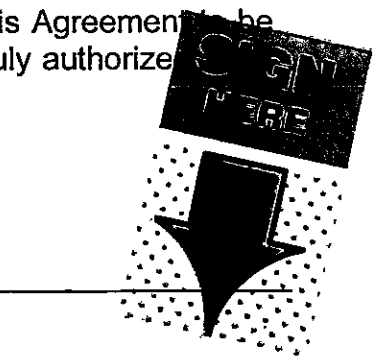
(Seal)



Attest Signature: _____

Print Name: _____

Title: _____



**GEORGIA ENVIRONMENTAL FINANCE
AUTHORITY**

Signature: _____
Hunter Hill
Executive Director

(SEAL)

DESCRIPTION OF THE PROJECT

SCOPE OF WORK

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

This project will consist of improvements to storm drainage system and other related appurtenances.

DESCRIPTION OF THE PROJECT

PROJECT BUDGET

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

ITEM	TOTAL	GA FUND	LOCAL
Construction	\$3,900,000	\$2,000,000	\$1,900,000
Contingency	-	-	-
Engineering/Inspection	-	-	-
Administrative/Legal	-	-	-
TOTAL	\$3,900,000	\$2,000,000	\$1,900,000

*The amounts shown above in each budget item are estimates. Borrower may adjust the amounts within the various budget items without prior Lender approval provided Borrower does not exceed the loan amount contained in Section 1 of the Loan Agreement. In no event shall Lender be liable for any amount exceeding the loan amount contained in Section 1 of the Loan Agreement.

DESCRIPTION OF THE PROJECT

PROJECT SCHEDULE

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

ACTION	DATE
Plans & Specs Submitted to EPD	NOVEMBER 2023
Bid Opening	NOVEMBER 2023
Notice to Proceed	MARCH 2024
Completion of Construction	MARCH 2025

SPECIMEN PROMISSORY NOTE

\$2,000,000

FOR VALUE RECEIVED, the undersigned (hereinafter referred to as the **"Borrower"**) promises to pay to the order of the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (hereinafter referred to as the **"Lender"**) at the Lender's office located in Atlanta, Georgia, or at such other place as the holder hereof may designate, the principal sum of **TWO MILLION DOLLARS AND ZERO CENTS (\$2,000,000)**, or so much thereof as shall have been advanced hereagainst and shall be outstanding, together with interest on so much of the principal balance of this Note as may be outstanding and unpaid from time to time, calculated at the rate or rates per annum indicated below.

The unpaid principal balance of this Note shall bear interest at a rate per annum equal to **TWO AND 78/100 PERCENT (2.78%)**, (1) calculated on the basis of actual number of days in the year and actual days elapsed until the Amortization Commencement Date (as hereinafter defined), and (2) calculated on the basis of a 360-day year consisting of twelve 30-day months thereafter.

Accrued interest on this Note shall be payable monthly on the first day of each calendar month until the first day of the calendar month following the earlier of (1) the Completion Date (as defined in the hereinafter defined Loan Agreement), (2) **JULY 1, 2025**, or (3) the date that the loan evidenced by this Note is fully disbursed (the **"Amortization Commencement Date"**). Principal of and interest on this Note shall be payable in **TWO HUNDRED NINETY-NINE (299)** consecutive monthly installments equal to the Installment Amount (as hereinafter defined), commencing on the first day of the calendar month following the Amortization Commencement Date, and continuing to be due on the first day of each succeeding calendar month thereafter, together with a final installment equal to the entire remaining unpaid principal balance of and all accrued interest on this Note, which shall be due and payable on the date that is **25** years from the Amortization Commencement Date (the **"Maturity Date"**).

This Note shall bear interest on any overdue installment of principal and, to the extent permitted by applicable law, on any overdue installment of interest, at the aforesaid rates. The Borrower shall pay a late fee equal to the Lender's late fee, as published from time to time in the Loan Servicing Fee schedules, for any installment payment or other amount due hereunder that is not paid by the 15th of the month in which the payment is due.

"Installment Amount" means the amount equal to the monthly installment of principal and interest required to fully amortize the then outstanding principal balance of this Note as of the Amortization Commencement Date at the rate of interest on this Note,

on the basis of level monthly debt service payments from the Amortization Commencement Date to and including the Maturity Date.

All payments or prepayments on this Note shall be applied first to unpaid fees and late fees, then to interest accrued on this Note through the date of such payment or prepayment, and then to principal (and partial principal prepayments shall be applied to such installments in the inverse order of their maturity).

At the option of the Lender, the Borrower shall make payments due under this Note using pre-authorized electronic debit transactions, under which the Lender will be authorized to initiate and effect debit transactions from a designated account of the Borrower without further or additional approval or confirmation by the Borrower. The Borrower further agrees to adopt any necessary approving resolutions and to complete and execute any necessary documents in order for the Lender to effect such pre-authorized debit transactions. In the event the Borrower has insufficient funds in its designated account on the date the Lender attempts to debit any payment due hereunder, the Borrower shall pay the Lender a processing fee equal to the Lender's processing fee, as published from time to time in the Lender's fee schedules for each such occurrence (but not exceeding two such processing fees in any calendar month), in addition to any late fee as provided above.

The Borrower may prepay the principal balance of this Note in whole or in part at any time without premium or penalty.

This Note constitutes the Promissory Note issued under and pursuant to and is entitled to the benefits and subject to the conditions of a Loan Agreement (the "**Loan Agreement**"), dated the date hereof, between the Borrower and the Lender, to which Loan Agreement reference is hereby made for a description of the circumstances under which principal shall be advanced under this Note. Reference is hereby made to the Loan Agreement for a description of the security for this Note and the options and obligations of the Borrower and the Lender hereunder. Upon an Event of Default (as defined in the Loan Agreement), the entire principal of and interest on this Note may be declared or may become immediately due and payable as provided in the Loan Agreement.

The obligation of the Borrower to make the payments required to be made under this Note and to perform and observe any and all of the other covenants and agreements on its part contained herein shall be a general obligation of the Borrower, as provided in the Loan Agreement, and shall be absolute and unconditional irrespective of any defense or any rights of setoff, counterclaim, or recoupment, except for payment, it may otherwise have against the Lender.

In case this Note is collected by or through an attorney-at-law, all costs of such collection incurred by the Lender, including reasonable attorney's fees, shall be paid by the Borrower.

Time is of the essence of this Note. Demand, presentment, notice, notice of demand, notice for payment, protest, and notice of dishonor are hereby waived by each

and every maker, guarantor, surety, and other person or entity primarily or secondarily liable on this Note. The Lender shall not be deemed to waive any of its rights under this Note unless such waiver be in writing and signed by the Lender. No delay or omission by the Lender in exercising any of its rights under this Note shall operate as a waiver of such rights, and a waiver in writing on one occasion shall not be construed as a consent to or a waiver of any right or remedy on any future occasion.

This Note shall be governed by and construed and enforced in accordance with the laws of the State of Georgia (without giving effect to its conflicts of law rules). Whenever possible, each provision of this Note shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Note shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Note.

Words importing the singular number hereunder shall include the plural number and vice versa, and any pronoun used herein shall be deemed to cover all genders. The word "Lender" as used herein shall include transferees, successors, and assigns of the Lender, and all rights of the Lender hereunder shall inure to the benefit of its transferees, successors, and assigns. All obligations of the Borrower hereunder shall bind the Borrower's successors and assigns.

SIGNED, SEALED, AND DELIVERED by the undersigned Borrower as of the _____ day of _____, _____.

(SEAL)

CITY OF BLUE RIDGE

By: SPECIMEN
Name:
Title:

Approved as to form:

Attest:

By: SPECIMEN
Borrower's Attorney

By: SPECIMEN
Name:
Title:

BIDDING AND PRECONSTRUCTION REQUIREMENTS

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

- I. Competitive procurement by public bidding is required for construction, construction services, materials, and equipment.
- II. The Borrower must advertise for bids by conspicuously posting the notice in its office and by advertising in the local newspaper that is the legal organ or on its Internet website or on an Internet site designated for its legal advertisements. The bid or proposal opportunity must be advertised in the Georgia Procurement Registry, provided that such posting is at no cost to the governmental entity.
- III. Advertisements must appear at least twice. The first advertisement must appear at least four weeks prior to the bid opening date. The second advertisement must follow at least two weeks after the first advertisement. Website advertisements must remain posted for at least four weeks. Plans and specifications must be available for inspection by the public on the first day of the advertisement. The advertisement must include details to inform the public of the extent and character of work to be performed, any pre-qualification requirements, any pre-bid conferences, and any federal requirements.
- IV. The Borrower must require at least a 5 percent bid bond or certified check or cash deposit equal to 5 percent of the contract amount.
- V. Sealed bids, with a public bid opening, are required.
- VI. The Borrower must award the contract to the low, responsive, and responsible bidder or bidders, with reservation of right to reject all bids.
- VII. The Borrower may modify bidding documents only by written addenda with notification to all potential bidders not less than 72 hours prior to the bid opening, excluding Saturdays, Sundays, and legal holidays.
- VIII. The Borrower must require 100 percent payment and performance bonds.
- IX. Change orders may not be issued to evade the purposes of required bidding procedures. Change orders may be issued for changes or additions consistent with the scope of the original construction contract documents.

- X. Prior to disbursement of funds, the Borrower shall provide the Lender with copies of the following, except as provided in section XIV below:
- A. Proof of advertising;
 - B. Certified detailed bid tabulation;
 - C. Engineer's award recommendation;
 - D. Governing body's award resolution;
 - E. Executed contract documents, including plans and specifications;
 - F. Construction and payment schedules;
 - G. Notice to proceed;
 - H. Contractor's written oath in accordance with O.C.G.A. Section 36-91-21 (e). (This is an oath required by law to be provided to the Borrower by the contractor. In short, this oath must state that the contractor has not acted alone or otherwise to prevent or attempt to prevent competition in bidding by any means and must be signed by appropriate parties as defined by law.); and
 - I. Summary of plans for on-site quality control to be provided by the Borrower or the Engineer - name and brief qualifications of construction inspector(s) and approximate hours per week of inspection to be provided.
- XI. If other funding sources are involved that have stricter bidding requirements or if applicable laws or ordinances require stricter requirements, these stricter requirements shall govern.
- XII. If the Borrower wishes to fund work that may not fully meet the bidding requirements of this Agreement, then, prior to bidding this work, it shall submit a written request to the Lender that specific requirements be waived. Based on specific circumstances of the request, the Lender may require submission of additional information necessary to document that State laws and local ordinances are not violated and that the intent of the bid procedures set forth in this Exhibit C (public, open, and competitive procurement) is satisfied through alternate means.
- XIII. Borrower is required to notify the Lender at least two weeks prior to pre-construction conferences for work funded under this Agreement and to schedule these conferences so that a representative from the Lender may participate.
- XIV. Public works construction contracts necessitated by an emergency shall be performed in accordance with O.C.G.A. Section 36-91-22 (e). The Borrower shall provide to the Lender a ratification detailing the nature of the emergency.

STATE REQUIREMENTS

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

None.

FEDERAL REQUIREMENTS

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

None.

FINANCIAL COVENANTS

Recipient: CITY OF BLUE RIDGE

Loan Number: GF2023011

None.

OPINION OF BORROWER'S COUNSEL
~~(Please furnish this form on Attorney's Letterhead)~~

DATE

Georgia Environmental Finance Authority
47 Trinity Ave SW
Fifth Floor
Atlanta, GA 30334-9006

Ladies and Gentlemen:

As counsel for the **CITY OF BLUE RIDGE** (the "Borrower"), I have examined duly executed originals of the Loan Agreement (the "Loan Agreement"), Loan/Project No. **GF2023011**, between the Borrower and the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), the related Promissory Note (the "Note") of the Borrower, the proceedings taken by the Borrower to authorize the Loan Agreement and the Note (collectively, the "Credit Documents"), and such other documents, records, and proceedings as I have deemed relevant or material to render this opinion, and based upon such examination, I am of the opinion, as of the date hereof, that:

1. The Borrower is a public body corporate and politic, duly created and validly existing under the laws of the State of Georgia.

2. The Credit Documents have been duly authorized, executed, and delivered by the Borrower and are legal, valid, and binding obligations of the Borrower, enforceable in accordance with their terms.

3. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way questioning or affecting the validity of the Credit Documents.

4. To the best of my knowledge, the execution, delivery, and performance by the Borrower of the Credit Documents will not conflict with, breach, or violate any law, any order or judgment to which the Borrower is subject, or any contract to which the Borrower is a party.

5. The signatures of the officers of the Borrower that appear on the Credit Documents are true and genuine. I know such officers and know them to be the duly elected or appointed qualified incumbents of the offices of the Borrower set forth below their names.

With your permission, in rendering the opinions set forth herein, I have assumed the following, without any investigation or inquiry on my part:

- (i) the due authorization, execution, and delivery of the Credit Documents by the Lender; and
- (ii) that the Credit Documents constitute the binding obligations of the Lender and that the Lender has all requisite power and authority to perform its obligations thereunder.

The enforceability of the Credit Documents (i) may be limited by bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, and other similar laws affecting the enforcement of creditors' rights, (ii) may be subject to general principles of equity, whether applied by a court of law or equity, and (iii) may also be subject to the exercise of judicial discretion in appropriate cases.

Very truly yours,

Signature

Printed Name

Date

GEORGIA MUNICIPAL EMPLOYEES
BENEFIT SYSTEM

DEFINED BENEFIT RETIREMENT PLAN

AN ORDINANCE
and
ADOPTION AGREEMENT
for

City of Blue Ridge

Form Pre-approved Plan Adoption Agreement
Amended and Restated for Third Six-Year Cycle, 2020 Cumulative List

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I. AN ORDINANCE

An Ordinance to amend and restate the Retirement Plan for the Employees of the City of Blue Ridge, Georgia, in accordance with and subject to the terms and conditions set forth in the attached Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Basic Plan Document, and the GMEBS Trust Agreement. When accepted by the authorized officers of the City and GMEBS, the foregoing shall constitute a Contract between the City and GMEBS, all as authorized and provided by O.C.G.A. § 47-5-1 et seq.

BE IT ORDAINED by the Mayor and Council of the City of Blue Ridge, Georgia, and it is hereby ordained by the authority thereof:

Section 1. The Retirement Plan for the Employees of the City of Blue Ridge, Georgia, is hereby amended and restated as set forth in and subject to the terms and conditions stated in the following Adoption Agreement, any Addendum to the Adoption Agreement, the Georgia Municipal Employees Benefit System (GMEBS) Basic Plan Document, and the GMEBS Trust Agreement.

Ordinance continued on page 37

II. GMEBS DEFINED BENEFIT RETIREMENT PLAN
ADOPTION AGREEMENT

1. ADMINISTRATOR

Georgia Municipal Employees Benefit System
201 Pryor Street, SW
Atlanta, Georgia 30303
Telephone: 404-688-0472
Facsimile: 404-577-6663

2. ADOPTING EMPLOYER

Name: **City of Blue Ridge, Georgia**

3. GOVERNING AUTHORITY

Name: **Mayor and Council**
Address: **480 W. First Street, Blue Ridge, GA 30513**
Phone: **(706) 632-2091**
Facsimile: **(706) 632-3278**

4. PLAN REPRESENTATIVE

[To represent Governing Authority in all communications with GMEBS and Employees]
(See Section 2.49 of Basic Plan Document)

Name: **City Clerk**
Address: **480 W. First Street, Blue Ridge, GA 30513**
Phone: **(706) 632-2091**
Facsimile: **(706) 632-3278**

5. PENSION COMMITTEE

[Please designate members by position. If not, members of Pension Committee shall be determined in accordance with Article XIV of the Basic Plan Document]

Position:
Position:
Position:
Position:
Position:

Pension Committee Secretary: **City Clerk**
Address: **480 W. First Street, Blue Ridge, GA 30513**
Phone: **(706) 632-2091**
Facsimile: **(706) 632-3278**

6. TYPE OF ADOPTION

This Adoption Agreement is for the following purpose (**check one**):

- This is a new defined benefit plan adopted by the Adopting Employer for its Employees. This plan does not replace or restate an existing defined benefit plan.
- This is an amendment and restatement of the Adopting Employer's preexisting non-GMEBS defined benefit plan.
- This is an amendment and restatement of the Adoption Agreement previously adopted by the Employer, as follows (**check one or more as applicable**):
 - To update the Plan to comply with the PATH Act, and other applicable federal laws and guidance under IRS Notice 2020-14 (the 2020 Cumulative List).
 - To make the following amendments to the Adoption Agreement (**must specify below revisions made in this Adoption Agreement; all provisions must be completed in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____

7. EFFECTIVE DATE

NOTE: This Adoption Agreement and any Addendum, with the accompanying Basic Plan Document, is designed to comply with Internal Revenue Code Section 401(a), as applicable to a governmental qualified defined benefit plan, and is part of the GMEBS Defined Benefit Retirement Plan. Plan provisions designed to comply with certain provisions of the Protecting Americans from Tax Hikes Act of 2015 ("PATH Act"); and Plan provisions designed to comply with certain provisions of additional changes in federal law and guidance from the Internal Revenue Service under Internal Revenue Service Notice 2020-14 (the 2020 Cumulative List) are effective as of the applicable effective dates set forth in the Adoption Agreement and Basic Plan

Document. By adopting this Adoption Agreement, with its accompanying Basic Plan Document, the Adopting Employer is adopting a plan document intended to comply with Internal Revenue Code Section 401(a), as updated by the PATH Act and the 2020 Cumulative List with the applicable effective dates.

- (1) Complete this item (1) only if this is a new defined benefit plan which does not replace or restate an existing defined benefit plan.

The effective date of this Plan is _____.

(insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted).

- (2) Complete this item (2) only if this Plan is being adopted to replace a non-GMEBS defined benefit plan.

Except as otherwise specifically provided in the Basic Plan Document or in this Adoption Agreement, the effective date of this restatement shall be _____ (insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted (unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance))). This Plan is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on _____ (insert original effective date of preexisting plan).

- (3) Complete this item (3) only if this is an amendment and complete restatement of the Adopting Employer's existing GMEBS defined benefit plan.

Except as otherwise specifically provided in the Basic Plan Document or in this Adoption Agreement, the effective date of this restatement shall be the date of its approval by the Governing Authority (insert effective date of this Adoption Agreement but not earlier than the first day of the current Plan Year in which the Plan is adopted (unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance))).

This Plan is adopted as an amendment and restatement of the Employer's preexisting GMEBS Adoption Agreement, which became effective on October 9, 2018 (insert effective date of most recent Adoption Agreement preceding this Adoption Agreement).

The Employer's first Adoption Agreement became effective July 1, 2003 (insert effective date of Employer's first GMEBS Adoption Agreement). The Employer's GMEBS Plan was originally effective June 1, 1998 (insert effective date of Employer's original GMEBS Plan). (If the Employer's Plan was originally a non-GMEBS Plan, then the Employer's non-GMEBS Plan was originally effective _____ (if applicable, insert effective date of Employer's original non-GMEBS Plan).)

8. PLAN YEAR

Plan Year means (check one):

- Calendar Year
- Employer Fiscal Year commencing _____.
- Other (must specify month and day commencing): June 1.

9. CLASSES OF ELIGIBLE EMPLOYEES

Only Employees of the Adopting Employer who meet the Basic Plan Document's definition of "Employee" may be covered under the Adoption Agreement. Eligible Employees shall not include non-governmental employees, independent contractors, leased employees, nonresident aliens, or any other ineligible individuals, and this Section 9 must not be completed in a manner that violates the "exclusive benefit rule" of Internal Revenue Code Section 401(a)(2).

A. Eligible Regular Employees

Regular Employees include Employees, other than elected or appointed members of the Governing Authority or Municipal Legal Officers, who are regularly employed in the services of the Adopting Employer. Subject to the other conditions of the Basic Plan Document and the Adoption Agreement, the following Regular Employees are eligible to participate in the Plan (check one):

- ALL** - All Regular Employees, provided they satisfy the minimum hour and other requirements specified under "Eligibility Conditions" below.
- ALL REGULAR EMPLOYEES EXCEPT** for the following employees (must specify; specific positions are permissible; specific individuals may not be named): _____.

B. Elected or Appointed Members of the Governing Authority

An Adopting Employer may elect to permit participation in the Plan by elected or appointed members of the Governing Authority and/or Municipal Legal Officers, provided they otherwise meet the Basic Plan Document's definition of "Employee" and provided they satisfy any other requirements specified by the Adopting Employer. Municipal Legal Officers to be covered must be specifically identified by position. Subject to the above conditions, the Employer hereby elects the following treatment for elected and appointed officials:

(1) Elected or Appointed Members of the Governing Authority (check one):

- ARE NOT** eligible to participate in the Plan.
- ARE** eligible to participate in the Plan.

Please specify any limitations on eligibility to participate here (e.g., service on or after certain date, or special waiting period provision): _____.

(2) **Municipal Legal Officers (check one):**

- ARE NOT** eligible to participate in the Plan.
- ARE** eligible to participate in the Plan. The term "Municipal Legal Officer" shall include only the following positions (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Please specify any limitations on eligibility to participate here (e.g., service on or after certain date) (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

10. ELIGIBILITY CONDITIONS

A. **Hours Per Week (Regular Employees)**

The Adopting Employer may specify a minimum number of work hours per week which are required to be scheduled by Regular Employees in order for them to become and remain "Eligible Regular Employees" under the Plan. **It is the responsibility of the Adopting Employer to determine whether these requirements are and continue to be satisfied.** The Employer hereby elects the following minimum hour requirement for Regular Employees:

- No minimum
- 20 hours/week (regularly scheduled)
- 30 hours/week (regularly scheduled)
- Other: _____ (must not exceed 40 hours/week regularly scheduled)

Exceptions: If a different minimum hour requirement applies to a particular class or classes of Regular Employees, please specify below the classes to whom the different requirement applies and indicate the minimum hour requirement applicable to them.

Class(es) of Regular Employees to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Minimum hour requirement applicable to excepted Regular Employees:

- No minimum
- 20 hours/week (regularly scheduled)
- 30 hours/week (regularly scheduled)
- Other: _____ (must not exceed 40 hours/week regularly scheduled)

B. **Months Per Year (Regular Employees)**

The Adopting Employer may specify a minimum number of work months per year which are required to be scheduled by Regular Employees in order for them to become and remain "Eligible Employees" under the Plan. **It is the responsibility of the Adopting Employer to determine whether these requirements are and continue to be satisfied.** The Employer hereby elects the following minimum requirement for Regular Employees:

- No minimum
- At least 5 months per year (regularly scheduled)

Exceptions: If different months per year requirements apply to a particular class or classes of Regular Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Regular Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

The months to year requirement for excepted class(es) are:

- No minimum
- At least _____ months per year (regularly scheduled)

11. WAITING PERIOD

Except as otherwise provided in Section 4.02(b) of the Basic Plan Document, Eligible Regular Employees shall not have a waiting period before participating in the Plan. Likewise, elected or appointed members of the Governing Authority and Municipal Legal Officers, if eligible to participate in the Plan, shall not have a waiting period before participating in the Plan.

12. ESTABLISHING PARTICIPATION IN THE PLAN

Participation in the Plan is considered mandatory for all Eligible Employees who satisfy the eligibility conditions specified in the Adoption Agreement, except as provided in Section 4.03(e) of the Basic Plan Document. However, the Employer may specify below that participation is optional for certain classes of Eligible Employees, including Regular Employees, elected or appointed members of the Governing Authority, Municipal Legal Officers, City Managers, and/or Department Heads. If participation is optional for an Eligible Employee, then in order to become a Participant, the Employee must make a written election to participate within 120 days after employment, election or appointment to office, or if later, the date the Employee first becomes eligible to participate in the Plan. The election is irrevocable, and the failure to make the election within the 120 day time limit shall be deemed an irrevocable election not to participate in the Plan.

Classes for whom participation is optional (check one):

- None (Participation is mandatory for all Eligible Employees except as provided in Section 4.03(e) of the Basic Plan Document).
- Participation is optional for the following Eligible Employees (must specify - specific positions are permissible; specific individuals may not be named; all positions or classes specified must be Eligible Employees): _____.

13. CREDITED SERVICE

In addition to Current Credited Service the Adopting Employer may include as Credited Service the following types of service:

A. Credited Past Service with Adopting Employer

Credited Past Service means the number of years and complete months of Service with the Adopting Employer prior to the date an Eligible Employee becomes a Participant which are treated as credited service under the Plan.

(1) Eligible Employees Employed on Original Effective Date of GMEBS Plan.

With respect to Eligible Employees who are employed by the Adopting Employer on the original Effective Date of the Employer's GMEBS Plan, Service with the Adopting Employer prior to the date the Eligible Employee becomes a Participant (including any Service prior to the Effective Date of the Plan) shall be treated as follows (**check one**):

- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), except for Service rendered prior to _____ (**insert date**).
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), except as follows (**must specify other limitation in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.
- No Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).

(2) Previously Employed, Returning to Service after Original Effective Date.

If an Eligible Employee is not employed on the original Effective Date of the Employer's GMEBS Plan, but returns to Service with the Adopting Employer sometime after the Effective Date, said Eligible Employee's Service prior to becoming a Participant (including any Service prior the Effective Date) shall be treated as follows (**check one**):

- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), subject to any limitations imposed above with respect to Eligible Employees employed on the Effective Date.
- All Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service), provided that after returning to employment, the Eligible Employee performs Service equal to the period of the break in Service or one (1) year, whichever is less. Any limitations imposed above with respect to Eligible Employees employed on the Effective Date shall also apply.
- No Service prior to the date the Eligible Employee becomes a Participant shall be credited (as Credited Past Service).

Other limitation(s) on Recognition of Credited Past Service (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(3) **Eligible Employees Initially Employed After Effective Date.** If an Eligible Employee's initial employment date is after the original Effective Date of the Employer's GMEBS Plan, said Employee's Credited Past Service shall include only the number of years and complete months of Service from the Employee's initial employment date to the date the Employee becomes a Participant in the Plan.

(4) **Newly Eligible Classes of Employees.** If a previously ineligible class of Employees becomes eligible to participate in the Plan, the Employer must specify in an addendum to this Adoption Agreement whether and to what extent said Employees' prior service with the Employer shall be treated as Credited Past Service under the Plan.

B. Prior Military Service

Note: This Section does not concern military service required to be credited under USERRA – See Section 3.02 of the Basic Plan Document for rules on the crediting of USERRA Military Service.

(1) **Credit for Prior Military Service.**

The Adopting Employer may elect to treat military service rendered prior to a Participant's initial employment date or reemployment date as Credited Service under the Plan. Unless otherwise specified by the Employer under "Other Conditions" below, the term "Military Service" shall be as defined in the Basic Plan Document. Except as otherwise required by federal or state law or under "Other Conditions" below, Military Service shall not include service which is credited under any other local, state, or federal retirement or pension plan.

Military Service credited under this Section shall not include any service which is otherwise required to be credited under the Plan by federal or state law. Prior Military Service shall be treated as follows (check one):

- Prior Military Service is **not** creditable under the Plan (if checked, skip to Section 13.C. – Prior Governmental Service).
- Prior Military Service shall be counted as Credited Service for the following purposes (check one or more as applicable):
 - Computing amount of benefits payable.
 - Meeting minimum service requirements for vesting.
 - Meeting minimum service requirements for benefit eligibility.

(2) **Maximum Credit for Prior Military Service.**

Credit for Prior Military Service shall be limited to a maximum of _____ years (insert number).

(3) **Rate of Accrual for Prior Military Service.**

Credit for Prior Military Service shall accrue at the following rate (check one):

- One month of military service credit for every _____ month(s) (insert number) of Credited Service with the Adopting Employer.
- One year of military service credit for every _____ year(s) (insert number) of Credited Service with the Adopting Employer.
- All military service shall be creditable (subject to any caps imposed above) after the Participant has completed _____ years (insert number) of Credited Service with the Employer.
- Other requirement (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(4) Payment for Prior Military Service Credit (check one):

- Participants shall not be required to pay for military service credit.
- Participants shall be required to pay for military service credit as follows:
 - The Participant must pay _____% of the actuarial cost of the service credit (as defined below).
 - The Participant must pay an amount equal to (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

Other Conditions for Award of Prior Military Service Credit (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(5) **Limitations on Service Credit Purchases.** Unless otherwise specified in an Addendum to the Adoption Agreement, for purposes of this Section and Section 13.C. concerning prior governmental service credit, the term "actuarial cost of service credit" is defined as set forth in the Service Credit Purchase Addendum. In the case of a service credit purchase, the Participant shall be required to comply with any rules and regulations established by the GMEBS Board of Trustees concerning said purchases.

C. Prior Governmental Service

Note: A Participant's prior service with other GMEBS employers shall be credited for purposes of satisfying the minimum service requirements for Vesting and eligibility for Retirement and pre-retirement death benefits as provided under Section 9.05 of the Basic Plan Document, relating to portability service. This Section 13(C) does not need to be completed in order for Participants to receive this portability service credit pursuant to Section 9.05 of the Basic Plan Document.

(1) **Credit for Prior Governmental Service.**

The Adopting Employer may elect to treat governmental service rendered prior to a Participant's initial employment date or reemployment date as creditable service under the Plan. Subject to any limitations imposed by law, the term "prior governmental service" shall be as defined by the Adopting Employer below. The Employer elects to treat prior governmental service as follows (check one):

- Prior governmental service is **not** creditable under the Plan (if checked, skip to Section 13.D. – Unused Sick/Vacation Leave).
- Prior governmental service shall be counted as Credited Service for the following purposes under the Plan (check one or more as applicable):
 - Computing amount of benefits payable.
 - Meeting minimum service requirements for vesting.
 - Meeting minimum service requirements for benefit eligibility.

(2) Definition of Prior Governmental Service.

Prior governmental service shall be defined as follows: (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

Unless otherwise specified above, prior governmental service shall include only full-time service (minimum hour requirement same as that applicable to Eligible Regular Employees).

(3) Maximum Credit for Prior Governmental Service.

Credit for prior governmental service shall be limited to a maximum of _____ years (insert number).

(4) Rate of Accrual for Prior Governmental Service Credit.

Credit for prior governmental service shall accrue at the following rate (check one):

- One month of prior governmental service credit for every _____ month(s) (insert number) of Credited Service with the Adopting Employer.
- One year of prior governmental service credit for every _____ year(s) (insert number) of Credited Service with the Adopting Employer.
- All prior governmental service shall be creditable (subject to any caps imposed above) after the Participant has completed _____ years (insert number) of Credited Service with the Adopting Employer.
- Other requirement (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(5) Payment for Prior Governmental Service Credit.

- Participants shall **not** be required to pay for governmental service credit.
- Participants shall be required to pay for governmental service credit as follows:
 - The Participant must pay ____% of the actuarial cost of the service credit.
 - The Participant must pay an amount equal to **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** _____.

Other Conditions for Award of Prior Governmental Service Credit **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)):** _____.

D. Leave Conversion for Unused Paid Time Off (e.g., Sick, Vacation, or Personal Leave)

(1) Credit for Unused Paid Time Off.

Subject to the limitations in Section 3.01 of the Basic Plan Document, an Adopting Employer may elect to treat accumulated days of unused paid time off for a terminated Participant, for which the Participant is not paid, as Credited Service. The only type of leave permitted to be credited under this provision is leave from a paid time off plan which qualifies as a bona fide sick and vacation leave plan (which may include sick, vacation or personal leave) and which the Participant may take as paid leave without regard to whether the leave is due to illness or incapacity. The Credited Service resulting from the conversion of unused paid time off must not be the only Credited Service applied toward the accrual of a normal retirement benefit under the Plan. The Pension Committee shall be responsible to certify to GMEBS the total amount of unused paid time off that is creditable hereunder.

Important Note: Leave cannot be converted to Credited Service in lieu of receiving a cash payment. If the Employer elects treating unused paid time off as Credited Service, the conversion to Credited Service will be automatic, and the Participant cannot request a cash payment for the unused paid time off.

The Employer elects the following treatment of unused paid time off:

- Unused paid time off shall **not** be treated as Credited Service **(if checked, skip to Section 14 – Retirement Eligibility).**
- The following types of unused paid time off for which the Participant is not paid shall be treated as Credited Service under the Plan **(check one or more as applicable):**
 - Unused sick leave
 - Unused vacation leave
 - Unused personal leave

- Other paid time off (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(2) Minimum Service Requirement.

In order to receive credit for unused paid time off, a Participant must meet the following requirement at termination (check one):

- The Participant must be 100% vested in a normal retirement benefit.
- The Participant must have at least _____ years (insert number) of Total Credited Service (not including leave otherwise creditable under this Section).
- Other (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

(3) Use of Unused Paid Time Off Credit. Unused paid time off for which the Participant is not paid shall count as Credited Service for the following purposes under the Plan (check one or more as applicable):

- Computing amount of benefits payable.
- Meeting minimum service requirements for vesting.
- Meeting minimum service requirements for benefit eligibility.

(4) Maximum Credit for Unused Paid Time Off.

Credit for unused paid time off for which the Participant is not paid shall be limited to a maximum of ____ months (insert number).

(5) Computation of Unused Paid Time Off.

Unless otherwise specified by the Adopting Employer under "Other Conditions" below, each twenty (20) days of creditable unused paid time off shall constitute one (1) complete month of Credited Service under the Plan. Partial months shall not be credited.

(6) Other Conditions (please specify, subject to limitations in Section 3.01 of Basic Plan Document; must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

14. RETIREMENT ELIGIBILITY

A. Early Retirement Qualifications

Early retirement qualifications are (check one or more as applicable):

- Attainment of age 55 (insert number)
- Completion of 10 years (insert number) of Total Credited Service

Exceptions: If different early retirement eligibility requirements apply to a particular class or classes of Eligible Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Eligible Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

Early retirement qualifications for excepted class(es) are (check one or more as applicable):

- Attainment of age _____ (insert number)
- Completion of _____ years (insert number) of Total Credited Service

B. Normal Retirement Qualifications

Note: Please complete this Section and also list "Alternative" Normal Retirement Qualifications, if any, in Section 14.C.

(1) Regular Employees

Normal retirement qualifications for Regular Employees are (check one or more as applicable):

- Attainment of age 65 (insert number)
- Completion of 5 years (insert number) of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (check one): all Participants only the following class(es) of Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

Exceptions: If different normal retirement qualifications apply to a particular class or classes of Regular Employees, the Employer must specify below the classes to whom the different requirements apply and indicate below the requirements applicable to them.

Class(es) of Regular Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

Normal retirement qualifications for excepted class(es) are (check one or more as applicable):

- Attainment of age _____ (insert number)
- Completion of _____ years (insert number) of Total Credited Service

- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**): all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

(2) Elected or Appointed Members of Governing Authority

Complete this Section only if elected or appointed members of the Governing Authority or Municipal Legal Officers are permitted to participate in the Plan. Normal retirement qualifications for this class are (check one or more as applicable):

- Attainment of age _____ (**insert number**)
- Completion of _____ years (**insert number**) of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**): all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Exceptions: If different normal retirement qualifications apply to particular elected or appointed members of the Governing Authority or Municipal Legal Officers, the Employer must specify below to whom the different requirements apply and indicate below the requirements applicable to them.

Particular elected or appointed members of the Governing Authority or Municipal Legal Officers to whom exception applies (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

Normal retirement qualifications for excepted elected or appointed members of the Governing Authority or Municipal Legal Officers are (**check one or more as applicable**):

- Attainment of age _____ (**insert number**)
- Completion of _____ years (**insert number**) of Total Credited Service

- In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**: all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

C. Alternative Normal Retirement Qualifications

The Employer may elect to permit Participants to retire with unreduced benefits after they satisfy service and/or age requirements other than the regular normal retirement qualifications specified above. The Employer hereby adopts the following alternative normal retirement qualifications:

Alternative Normal Retirement Qualifications (check one or more, as applicable):

- (1) Not applicable (the Adopting Employer does not offer alternative normal retirement benefits under the Plan).

- (2) **Alternative Minimum Age & Service Qualifications (if checked, please complete one or more items below, as applicable):**

- Attainment of age _____ (**insert number**)
- Completion of _____ years (**insert number**) of Total Credited Service
- In-Service Distribution to Eligible Employees permitted (*i.e.*, a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to **(check one)**: all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

A Participant (**check one**): is required is not required to be in the service of the Employer at the time the Participant satisfies the above qualifications in order to qualify for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

- (3) **Rule of _____ (insert number).** The Participant's combined Total Credited Service and age must equal or exceed this number. Please complete additional items below:

To qualify for this alternative normal retirement benefit, the Participant (**check one or more items below, as applicable**):

- Must have attained at least age _____ (**insert number**)
- Must not satisfy any minimum age requirement
- In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets the minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**): all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

A Participant (**check one**): is required is not required to be in the service of the Employer at the time the Participant satisfies the Rule in order to qualify for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

(4) **Alternative Minimum Service.** A Participant is eligible for an alternative normal retirement benefit if the Participant has at least _____ years (**insert number**) of Total Credited Service, regardless of the Participant's age.

In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets the minimum service requirement specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**): all Participants only the following class(es) of Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

This alternative normal retirement benefit is available to:

All Participants who qualify.

Only the following Participants (**must specify - specific positions are permissible; specific individuals may not be named**): _____.

A Participant (**check one**): is required is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

(5) **Other Alternative Normal Retirement Benefit.**

Must specify qualifications (in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

In-Service Distribution to Eligible Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (**check one**): all Participants only the following class(es) of Participants (**must specify -**

specific positions are permissible; specific individuals may not be named): _____.

This alternative normal retirement benefit is available to:

- All Participants who qualify.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

A Participant (check one): is required is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

- (6) **Other Alternative Normal Retirement Benefit for Public Safety Employees Only.**

Must specify qualifications (in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

- In-Service Distribution to Eligible Employees who are Public Safety Employees permitted (i.e., a qualifying Participant may commence receiving retirement benefits while in service without first incurring a Bona Fide Separation from Service), if the Participant meets minimum age and service requirements specified immediately above and satisfies the minimum age parameters for In-Service Distribution Described in Section 6.06(a)(3) of the Basic Plan Document, subject to applicable Plan provisions concerning recalculation and offset applied at re-retirement to account for the value of benefits received prior to re-retirement. This rule shall apply to (check one): all Participants only the following class(es) of Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

This alternative normal retirement benefit is available to:

- All public safety employee Participants who qualify.
- Only the following public safety employee Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

A public safety employee Participant (**check one**): is required is not required to be in the service of the Employer at the time the Participant satisfies the qualifications for this alternative normal retirement benefit.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

Note: "Public safety employees" are defined under the Internal Revenue Code for this purpose as employees of a State or political subdivision of a State who provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.

D. Disability Benefit Qualifications

Subject to the other terms and conditions of the Basic Plan Document and except as otherwise provided in an Addendum to this Adoption Agreement, disability retirement qualifications are based upon Social Security Administration award criteria or as otherwise provided under Section 2.23 of the Basic Plan Document. The Disability Retirement benefit shall commence as of the Participant's Disability Retirement Date under Section 2.24 of the Basic Plan Document.

To qualify for a disability benefit, a Participant must have the following minimum number of years of Total Credited Service (**check one**):

- Not applicable (the Adopting Employer does not offer disability retirement benefits under the Plan).
- No minimum.
- _____ years (**insert number**) of Total Credited Service.

Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.

15. RETIREMENT BENEFIT COMPUTATION

A. Maximum Total Credited Service

The number of years of Total Credited Service which may be used to calculate a benefit is (**check one or all that apply**):

- not limited.
- limited to _____ years for all Participants.
- limited to _____ years for the following classes of Eligible Regular Employees:
 - All Eligible Regular Employees.

- Only the following Eligible Regular Employees: _____.
- limited to _____ years as an elected or appointed member of the Governing Authority.
- limited to _____ years as a Municipal Legal Officer.
- Other (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

B. Monthly Normal Retirement Benefit Amount

(1) Regular Employee Formula

The monthly normal retirement benefit for Eligible Regular Employees shall be 1/12 of (check and complete one or more as applicable):

- (a) **Flat Percentage Formula. 1.5% (insert percentage) of Final Average Earnings multiplied by years of Total Credited Service as an Eligible Regular Employee.**

This formula applies to:

- All Participants who are Regular Employees.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

- (b) **Alternative Flat Percentage Formula. _____% (insert percentage) of Final Average Earnings multiplied by years of Total Credited Service as an Eligible Regular Employee. This formula applies to the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.**

- (c) **Split Final Average Earnings Formula. _____% (insert percentage) of Final Average Earnings up to the amount of Covered Compensation (see subsection (2) below for definition of Covered Compensation), plus _____% (insert percentage) of Final Average Earnings in excess of said Covered Compensation, multiplied by years of Total Credited Service as an Eligible Regular Employee.**

This formula applies to:

- All Participants who are Regular Employees.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

- (d) **Alternative Split Final Average Earnings Formula. _____% (insert percentage) of Final Average Earnings up to the amount of Covered**

Compensation (see subsection (2) below for definition of Covered Compensation), plus _____% (insert percentage) of Final Average Earnings in excess of said Covered Compensation, multiplied by years of Total Credited Service as an Eligible Regular Employee.

This formula applies to:

- All Participants.
- Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** _____.

[Repeat above subsections as necessary for each applicable benefit formula and Participant class covered under the Plan.]

(2) Covered Compensation (complete only if Split Formula(s) is checked above):

Covered Compensation is defined as (check one or more as applicable):

- (a) **A.I.M.E. Covered Compensation** as defined in Section 2.18 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
 - All Participants who are Regular Employees.
 - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):** _____.
- (b) **Dynamic Break Point Covered Compensation** as defined in Section 2.19 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
 - All Participants who are Regular Employees.
 - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):**_____.
- (c) **Table Break Point Covered Compensation** as defined in Section 2.20 of the Basic Plan Document. This definition of Covered Compensation shall apply to **(check one)**:
 - All Participants who are Regular Employees.
 - Only the following class(es) of Participants **(must specify - specific positions are permissible; specific individuals may not be named):** _____.
- (d) **Covered Compensation** shall mean a Participant's annual Earnings that do not exceed \$_____ **(specify amount)**. This definition shall apply to **(check one)**:
 - All Participants who are Regular Employees.
 - Only the following Participants **(must specify - specific positions are permissible; specific individuals may not be named):**_____.

(3) **Final Average Earnings**

Unless otherwise specified in an Addendum to the Adoption Agreement, Final Average Earnings is defined as the monthly average of Earnings paid to a Participant by the Adopting Employer for the **60** (insert number not to exceed 60) consecutive months of Credited Service preceding the Participant's most recent Termination in which the Participant's Earnings were the highest, multiplied by 12. Note: GMEBS has prescribed forms for calculation of Final Average Earnings that must be used for this purpose.

This definition of Final Average Earnings applies to:

- All Participants who are Regular Employees.
- Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

[Repeat above subsection as necessary for each applicable definition and Participant class covered under the Plan.]

(4) **Formula for Elected or Appointed Members of the Governing Authority**

The monthly normal retirement benefit for members of this class shall be as follows (check one):

- Not applicable (elected or appointed members of the Governing Authority or Municipal Legal Officers are not permitted to participate in the Plan).
- \$ _____ (insert dollar amount) per month for each year of Total Credited Service as an elected or appointed member of the Governing Authority or Municipal Legal Officer (service of at least 6 months and 1 day is treated as a year of Total Credited Service; provided, however, than an elected or appointed member of the Governing Authority or Municipal Legal Officer may accrue a maximum of one year of Total Credited Service for every 12-month period of Service as an elected or appointed member of the Governing Authority or Municipal Legal Officer).

This formula applies to:

- All elected or appointed members of the Governing Authority or Municipal Legal Officers eligible to participate.
- Only the following elected or appointed members of the Governing Authority or Municipal Legal Officers eligible to participate (must specify - specific positions are permissible; specific individuals may not be named): _____.

[Repeat above subsection as necessary for each applicable formula for classes of elected or appointed members covered under the Plan.]

C. **Monthly Early Retirement Benefit Amount**

Check and complete one or more as applicable:

- (1) **Standard Early Retirement Reduction Table.** The monthly Early Retirement benefit shall be computed in the same manner as the monthly

Normal Retirement benefit, but the benefit shall be reduced on an Actuarially Equivalent basis in accordance with Section 12.01 of the Basic Plan Document to account for early commencement of benefits. This provision shall apply to:

- All Participants.
 - Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.
- (2) **Alternative Early Retirement Reduction Table.** The monthly Early Retirement benefit shall be computed in the same manner as the monthly Normal Retirement benefit, but the benefit shall be reduced to account for early commencement of benefits based on the following table. This table shall apply to:
- All Participants.
 - Only the following Participants (must specify - specific positions are permissible; specific individuals may not be named): _____.

Alternative Early Retirement Reduction Table

<u>Number of Years Before</u> <u>[Age (Insert Normal</u> <u>Retirement Age)]</u> (check as applicable)	<u>Percentage of</u> <u>Normal Retirement Benefit*</u> (complete as applicable)
<input type="checkbox"/> 0	1.000
<input type="checkbox"/> 1	0.____
<input type="checkbox"/> 2	0.____
<input type="checkbox"/> 3	0.____
<input type="checkbox"/> 4	0.____
<input type="checkbox"/> 5	0.____
<input type="checkbox"/> 6	0.____
<input type="checkbox"/> 7	0.____
<input type="checkbox"/> 8	0.____
<input type="checkbox"/> 9	0.____
<input type="checkbox"/> 10	0.____
<input type="checkbox"/> 11	0.____
<input type="checkbox"/> 12	0.____
<input type="checkbox"/> 13	0.____
<input type="checkbox"/> 14	0.____
<input type="checkbox"/> 15	0.____

*Interpolate for whole months

D. Monthly Late Retirement Benefit Amount (check one):

- (1) The monthly Late Retirement benefit shall be computed in the same manner as the Normal Retirement Benefit, based upon the Participant's Accrued Benefit as of the Participant's Late Retirement Date.
- (2) The monthly Late Retirement benefit shall be the greater of: (1) the monthly retirement benefit accrued as of the Participant's Normal Retirement Date, actuarially increased in accordance with the actuarial table contained in Section 12.05 of the Basic Plan Document; or (2) the monthly retirement benefit accrued as of the Participant's Late Retirement Date, without further actuarial adjustment under Section 12.06 of the Basic Plan Document.

E. Monthly Disability Benefit Amount

The amount of the monthly Disability Benefit shall be computed in the same manner as the Normal Retirement benefit, based upon the Participant's Accrued Benefit as of the Participant's Disability Retirement Date.

Minimum Disability Benefit. The Adopting Employer may set a minimum Disability Benefit. The Employer elects the following minimum Disability benefit (**check one**):

- Not applicable (the Adopting Employer does not offer disability retirement benefits under the Plan).
- No minimum is established.
- No less than (**check one**): 20% 10% ____% (**if other than 20% or 10% insert percentage amount**) of the Participant's average monthly Earnings for the 12 calendar month period (excluding any period of unpaid leave of absence) immediately preceding the Participant's Termination of Employment as a result of a Disability. (Unless otherwise specified in an Addendum to the Adoption Agreement, no minimum will apply to elected or appointed members of the Governing Authority or Municipal Legal Officers.)
- No less than (**check one**): 66 2/3 % ____% (**if other than 66 2/3%, insert percentage amount**) of the Participant's average monthly Earnings for the 12 calendar month period (excluding any period of unpaid leave of absence) immediately preceding the Participant's Termination of Employment as a result of a Disability, less any monthly benefits paid from federal Social Security benefits as a result of disability as reported by the Employer. (Unless otherwise specified in an Addendum to the Adoption Agreement, no minimum will apply to elected or appointed members of the Governing Authority or Municipal Legal Officers.)

F. Minimum/Maximum Benefit For Elected Officials

In addition to any other limitations imposed by federal or state law, the Employer may impose a cap on the monthly benefit amount that may be received by elected or appointed members of the Governing Authority. The Employer elects **(check one)**:

- Not applicable (elected or appointed members of the Governing Authority do not participate in the Plan).
- No minimum or maximum applies.
- Monthly benefit for Service as an elected or appointed member of the Governing Authority may not exceed 100% of the Participant's final salary as an elected or appointed member of the Governing Authority.
- Other minimum or maximum **(must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i))**: _____

G. Multiple Plans

In the event that the Employer maintains multiple plans, the following provisions will apply to the extent necessary to satisfy Code § 415.

16. SUSPENSION OF BENEFITS FOLLOWING BONA FIDE SEPARATION OF SERVICE; COLA

A. Re-Employment as Eligible Employee After Normal, Alternative Normal, or Early Retirement and Following Bona Fide Separation of Service (see Basic Plan Document Section 6.06(c) Regarding Re-Employment as an Ineligible Employee and Basic Plan Document Section 6.06(e) and (f) Regarding Re-Employment After Disability Retirement)

(1) Reemployment After Normal or Alternative Normal Retirement. In the event that a Retired Participant 1) is reemployed with the Employer as an Eligible Employee (as defined in the Plan) after the Participant's Normal or Alternative Normal Retirement Date and after a Bona Fide Separation from Service, or 2) is reemployed with the Employer in an Ineligible Employee class, and subsequently again becomes an Eligible Employee (as defined in the Plan) due to the addition of such class to the Plan after the Participant's Normal or Alternative Normal Retirement Date, the following rule shall apply **(check one)**:

- (a) The Participant's benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document for as long as the Participant remains employed.

- (b) The Participant may continue to receive retirement benefits in accordance with Section 6.06(b) of the Basic Plan Document. This rule shall apply to **(check one)**: all Retired Participants only the following classes of Retired Participants **(must specify (specific positions are permissible; specific individuals may not be named) - benefits of those Retired Participants not listed shall be suspended in accordance with Section 6.06(a) of the Basic Plan Document if they return to work with the Employer):** _____.

(2) Reemployment After Early Retirement. In the event a Participant Retires with an Early Retirement benefit after a Bona Fide Separation from Service 1) is reemployed with the Employer as an Eligible Employee before the Participant's Normal Retirement Date; or 2) is reemployed with the Employer in an Ineligible Employee class, and subsequently again becomes an Eligible Employee (as defined in the Plan) before the Participant's Normal Retirement Date due to the addition of such class to the Plan, the following rule shall apply **(check one or more as applicable)**:

- (a) The Participant's Early Retirement benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document for as long as the Participant remains employed.

This rule shall apply to **(check one)**: all Retired Participants; only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**:
_____.

- (b) The Participant's Early Retirement benefit shall be suspended in accordance with Section 6.06(a)(1) of the Basic Plan Document. However, the Participant may begin receiving benefits after satisfying the qualifications for Normal Retirement or Alternative Normal Retirement, as applicable, and after satisfying the minimum age parameters of Section 6.06(a)(3) of the Basic Plan Document, in accordance with Section 6.06(b)(2)(B)(i) of the Basic Plan Document.

This rule shall apply to **(check one)**: all Retired Participants; only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**:
_____.

- (c) The Participant's Early Retirement benefit shall continue in accordance with Section 6.06(b)(2)(B)(ii) of the Basic Plan Document.

This rule shall apply to **(check one)**: all Retired Participants; only the following classes of Retired Participants **(must specify - specific positions are permissible; specific individuals may not be named)**:
_____.

B. Cost Of Living Adjustment

The Employer may elect to provide for an annual cost-of-living adjustment (COLA) in the amount of benefits being received by Retired Participants and Beneficiaries, which shall be calculated and paid in accordance with the terms of the Basic Plan Document. The Employer hereby elects the following (**check one**):

- (1) No cost-of-living adjustment.
- (2) Variable Annual cost-of-living adjustment not to exceed _____% (**insert percentage**).
- (3) Fixed annual cost-of-living adjustment equal to _____% (**insert percentage**).

The above cost-of-living adjustment shall apply with respect to the following Participants (and their Beneficiaries) (**check one**):

- All Participants (and their Beneficiaries).
- Participants (and their Beneficiaries) who terminate employment on or after _____ (**insert date**).
- Other (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i); specific positions are permissible; specific individuals may not be named**): _____.

The Adjustment Date for the above cost-of-living adjustment shall be (if not specified, the Adjustment Date shall be January 1): _____.

**17. TERMINATION OF EMPLOYMENT BEFORE RETIREMENT;
VESTING**

A. Eligible Regular Employees

Subject to the terms and conditions of the Basic Plan Document, a Participant who is an Eligible Regular Employee and whose employment is terminated for any reason other than death or retirement shall earn a vested right in the Participant's accrued retirement benefit in accordance with the following schedule (**check one**):

- No vesting schedule (immediate vesting).**
- Cliff Vesting Schedule.** Benefits shall be 100% vested after the Participant has a minimum of 10 years (**insert number not to exceed 10**) of Total Credited Service. Benefits remain 0% vested until the Participant satisfies this minimum.
- Graduated Vesting Schedule.** Benefits shall become vested in accordance with the following schedule (**insert percentages**):

<u>COMPLETED YEARS OF TOTAL CREDITED SERVICE</u>	<u>VESTED PERCENTAGE</u>
1	%
2	%
3	%
4	%
5	%
6	%
7	%
8	%
9	%
10	%

Exceptions: If a vesting schedule other than that specified above applies to a special class(es) of Regular Employees, the Employer must specify the different vesting schedule below and the class(es) to whom the different vesting schedule applies.

Regular Employees to whom exception applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

Vesting Schedule for excepted class (Must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i). Must be at least as favorable as one of the following schedules: (i) 15-year cliff vesting, (ii) 20-year graded vesting, or (iii) for qualified public safety employees, 20-year cliff vesting.): _____.

B. Elected or Appointed Members of the Governing Authority

Subject to the terms and conditions of the Basic Plan Document, a Participant who is an elected or appointed member of the Governing Authority or a Municipal Legal Officer shall earn a vested right in the Participant's accrued retirement benefit for Credited Service in such capacity in accordance with the following schedule (check one):

- Not applicable (elected or appointed members of the Governing Authority are not permitted to participate in the Plan).
- No vesting schedule (immediate vesting).
- Other vesting schedule (Must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i). Must be at least as favorable as one of the following schedules: (i) 15-year cliff vesting, (ii) 20-year graded vesting, or (iii) for qualified public safety employees, 20-year cliff vesting.): _____.

18. PRE-RETIREMENT DEATH BENEFITS

A. In-Service Death Benefit

Subject to the terms and conditions of the Basic Plan Document, the Employer hereby elects the following in-service death benefit, to be payable in the event that an eligible Participant's employment with the Employer is terminated by reason of the Participant's death prior to Retirement (**check and complete one**):

- (1) **Auto A Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, equal to the decreased monthly retirement benefit that would have otherwise been payable to the Participant, had the Participant elected a 100% joint and survivor benefit under Section 7.03 of the Basic Plan Document. In order to be eligible for this benefit, a Participant must meet the following requirements (**check one**):
- The Participant must be vested in a normal retirement benefit.
 - The Participant must have 10 years (**insert number**) of Total Credited Service.
 - The Participant must be eligible for Early or Normal Retirement.
 - Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.
- (2) **Actuarial Reserve Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, actuarially equivalent to the reserve required for the Participant's anticipated Normal Retirement benefit, provided the Participant meets the following eligibility conditions (**check one**):
- The Participant shall be eligible upon satisfying the eligibility requirements of Section 8.02(c) of the Basic Plan Document.
 - The Participant must have _____ years (**insert number**) of Total Credited Service.
 - Other eligibility requirement (**must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)**): _____.
- Imputed Service.** For purposes of computing the actuarial reserve death benefit, the Participant's Total Credited Service shall include (**check one**):
- Total Credited Service accrued prior to the date of the Participant's death.

- Total Credited Service accrued prior to the date of the Participant's death, plus (check one): one-half (½) _____ (insert other fraction) of the Service between such date of death and what would otherwise have been the Participant's Normal Retirement Date. (See Basic Plan Document Section 8.02(b) regarding 10-year cap on additional Credited Service.)

Minimum In-Service Death Benefit for Vested Employees Equal to Terminated Vested Death Benefit. Unless otherwise specified under "Exceptions" below, if a Participant's employment is terminated by reason of the Participant's death prior to Retirement, and if as of the date of death the Participant is vested but does not qualify for the in-service death benefit, then the Auto A Death Benefit will be payable, provided the Auto A Death Benefit is made available to terminated vested employees under the Adoption Agreement (see "Terminated Vested Death Benefit" below).

(3) **Exceptions:** If an in-service death benefit other than that specified above applies to one or more classes of Participants, the Employer must specify below the death benefit payable, the class(es) to whom the different death benefit applies, and the eligibility conditions for said death benefit.

Alternative Death Benefit (must specify formula that satisfies the definite written program and definitely determinable requirements of Treasury Regulations Sections 1.401-1(a)(2) and 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415): _____.

Participants to whom alternative death benefit applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

Eligibility conditions for alternative death benefit (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i): _____.

B. Terminated Vested Death Benefit

(1) **Complete this Section only if the Employer offers a terminated vested death benefit.** The Employer may elect to provide a terminated vested death benefit, to be payable in the event that a Participant who is vested dies after termination of employment but before Retirement benefits commence. Subject to the terms and conditions of the Basic Plan Document, the Employer hereby elects the following terminated vested death benefit (check one):

- Auto A Death Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary, equal to the decreased monthly retirement benefit that would have otherwise been payable to the Participant had the Participant elected a 100% joint and survivor benefit under Section 7.03 of the Basic Plan Document.
- Accrued Retirement Benefit.** A monthly benefit payable to the Participant's Pre-Retirement Beneficiary which shall be actuarially equivalent to the

Participant's Accrued Normal Retirement Benefit determined as of the date of death.

(2) **Exceptions:** If a terminated vested death benefit other than that specified above applies to one or more classes of Participants, the Employer must specify below the death benefit payable, the class(es) to whom the different death benefit applies, and the eligibility conditions for said death benefit.

Alternative Death Benefit (must specify formula that satisfies the definite written program and definitely determinable requirements of Treasury Regulations Sections 1.401-1(a)(2) and 1.401-1(b)(1)(i) and does not violate limits applicable to governmental plans under Code Sections 401(a)(17) and 415): _____.

Participants to whom alternative death benefit applies (must specify - specific positions are permissible; specific individuals may not be named): _____.

Eligibility conditions for alternative death benefit (must specify in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i)): _____.

19. EMPLOYEE CONTRIBUTIONS

(1) **Employee contributions (check one):**

- Are not required.
- Are required in the amount of _____ % (insert percentage) of Earnings for all Participants.
- Are required in the amount of _____ % (insert percentage) of Earnings for Participants in the following classes (must specify - specific positions are permissible; specific individuals may not be named): _____.

[Repeat above subsection as necessary if more than one contribution rate applies.]

(2) **Pre-Tax Treatment of Employee Contributions.** If Employee Contributions are required in Subsection (1) above, an Adopting Employer may elect to "pick up" Employee Contributions to the Plan in accordance with IRC Section 414(h). In such case, Employee Contributions shall be made on a pre-tax rather than a post-tax basis, provided the requirements of IRC Section 414(h) are met. If the Employer elects to pick up Employee Contributions, it is the Employer's responsibility to ensure that Employee Contributions are paid and reported in accordance with IRC Section 414(h). The Adopting Employer must not report picked up contributions as wages subject to federal income tax withholding.

The Employer hereby elects (check one):

- To pick up Employee Contributions. By electing to pick up Employee Contributions, the Adopting Employer specifies that the contributions, although designated as Employee Contributions, are being paid by the Employer in lieu of Employee Contributions. The Adopting Employer confirms that the executor of

this Adoption Agreement is duly authorized to take this action as required to pick up contributions. This pick-up of contributions applies prospectively, and it is evidenced by this contemporaneous written document. On and after the date of the pick-up of contributions, a Participant does not have a cash or deferred election right (within the meaning of Treasury Regulation Section 1.401(k)-1(a)(3)) with respect to the designated Employee Contributions, which includes not having the option of receiving the amounts directly instead of having them paid to the Plan.

- Not to pick up Employee Contributions.

(3) Interest on Employee Contributions. The Adopting Employer may elect to pay interest on any refund of Employee Contributions.

- Interest shall not be paid.
 - Interest shall be paid on a refund of Employee Contributions at a rate established by GMEBS from time to time.
 - Other rate of interest (must specify rate in a manner that satisfies the definite written program requirement of Treasury Regulation 1.401-1(a)(2) and the definitely determinable requirement of Treasury Regulation 1.401-1(b)(1)(i):
-

20. MODIFICATION OF THE TERMS OF THE ADOPTION AGREEMENT

If an Adopting Employer desires to amend any of its elections contained in this Adoption Agreement (or any Addendum), the Governing Authority by official action must adopt an amendment of the Adoption Agreement (or any Addendum) or a new Adoption Agreement (or Addendum) must be adopted and forwarded to the Board for approval. The amendment of the new Adoption Agreement (or Addendum) is not effective until approved by the Board and other procedures required by the Plan have been implemented.

The Administrator will timely inform the Adopting Employer of any amendments made by the Board to the Plan.

21. TERMINATION OF THE ADOPTION AGREEMENT

This Adoption Agreement (and any Addendum) may be terminated only in accordance with the Plan. The Administrator will inform the Adopting Employer in the event the Board should decide to discontinue this pre-approved plan program.

22. EMPLOYER ADOPTION AND AUTHORIZATION FOR AMENDMENTS

Adoption. The Adopting Employer hereby adopts the terms of the Adoption Agreement and any Addendum, which is attached hereto and made a part of this ordinance. The Adoption Agreement (and, if applicable, the Addendum) sets forth the Employees to be covered by the Plan, the benefits to be provided by the Adopting Employer under the Plan, and any conditions imposed by the Adopting Employer with respect to, but not inconsistent with, the Plan. The Adopting Employer reserves the right to amend its elections under the Adoption Agreement and any Addendum, so long as the amendment is not inconsistent with the Plan or the Internal Revenue Code or other applicable law and is approved by the Board of Trustees of GMEBS. The Adopting Employer acknowledges that it may not be able to rely on the pre-approved plan opinion letter if it makes certain elections under the Adoption Agreement or the Addendum, and that the failure to properly complete the Adoption Agreement may result in a failure of the Adopting Employer's Plan to be a qualified plan.

The Adopting Employer hereby agrees to abide by the Basic Plan Document, Trust Agreement, and rules and regulations adopted by the Board of Trustees of GMEBS, as each may be amended from time to time, in all matters pertaining to the operation and administration of the Plan. It is intended that the Act creating the Board of Trustees of GMEBS, this Plan, and the rules and regulations of the Board are to be construed in harmony with each other. In the event of a conflict between the provisions of any of the foregoing, they shall govern in the following order:

- (1) The Act creating the Board of Trustees of The Georgia Municipal Employees' Benefit System, O.C.G.A. Section 47-5-1 *et seq.* (a copy of which is included in the Appendix to the Basic Defined Benefit Plan Document) and any other applicable provisions of O.C.G.A. Title 47;
- (2) The Basic Defined Benefit Plan Document and Trust Agreement;
- (3) This Ordinance and Adoption Agreement (and any Addendum); and
- (4) The rules and regulations of the Board.

In the event that any section, subsection, sentence, clause or phrase of this Plan shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions or the other section or sections, subsections, sentences, clauses or phrases of this Plan, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part hereof. The Governing Authority hereby declares that it would have passed the remaining parts of this Plan or retained the previously existing provisions if it had known that such part or parts hereof would be declared or adjudicated invalid or unconstitutional.

This Adoption Agreement (and any Addendum) may only be used in conjunction with Georgia Municipal Employees Benefit System Basic Defined Benefit Retirement Plan Document approved by the Internal Revenue Service under opinion letter Q705465a dated August 31, 2023. The Adopting Employer understands that failure to properly complete this Adoption Agreement (or any Addendum), or to operate and maintain the Plan and Trust in accordance with the terms of the completed Adoption Agreement (and any Addendum), Basic Plan Document and Trust,

may result in disqualification of the Adopting Employer's Plan under the Internal Revenue Code. Inquiries regarding the adoption of the Plan, the meaning of Plan provisions, or the effect of the IRS opinion letter should be directed to the Administrator. The Administrator is Georgia Municipal Employees Benefit System, with its primary business offices located at: 201 Pryor Street, SW, Atlanta, Georgia, 30303. The business telephone number is: (404) 688-0472. The primary person to contact is: GMEBS Legal Counsel.

Authorization for Amendments. Effective on and after February 17, 2005, the Adopting Employer hereby authorizes the pre-approved plan provider who sponsors the Plan on behalf of GMEBS to prepare amendments to the Plan, for approval by the Board, on its behalf as provided under Revenue Procedure 2005-16, as superseded by Revenue Procedure 2015-36, Revenue Procedure 2011-49, and Announcement 2005-37. Effective January 1, 2013, Georgia Municipal Association, Inc., serves as the pre-approved plan provider for the Plan. Employer notice and signature requirements were met for the Adopting Employer before the effective date of February 17, 2005. The Adopting Employer understands that the implementing amendment reads as follows:

On and after February 17, 2005, the Board delegates to the Provider the authority to advise and prepare amendments to the Plan, for approval by the Board, on behalf of all Adopting Employers, including those Adopting Employers who have adopted the Plan prior to the January 1, 2013, restatement of the Plan, for changes in the Code, the regulations thereunder, revenue rulings, other statements published by Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Adopting Employers. Employer notice and signature requirements have been met for all Adopting Employers before the effective date of February 17, 2005. In any event, any amendment prepared by the Practitioner and approved by the Board will be provided by the Administrator to Adopting Employers.

Notwithstanding the foregoing paragraph, no amendment to the Plan shall be prepared on behalf of any Adopting Employer as of either:

- the date the Internal Revenue Service requires the Adopting Employer to file Form 5300 as an individually designed plan as a result of an amendment by the Adopting Employer to incorporate a type of Plan not allowable in a pre-approved plan as described in Revenue Procedure 2017-41; or
- as of the date the Plan is otherwise considered an individually designed plan due to the nature and extent of the amendments.

If the Adopting Employer is required to obtain a determination letter for any reason in order to maintain reliance on the opinion letter, the Provider's authority to amend the Plan on behalf of the Adopting Employer is conditioned on the Plan receiving a favorable determination letter.

The Adopting Employer further understands that, if it does not give its authorization hereunder or, in the alternative, adopt another pre-approved plan, its Plan will become an individually designed plan and will not be able to rely on the pre-approved plan opinion letter.

Reliance on Opinion Letter. As provided in Revenue Procedure 2017-41, the Adopting Employer may rely on the Plan's opinion letter, provided that the Adopting Employer's Plan is identical to the GMEBS Plan, and the Adopting Employer has not amended or made any modifications to the Plan other than to choose the options permitted under the Plan, Adoption Agreement, and any Addendum.

AN ORDINANCE (continued from page 1)

Section 2. Except as otherwise specifically required by law or by the terms of the Basic Plan Document or Adoption Agreement (or any Addendum), the rights and obligations under the Plan with respect to persons whose employment with the City was terminated or who vacated office with the City for any reason whatsoever prior to the effective date of this Ordinance are fixed and shall be governed by such Plan, if any, as it existed and was in effect at the time of such termination.

Section 3. The effective date of this Ordinance shall be the date of its approval by the Governing Authority (not earlier than the first day of the current Plan Year in which the Plan is adopted, unless a retroactive corrective amendment is permitted under EPCRS, Rev. Proc. 2021-30 (or subsequent updated guidance)).

Section 4. All Ordinances and parts of ordinances in conflict herewith are expressly repealed.

Approved by the Mayor and Council of the City of Blue Ridge, Georgia, this _____ day of _____, 20_____.

Attest:

CITY OF BLUE RIDGE, GEORGIA

City Clerk

Mayor

(SEAL)

Approved:

City Attorney

The terms of the foregoing Adoption Agreement are approved by the Board of Trustees of Georgia Municipal Employees Benefit System.

IN WITNESS WHEREOF, the Board of Trustees of Georgia Municipal Employees Benefit System has caused its Seal and the signatures of its duly authorized officers to be affixed this _____ day of _____, 20_____.

Board of Trustees
Georgia Municipal Employees
Benefit System

(SEAL)

Secretary

RESOLUTION NO. BR2024-01

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BLUE RIDGE, STATE OF GEORGIA, TO APPROVE THAT CERTAIN SECOND MODIFICATION TO THE SEPTEMBER 8, 2022 LOAN FROM THE GEORGIA ENVIRONMENTAL FINANCE AUTHORITY, LOAN NO. CW2021037, ORIGINAL AMOUNT OF \$3,500,000

WHEREAS, the City of Blue Ridge, Georgia (hereinafter "Borrower") has borrowed \$3,500,000 from the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), pursuant to the terms of the Loan Agreement (the "Loan Agreement"), dated **SEPTEMBER 8, 2022**, between the Borrower and the Lender; and

WHEREAS, the Borrower's obligation to repay the loan made pursuant to the Loan Agreement is evidenced by a Promissory Note (the "Note"), date **MARCH 15, 2022**, of the Borrower; and

WHEREAS, the Borrower and the Lender have determined to amend and modify the Loan Agreement, pursuant to the terms of Modification of Promissory Note and Loan Agreement (the "Modification") between the Borrower and the Lender, the form of which has been presented at this meeting.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borrower that the form, terms, and conditions and the execution, delivery, and performance of the Modification are hereby approved and authorized.

BE IT FURTHER RESOLVED by the governing body of the Borrower that the terms of the Modification are in the best interest of the Borrower, and the governing body of the Borrower designates and authorizes the following persons to execute and deliver, and to attest, respectively, the Modification, any related documents necessary to the consummation of the transactions contemplated by the Modification:

ADOPTED this ____ day of February, 2024

MAYOR AND CITY COUNCIL OF BLUE RIDGE

Mayor, Rhonda Haight

City Clerk, Amy Mintz



February 8, 2024

Mr. Eric Soroka
City Administrator
City of Blue Ridge
480 West First St
Blue Ridge, GA 30513

RE: Second Modification for Loan No. CW2021037

Dear Mr. Soroka:

Enclosed are the modification documents for the Clean Water State Revolving Fund loan agreement between the Georgia Environmental Finance Authority (GEFA) and the city of Blue Ridge. GEFA is pleased to provide you with the following materials:

1. Three copies of the Second Modification of Promissory Note and Loan Agreement, including:
 - a. Exhibit A – Description of Project (Scope of Work, Budget, and Schedule)
 - b. Exhibit E – Opinion of Borrower's Counsel
 - c. Exhibit F – Resolution of Governing Body

In order to execute this modification in a timely manner, please read the following instructions:

SECOND MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

Three copies of the modification are enclosed. Each copy is an original counterpart and each must be executed. Please do not date page one of these copies of the modification. This date will be completed by GEFA at the time of execution of this modification. Please have the appropriate official sign each copy and the appropriate person attest the signature. Once signed, return all three copies of the modification with any other documents for our review and execution. GEFA will send your counterpart to you after execution.

EXHIBIT E – OPINION OF BORROWER'S COUNSEL

Exhibit E is a letter that must be prepared by your local government's attorney. This letter ensures that the modification documents and other documents have been properly reviewed and approved by the borrower's counsel. On page 3 of the modification, the borrower's counsel must also sign where indicated that modification is "Approved as to form."

EXHIBIT F – RESOLUTION OF GOVERNING BODY

This resolution gives authorization to the chief elected official to execute the modification documents, and any and all other documents. This resolution must be submitted along with the signed modification documents. The same elected official authorized to sign the modification documents within the resolution must also sign the modification documents.



GEFA is glad to assist you with the modification of this loan agreement and promissory note. Please do not hesitate to let us know if we can answer any questions or be of assistance in any other way.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Cherry". The signature is fluid and cursive, with a large loop at the end of the last name.

Jamelle Cherry

Enclosures

cc: Carter & Sloope (w/o enclosures)



Recipient Execution Checklist

Borrower Name: CITY OF BLUE RIDGE Loan Number: CW2021037

For your convenience, this checklist will help you complete all pertinent documents that must be returned to GEFA for execution. Please **initial** each item below to verify the items are completed. Please return this initialed checklist with your executed loan documents.

_____ **(3) Modification of Promissory Note and Loan Agreement**

Signed, dated, and marked with the borrower's seal

_____ **Exhibit E: Opinion of Borrower's Counsel**

Signed, dated, and on the attorney's letterhead

_____ **Exhibit F: Resolution of Governing Body**

Signed, dated, and marked with the borrower's seal. **This resolution authorizes the signer and attester. The same people must sign all the documents.**



**CLEAN WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA
ENVIRONMENTAL FINANCE AUTHORITY**

(a public corporation duly created and
existing under the laws of
the State of Georgia)
as Lender

and

CITY OF BLUE RIDGE

(a public body corporate and politic duly created and existing
under the laws of the State of Georgia)
as Borrower

SECOND MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

SECOND MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT

THIS SECOND MODIFICATION OF PROMISSORY NOTE AND LOAN AGREEMENT (this "Second Modification") dated ____ 20____, by and between **CITY OF BLUE RIDGE, GEORGIA**, a corporate and politic (the "Borrower"), and the **CLEAN FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FUND**, a Georgia public corporation (the "Lender").

Do Not
Date

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____,
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Statement of Facts

A. The Lender and the Borrower are parties to that certain Loan Agreement, dated **SEPTEMBER 8, 2022**, as amended prior to the date hereof (as so amended, the "Loan Agreement"; all capitalized terms used in this Second Modification but not defined herein have the meanings given in the Loan Agreement), pursuant to which the Lender made a loan to the Borrower in accordance with the terms and conditions thereof. The Borrower's obligation to repay such loan is evidenced by that certain Promissory Note, dated **MARCH 15, 2022**, as amended prior to the date hereof (as so amended, the "Note").

B. The Lender and the Borrower desire to modify the Loan Agreement and Note in certain respects in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the promises, the covenants and agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Lender and the Borrower further agree as follows:

Statement of Terms

1. Amendments of Note - Subject to the fulfillment of the conditions precedent to the effectiveness of this Second Modification that are set forth below, the Note is hereby amended as follows:

Accrued interest on this Note shall be payable monthly on the first day of each calendar month until the first day of the calendar month following the earlier of (1) the Completion Date (as defined in the hereinafter defined Loan Agreement), (2) **OCTOBER 1, 2025**, or (3) the date that the loan evidenced by this Note is fully disbursed (the "**Amortization Commencement Date**"). Principal of and interest on this Note shall be payable in **TWO HUNDRED THIRTY-NINE (239)** consecutive monthly installments equal to the Installment Amount (as hereinafter defined), commencing on the first day of the calendar month following the Amortization Commencement Date, and continuing to be due on the first day of each succeeding calendar month thereafter, together with a final installment equal to the entire remaining unpaid principal balance of and all accrued interest on this Note, which shall be due and payable on the date that is **20** years from the Amortization Commencement Date (the "**Maturity Date**").

2. Amendments of Loan Agreement - Subject to the fulfillment of the conditions precedent to the effectiveness of this Second Modification that are set forth below, the Loan Agreement is hereby amended as follows:

Section 2 (a) of the Loan Agreement is hereby amended and restated to read as follows: "The Lender agrees to advance to the Borrower, on or prior to the earlier of (1) the Completion Date (as hereinafter defined), (2) **OCTOBER 1, 2025**, or (3) the date that the loan evidenced by this Note is fully disbursed, the Loan in a principal amount of up to **\$3,500,000** which Loan may be disbursed in one or more advances but each such disbursement shall reduce the Lender's loan commitment hereunder and any sums advanced hereunder may not be repaid and then re-borrowed."

Exhibit A is amended and restated to read as written in the attached Exhibit A.

3. No Other Waivers or Amendments - Except for the amendments expressly set forth and referred to in Section 1 and 2 above, the Note and the Loan Agreement shall remain unchanged and in full force and effect. Nothing in this Second Modification is intended, or shall be construed, to constitute a novation or an accord and satisfaction of any of the obligations created by the Note.

4. Representations and Warranties - To induce the Lender to enter into this Modification, the Borrower does hereby warrant, represent, and covenant to the Lender that: (a) each representation or warranty of the Borrower set forth in the Loan Agreement is hereby restated and reaffirmed as true and correct on and as of the date hereof as if such representation or warranty were made on and as of the date hereof (except to the extent that any such representation or warranty expressly relates to a prior specific date or period), and no Event of Default has occurred and is continuing as of this date under the Loan Agreement; and (b) the Borrower has the power and is duly authorized to enter into, deliver, and perform this Modification, and this Second Modification is the legal, valid, and binding obligation of the Borrower enforceable against it in accordance with its terms.

5. Conditions Precedent to Effectiveness of this Second Modification - The effectiveness of this Second Modification is subject to the truth and accuracy in all material respects of the representations and warranties of the Borrower contained in Section 4 above and to the fulfillment of the following additional conditions precedent:

a. the Lender shall have received one or more counterparts of this Second Modification duly executed and delivered by the Borrower; and

b. the Lender shall have received (1) a signed opinion of counsel to the Borrower, substantially in the form of Exhibit E attached hereto, and (2) a certified copy of the resolution adopted by the Borrower's governing body, substantially in the form of Exhibit F attached hereto.

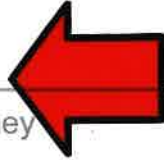
6. Counterparts - This Second Modification may be executed in multiple counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Modification to be duly executed and delivered as of the date specified at the beginning hereof

CITY OF BLUE RIDGE

Approved as to form:

By: _____
Borrower's Attorney



Signature: _____

Print Name: _____

Title: _____

(SEAL)

Attest Signature: _____

Print Name: _____

Title: _____

**CLEAN WATER STATE REVOLVING FUND
ADMINISTERED BY GEORGIA
ENVIRONMENTAL FINANCE AUTHORITY**



Signature: _____

Hunter Hill
Executive Director



(SEAL)

DESCRIPTION OF THE PROJECT

SCOPE OF WORK

Recipient: CITY OF BLUE RIDGE

Loan Number: CW2021037

This project will upgrade the sewer system, wastewater treatment plant, and related appurtenances.

DESCRIPTION OF THE PROJECT

PROJECT BUDGET

Recipient: CITY OF BLUE RIDGE

Loan Number: CW2021037

ITEM	TOTAL	CWSRF
Construction	\$2,800,000	\$2,800,000
Contingency	280,000	280,000
Engineering & Inspection	375,000	375,000
Administrative/Legal	45,000	45,000
TOTAL	\$3,500,000	\$3,500,000

*The amounts shown above in each budget item are estimates. Borrower may adjust the amounts within the various budget items without prior Lender approval provided Borrower does not exceed the loan amount contained in Section 1 of the Loan Agreement. In no event shall Lender be liable for any amount exceeding the loan amount contained in Section 1 of the Loan Agreement.

DESCRIPTION OF THE PROJECT

PROJECT SCHEDULE

Recipient: CITY OF BLUE RIDGE

Loan Number: CW2021037

ACTION	DATE
Plans & Specs Submitted to EPD	AUGUST 2022
Bid Opening	MAY 2023
Notice to Proceed	FEBRUARY 2024
Completion of Construction	JUNE 2025

OPINION OF BORROWER'S COUNSEL
(Please furnish this form on Attorneys Letterhead)

Date

Clean Water State Revolving Fund, Administered by
Georgia Environmental Finance Authority
47 Trinity Ave SW
Fifth Floor
Atlanta, GA 30334-9006

Ladies and Gentlemen:

A legal opinion from **SMITH CONERLY, LLP** was delivered to you, dated **FEBRUARY 1, 2022** (the "Closing Opinion"), relating to the Loan Agreement (the "Loan Agreement"), dated **SEPTEMBER 8, 2022** between **CITY OF BLUE RIDGE** (the "Borrower") and the **CLEAN WATER STATE REVOLVING FUND, ADMINISTERED BY GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), and the Promissory Note (the "Note"), dated **MARCH 15, 2022**, of the Borrower. A legal opinion from **SMITH CONERLY, LLP** was also delivered to you dated **JUNE 21, 2023**, relating to the Modification of Promissory Note and Loan Agreement dated **JULY 18, 2023**. As counsel for the Borrower, I have examined the original of the Modification of Promissory Note and Loan Agreement (the "Second Modification"), between the Borrower and the Lender, the proceedings taken by the Borrower to authorize the Second Modification, the Closing Opinion, and such other documents, records, and proceedings as I have deemed relevant or material to render this opinion. Based upon such examination, I hereby reconfirm as of the date hereof the opinions contained in the Closing Opinion, subject to the modification that all references to the Note and the Loan Agreement (as defined in the Closing Opinion) shall be deemed to include a reference to the Second Modification. Nothing has come to my attention, after due investigation, that in any way might question the continuing validity and accuracy of the Closing Opinion, as modified above.

Very truly yours,

Signature

Printed Name

Date

EXTRACT OF MINUTES
RESOLUTION OF GOVERNING BODY

Recipient: CITY OF BLUE RIDGE

Loan Number: CW2021037

At a duly called meeting of the governing body of the Borrower identified above (the "Borrower") held on the ____ day of date the following resolution was introduced and adopted.

WHEREAS, the Borrower has borrowed **\$3,500,000** from the **GEORGIA ENVIRONMENTAL FINANCE AUTHORITY** (the "Lender"), pursuant to the terms of the Loan Agreement (the "Loan Agreement"), dated **SEPTEMBER 8, 2022**, between the Borrower and the Lender; and

WHEREAS, the Borrower's obligation to repay the loan made pursuant to the Loan Agreement is evidenced by a Promissory Note (the "Note"), dated **MARCH 15, 2022**, of the Borrower; and

WHEREAS, the Borrower and the Lender have determined to amend and modify the Loan Agreement, pursuant to the terms of a Modification of Promissory Note and Loan Agreement (the "Modification") between the Borrower and the Lender, the form of which has been presented to this meeting;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borrower that the form, terms, and conditions and the execution, delivery, and performance of the Modification are hereby approved and authorized.

BE IT FURTHER RESOLVED by the governing body of the Borrower that the terms of the Modification are in the best interests of the Borrower, and the governing body of the Borrower designates and authorizes the following persons to execute and deliver, and to attest, respectively, the Modification, and any related documents necessary to the consummation of the transactions contemplated by the Modification.

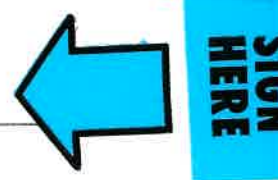
(Signature of Person to Execute Documents) (Print Title)

(Signature of Person to Attest Documents) (Print Title)

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect.

Date: _____
(SEAL) Seal/Date

Secretary/Clerk



RESOLUTION NO. BR2024-06

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLUE RIDGE, GEORGIA AWARDED AND LETTING A BID/CONTRACT FOR C&S PROJECT No. B7970.010, DOWNTOWN BLUE RIDGE STORM SYSTEM IMPROVEMENTS, TO NORTH GEORGIA CONCRETE, INC. AT THE LOW BID PRICE OF \$3,892,362.38; AUTHORIZING THE MAYOR TO EXECUTE THE NOTICE OF AWARD AND ASSOCIATED CONTRACTS; PROVIDING FOR THE APPROPRIATION AND ALLOCATION OF FUNDS FOR SAID BID AWARD; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City has, pursuant to the various laws of the State of Georgia and the Code of the City of Blue Ridge, properly solicited and accordingly accepted bids for C&S PROJECT No. 87970.010, DOWNTOWN BLUE RIDGE STORM SYSTEM IMPROVEMENTS; and

WHEREAS, sealed bids have been submitted to and received by the City pursuant to the City's Invitation to Bid/Notice to Bidders, specifications, proposals, and requirements for the project/work as cited above; and

WHEREAS, staff and the City Engineer has determined that NORTH GEORGIA CONCRETE, INC., has submitted the lowest responsible and responsive bid for said project/work and recommends that the bid be awarded in the amount of \$3,892,362.38 to NORTH GEORGIA CONCRETE, INC.; and

WHEREAS, the City Council, upon the recommendation of the City Administration, is therefore desirous of awarding said bid/contract to NORTH GEORGIA CONCRETE, INC.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of Blue Ridge does hereby award the bid for C&S PROJECT No.: No.:B7970.010, DOWNTOWN BLUE RIDGE STORM SYSTEM IMPROVEMENTS to NORTH GEORGIA CONCRETE, INC. in the amount of \$3,892,362.38 and authorizes the Mayor to execute the Notice of Award and associated contracts on the City's behalf. The funds to be allocated and appropriated pursuant hereto and for the purpose of carrying out the tenets of this Resolution shall be from SPLOST Fund 2018 \$1,100,000, GEFA loan \$2,000,000 and General Fund Public Works Department \$800,000. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by _____ who moved its adoption. The motion was seconded by _____ and upon being put to a vote, the vote was as follows:

Councilmember Angie Arp	_____
Councilmember Jack Taylor	_____
Councilmember Christy Kay	_____
Councilmember Bill Bivins	_____
Councilmember William Whaley	_____

PASSED AND ADOPTED THIS _____ DAY OF FEBRUARY, 2024.

RHONDA HAIGHT, MAYOR

ATTEST:

AMY MINTZ
CITY CLERK

Eric Soroka

From: Eric Soroka
Sent: Monday, January 29, 2024 3:00 PM
To: Rhonda Haight; Angie Arp; Jack Taylor; Bill Bivins; Bill Whaley; Christy Kay
Cc: cconerly@smithconerly.com; Matt Smith
Subject: FW: Blue Ridge awarded \$2 million loan for stormwater system infrastructure

I am pleased to advise that GEFA has awarded a low interest \$2 million loan for the Downtown Stormwater Improvements. See below. This will provide the additional funding to award the \$3.9 million bid award for this project.



Eric M. Soroka
City Administrator
City of Blue Ridge
480 West First Street
Blue Ridge, Ga 30513
www.cityofblueridgega.gov
706-632-2091

From: Amanda DeVore <adevore@gefa.ga.gov>
Sent: Monday, January 29, 2024 2:27 PM
Subject: Blue Ridge awarded \$2 million loan for stormwater system infrastructure



Blue Ridge awarded \$2 million loan for stormwater system infrastructure

ATLANTA – January 29, 2024. Blue Ridge, Georgia, was awarded a \$2,000,000 Georgia Fund loan by the Georgia Environmental Finance Authority (GEFA) board of directors.

The loan will finance rehabilitating the city's stormwater system. The city is experiencing severe flooding and erosion due to inadequate drainage. This project will improve the stormwater drainage system and protect the city's historical areas.

The city will pay 2.78% interest on the 25-year loan. The loan qualifies for a reduced interest rate due to GEFA's affordability criteria.

The Georgia Fund, a state-funded loan program, provides low-interest loans for water, wastewater, water conservation, and solid waste infrastructure projects. Eligible projects include water and sewer lines, treatment plants, pumping stations, wells, water storage tanks, and water meters. These projects conserve and improve water resources and facilitate economic development.

About the Georgia Environmental Finance Authority (gefa.georgia.gov):

The [Georgia Environmental Finance Authority](http://gefa.georgia.gov) (GEFA), headquartered in Atlanta, provides financing for a variety of energy, land, and water projects. Since 1985, GEFA has approved financial commitments totaling almost \$6 billion to local

governments, businesses, and nonprofit organizations. For more information, visit gefa.georgia.gov, [Twitter](#), [Facebook](#), [LinkedIn](#), or [YouTube](#).

For more information, contact:

Amanda DeVore

O: 404-584-1029

C: 404-309-7239

adevore@gefa.ga.gov

###

Eric Soroka

To: Rhonda Haight; Angie Arp; Christy Kay; Bill Bivins; Bill Whaley; Jack Taylor
Cc: Charles S. Conerly
Subject: GEFA GA Fund Application for Blue Ridge Downtown Storm System Improvements Project

The City has received tentative approval for a GEFA loan in the amount of \$2,000,000 for the Downtown Storm System Improvements Project. The GEFA Board meeting is scheduled for January 29th, where they will vote to authorize the loan. We would expect that we would receive the loan agreement from them around the first week in February. Based on this scheduled, the bid award and the GEFA Loan Agreement would be presented to the City Council at the February 20th meeting. I intend to prepare the necessary backup information and recommendations for that meeting so that this important project can continue to commence in early 2024.

As previously reported, North Georgia Concrete, Inc. out of Dahlonega, Georgia with a base bid of \$3,892,362.38 was determined to be the low bidder. The 2024 budget contains \$1,900,000 for this project. The GEFA loan will provide the additional funds needed. The debt service for the loan will be paid by sales tax revenue. This is a major drainage project that has been put off for years. The City Engineer indicates that this project was in the works in 2017. Obviously, delaying this project has driven up the cost. Also, dividing the project in phases will not solve the drainage issues in the short term and could result in even higher costs.



Eric M. Soroka
City Administrator
City of Blue Ridge
480 West First Street
Blue Ridge, Ga 30513
www.cityofblueridgega.gov
706-632-2091

Eric Soroka

From: Eric Soroka
Sent: Monday, November 13, 2023 2:53 PM
To: Rhonda Haight; Angie Arp; Bill Bivins; Jack Taylor; Bill Whaley; Christy Kay
Subject: Downtown Storm System Improvements Bid
Attachments: B7970.010 BID SET 5.pdf; B7970.010 Bid Tabulation.pdf

Bids were received and opened for the above subject project. A total of four (4) responsive bids were received. North Georgia Concrete, Inc. out of Dahlonega, Georgia with a base bid of \$3,892,362.38 was determined to be the low bidder. We have checked and tabulated the base bids received as follows:

Contractor Total Base Bid

1. North Georgia Concrete, Inc. \$3,892,362.38
2. Colwell Construction Company, Inc. \$4,484,891.36
3. Wilson Construction Management \$4,632,590.00
4. J.G. Leone Enterprises, Inc. \$6,818,477.50

The bid tabulation form is attached. Also attached, is the layout plan that show the extent of the improvements including correcting the undersized and damaged inlet near the Shamrock entrance. As previously discussed, this is a major drainage project that has been put off for years. Matt indicates that this project was in the works in 2017. Obviously, delaying this project has driven up the cost. Also, dividing the project in phases will not solve the drainage issues in the short term and could result in even higher costs.

The proposed 2024 budget contains \$1,900,000 for this project. There have several choices to deal with the funding shortfall. Most of the choices require delaying other important projects and impacting the financial stability of the City. We are exploring utilizing a loan from GEFA to fund the shortfall of \$2,000,000. Once we determine if we are eligible, I will present the bid for award to the City Council.

If you have any questions, please feel free to reach out.



Eric M. Soroka
City Administrator
City of Blue Ridge
480 West First Street
Blue Ridge, Ga 30513
www.cityofblueridgega.gov
706-632-2091



Carter & Sloop

CONSULTING ENGINEERS

November 9, 2023

Mr. Eric Soroka
Blue Ridge City Hall
480 W. First Street
Blue Ridge, GA 30513

SUBJECT: City of Blue Ridge, Georgia
Downtown Blue Ridge Storm System Improvements
C&S Project No.: B7970.010

Dear Mr. Soroka:

As you are aware, bids were received and opened for the above subject project on November 2, 2023 at 2:00 P.M. A total of four (4) responsive bids were received out of the seven (7) companies listed on the plan-holders list. North Georgia Concrete, Inc. out of Dahlonega, Georgia with a base bid of \$3,892,362.38 was determined to be the low bidder. We have checked and tabulated the base bids received as follows:

<u>Contractor</u>	<u>Total Base Bid</u>	<u>% Over Low Bid</u>
1. North Georgia Concrete, Inc.	\$3,892,362.38	---
2. Colwell Construction Company, Inc.	\$4,484,891.36	15.2%
3. Wilson Construction Management	\$4,632,590.00	19.0%
4. J.G. Leone Enterprises, Inc.	\$6,818,477.50	75.2%

As required in the bid documents, the low bidder submitted with his bid a 10% bid bond from Merchants Bonding Company (Mutual), which is listed in the U.S. Treasury Circular #570. Merchants Bonding Company (Mutual) is shown as being licensed in the state of Georgia with an underwriting limitation that is greater than the bond amount. Merchants Bonding Company (Mutual) has a current A.M. Best rating of "A" which meets the requirements of the contract documents. **Carter & Sloop therefore recommends the project be awarded to North Georgia Concrete at a Total Base Bid amount of \$3,892,362.38.**

We are enclosing one (1) copy of the certified "Bid Tabulation" for your records. We are also enclosing four (4) copies of the Notice of Award for this project. Please execute all four (4) copies of the Notice of Award and return them to our office as soon as possible. We will prepare four (4) originals of the Agreement and forward them to you when the Contractor has executed the Agreement and delivered all the necessary Payment and Performance Bonds and Certificates of Insurance.

If you have any questions or need any additional information, please call us.



344 Treadwell Road, Forsyth Co, 31029
 Office 478-993-2051 Cell 912-704-8124
 jhorne@hornelandsurveying.com
 www.hornelandsurveying.com

EASEMENT PLAT FOR
THE CITY OF BLUE RIDGE
 A PROPOSED DRAINAGE EASEMENT
 BEING A PORTION OF LAND LOT 278
 OF THE 8TH LAND DISTRICT, 2ND SECTION
 CITY OF BLUE RIDGE, FANNIN COUNTY, GEORGIA

SUBJECT PROPERTY INFORMATION

NAME - BR 01035, LLC
 ADDRESS - NOT LISTED
 PIN - BR01-035
 ACREAGE - 6.43 (FROM TAX MAP)
 DEED BOOK 1475, PAGE 409

LSF NO 1274



JULY 28, 2022

GRAPHIC SCALE



SCALE: 1" = 40'

REPRODUCTIONS, MODIFICATIONS OR ASSIGNMENTS OF THIS DOCUMENT WITHOUT THE WRITTEN APPROVAL OF HORNE LAND SURVEYING, INC. ARE PROHIBITED AND MAY INVALIDATE THE SEAL AND ANY LIABILITY THAT HORNE LAND SURVEYING, INC. MAY HAVE IN THIS DOCUMENT.

PROJECT NO	FIELD DATE	PLAT DATE
BR2021.004E1	11-17-21	06-13-22
REVISIONS		DATE
ADJUSTED EASEMENT SIZE		06-21-22
ADJUSTED EASEMENT SIZE		07-28-22

CERTIFICATION

AS REQUIRED BY SUBSECTION (D) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY ALL APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL CERTIFICATES, SIGNATURES, STAMPS, OR STATEMENTS HEREON. SUCH APPROVALS OR AFFIRMATIONS SHOULD BE CONFIRMED WITH APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT AS TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-57.

Jeffrey M. Horne
 JEFFREY M. HORNE, RLS #3131
 JULY 28, 2022
 DATE

LEGEND

- IRF IRON ROD FOUND
- PIPE-F PIPE FOUND
- R/W RIGHT OF WAY
- CMF CONCRETE MONUMENT FOUND
- CC CALCULATED POINT (NOT SET) "o"
- 10' TEMPORARY CONSTRUCTION EASEMENT

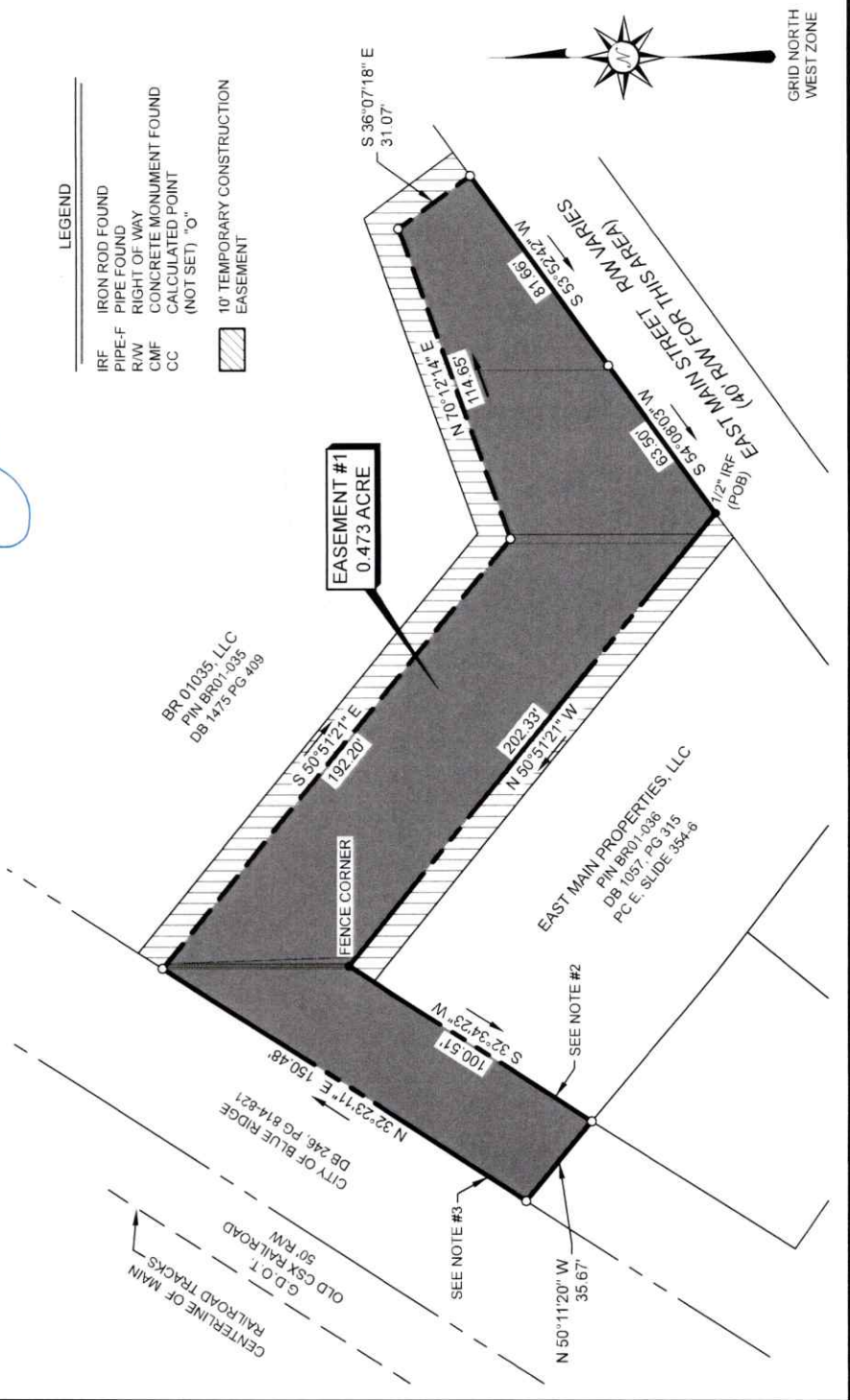
GPS CLOSURE STATEMENT

THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED ON HAS AN AVERAGE RELATIVE ACCURACY OF 0.04 FEET AT THE 95% CONFIDENCE LEVEL. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT OR 75.956 FEET. THE LINEAR MEASUREMENTS SHOWN ON THIS MAP OR PLAT WERE OBTAINED UTILIZING A CHAMPION PRO RTK DUAL FREQUENCY RECEIVER AND A LEICA 1512 ROBOTIC TOTAL STATION.

SURVEYORS NOTES

1. ALL MATTERS OF TITLE ARE EXCEPTED. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A COMPLETE TITLE SEARCH. ADDITIONAL EASEMENTS AND RIGHT OF WAY MAY EXIST THAT ARE NOT SHOWN.
2. PROPERTY LINE PER PLAT HANGER E354, SLIDE 6.
3. PROPERTY LINE ASSUMED 75' FROM THE CENTER LINE OF MAIN TRACKS.

RECORDING INFORMATION



GRID NORTH
 WEST ZONE

BID TABULATION FOR ALL BIDS RECEIVED AT THE CITY HALL OF BLUE RIDGE ON NOVEMBER 2, 2023 AT 11:00 AM

Project: Downtown Street System Improvements
 CAS Project No.: BR2023-001

North Georgia Concrete

Colwell Construction Company, Inc.

Whitton Construction Management

J.G. Laine Enterprises, Inc.

65 Creative Industrial Park Road
 Dahlway, GA 30013

PO Box 890
 Marietta, GA 30061

6945 McDowell Dr NW
 Norcross, GA 30093

3150 Ball Ground Highway
 Cumming, GA 30041

Item No	Description	Qty	Unit	North Georgia Concrete		Colwell Construction Company, Inc.		Whitton Construction Management		J.G. Laine Enterprises, Inc.	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1	REBAR CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 100,000.00	\$ 100,000.00	\$ 85,500.00	\$ 85,500.00	\$ 250,000.00	\$ 250,000.00	\$ 175,000.00	\$ 175,000.00
2	REBAR CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 917,116.00	\$ 917,116.00	\$ 439,997.22	\$ 439,997.22	\$ 1,099,222.00	\$ 1,099,222.00	\$ 1,316,868.00	\$ 1,316,868.00
3	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 28,200.00	\$ 28,200.00	\$ 27,240.00	\$ 27,240.00	\$ 6,000.00	\$ 6,000.00	\$ 18,250.00	\$ 18,250.00
4	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00	\$ 1,870.00
5	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 88,833.90	\$ 88,833.90	\$ 27,600.00	\$ 27,600.00	\$ 83,033.62	\$ 83,033.62	\$ 23,000.00	\$ 23,000.00
6	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 19,000.00	\$ 19,000.00	\$ 18,635.00	\$ 18,635.00	\$ 46,922.28	\$ 46,922.28	\$ 300.00	\$ 300.00
7	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 174,000.00	\$ 174,000.00	\$ 183,650.00	\$ 183,650.00	\$ 62,569.46	\$ 62,569.46	\$ 300.00	\$ 300.00
8	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 14,400.00	\$ 14,400.00	\$ 13,512.00	\$ 13,512.00	\$ 11,616.00	\$ 11,616.00	\$ 11,616.00	\$ 11,616.00
9	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 177,200.00	\$ 177,200.00	\$ 75,250.00	\$ 75,250.00	\$ 31,812.00	\$ 31,812.00	\$ 800.00	\$ 800.00
10	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 75,000.00	\$ 75,000.00	\$ 75,000.00	\$ 75,000.00	\$ 31,500.00	\$ 31,500.00	\$ 75,000.00	\$ 75,000.00
11	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00
12	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 11,862.00	\$ 11,862.00	\$ 8,500.00	\$ 8,500.00	\$ 4,500.00	\$ 4,500.00	\$ 14,000.00	\$ 14,000.00
13	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 68,500.00	\$ 68,500.00	\$ 64,643.00	\$ 64,643.00	\$ 28,363.72	\$ 28,363.72	\$ 600.00	\$ 600.00
14	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 282.50	\$ 282.50	\$ 696.20	\$ 696.20	\$ 38,201.00	\$ 38,201.00	\$ 650.00	\$ 650.00
15	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50	\$ 4,073.50
16	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 5,739.00	\$ 5,739.00	\$ 4,286.65	\$ 4,286.65	\$ 19,277.50	\$ 19,277.50	\$ 7,500.00	\$ 7,500.00
17	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,665.00	\$ 1,665.00	\$ 1,665.00	\$ 1,665.00	\$ 4,896.70	\$ 4,896.70	\$ 748.00	\$ 748.00
18	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 15,000.00	\$ 15,000.00	\$ 12,111.33	\$ 12,111.33	\$ 1,181.00	\$ 1,181.00	\$ 3,181.00	\$ 3,181.00
19	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 869.10	\$ 869.10	\$ 1,485.90	\$ 1,485.90	\$ 2,676.05	\$ 2,676.05	\$ 1,250.00	\$ 1,250.00
20	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 196.00	\$ 196.00	\$ 251,629.18	\$ 251,629.18	\$ 418,727.75	\$ 418,727.75	\$ 0.50	\$ 0.50
21	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 763.20	\$ 763.20	\$ 763.20	\$ 763.20	\$ 800.00	\$ 800.00	\$ 599.00	\$ 599.00
22	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 192.00	\$ 192.00	\$ 250.00	\$ 250.00	\$ 2,250.00	\$ 2,250.00	\$ 1,500.00	\$ 1,500.00
23	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 2.50	\$ 2.50	\$ 6,272.50	\$ 6,272.50	\$ 3,370.00	\$ 3,370.00	\$ 11,799.50	\$ 11,799.50
24	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 9.00	\$ 9.00	\$ 134.00	\$ 134.00	\$ 230.00	\$ 230.00	\$ 335.00	\$ 335.00
25	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 14.00	\$ 14.00	\$ 3,033.00	\$ 3,033.00	\$ 430.00	\$ 430.00	\$ 972.00	\$ 972.00
26	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 17.00	\$ 17.00	\$ 1,870.20	\$ 1,870.20	\$ 430.00	\$ 430.00	\$ 477.00	\$ 477.00
27	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 237.00	\$ 237.00	\$ 368.30	\$ 368.30	\$ 94,704.50	\$ 94,704.50	\$ 277.00	\$ 277.00
28	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 360.00	\$ 360.00	\$ 10,800.00	\$ 10,800.00	\$ -	\$ -	\$ 327.00	\$ 327.00
29	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 10,400.00	\$ 10,400.00	\$ 20,280.00	\$ 20,280.00	\$ 37,000.00	\$ 37,000.00	\$ 6,674.00	\$ 6,674.00
30	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,800.00	\$ 1,800.00	\$ 76,222.00	\$ 76,222.00	\$ 667.72	\$ 667.72	\$ 12,684.00	\$ 12,684.00
31	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 48,996.00	\$ 48,996.00	\$ 13,800.00	\$ 13,800.00	\$ 15,800.00	\$ 15,800.00	\$ 49,800.00	\$ 49,800.00
32	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,999.00	\$ 1,999.00	\$ 2,895.30	\$ 2,895.30	\$ 5,990.40	\$ 5,990.40	\$ 3,332.00	\$ 3,332.00
33	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 8,000.00	\$ 8,000.00	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00	\$ 9,500.00	\$ 8,404.00	\$ 8,404.00
34	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 22,750.00	\$ 22,750.00	\$ 23,151.00	\$ 23,151.00	\$ 7,279.00	\$ 7,279.00	\$ 3,500.00	\$ 3,500.00
35	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 7.70	\$ 7.70	\$ 1,078.00	\$ 1,078.00	\$ 4.75	\$ 4.75	\$ 665.00	\$ 665.00
36	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 311.00	\$ 311.00	\$ 1,991.00	\$ 1,991.00	\$ 724.00	\$ 724.00	\$ 2,176.80	\$ 2,176.80
37	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 633.00	\$ 633.00	\$ 1,699.00	\$ 1,699.00	\$ 999.65	\$ 999.65	\$ 2,851.95	\$ 2,851.95
38	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 15.20	\$ 15.20	\$ 777.20	\$ 777.20	\$ 500.00	\$ 500.00	\$ 3.50	\$ 3.50
39	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 130.40	\$ 130.40	\$ 37,291.40	\$ 37,291.40	\$ 65.90	\$ 65.90	\$ 18,847.40	\$ 18,847.40
40	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,632.00	\$ 1,632.00	\$ 21,668.40	\$ 21,668.40	\$ 65.90	\$ 65.90	\$ 99.00	\$ 99.00
41	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 1,632.00	\$ 1,632.00	\$ 11,701.00	\$ 11,701.00	\$ 2,800.00	\$ 2,800.00	\$ 673.00	\$ 673.00
42	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 80.00	\$ 80.00	\$ 157.00	\$ 157.00	\$ 80.00	\$ 80.00	\$ 157.00	\$ 157.00
43	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00	\$ 50,000.00
44	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
45	CONCRETE (INCL. DECKING AND MAINSTAYS) CONCRETE	1	EA	\$ 3,092,802.38	\$ 3,092,802.38	\$ 4,804,891.26	\$ 4,804,891.26	\$ 4,837,596.06	\$ 4,837,596.06	\$ 6,818,177.59	\$ 6,818,177.59

I hereby certify that this Bid Tabulation is a true and accurate representation of all proposals received on November 2, 2023 at 11:00 AM.

Matt Smith

Matt Smith, PE

**AGREEMENT BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

THIS AGREEMENT is by and between City of Blue Ridge ("Owner") and
North Georgia Concrete, Inc. ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

1.01 Bidder agrees to furnish all materials and equipment and to perform all labor necessary to construct ±1,018 LF of 7' X 5' Reinforced Concrete Double Box Culvert, ±37 LF of 8' X 8' Reinforced Concrete Double Box Culvert, ±220 LF of 7' X 5' Reinforced Concrete Single Box Culvert, ±100 LF of 60" Dia. Reinforced Concrete Pipe, headwalls, storm inlets, ±287 LF of 10" DIP sanitary sewer main, ±3,097 SY of asphalt pavement removal and replacement. The work also includes demolition, clearing and grubbing, earthwork, site work, yard piping, gravel road, erosion and sediment control measures, grassing, construction staking, mobilization/demobilization, bonds, insurance, delivery of materials, taxes, and all other appurtenances necessary for completion of the Work as shown in the Drawings and as specified.

ARTICLE 2—THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Downtown Blue Ridge Storm System Improvements.**

ARTICLE 3—ENGINEER

3.01 The Owner has retained Carter & Sloope, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

ARTICLE 4—CONTRACT TIMES

4.01 *Time is of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Days

A. The Work will be substantially complete within **City of Blue Ridge** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the

City of Blue Ridge
Downtown Blue Ridge
Storm System Improvements

C & S Project No. B7970.010
September 2023

General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within days after the date when the Contract Times commence to run.

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 4. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 5—CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as

provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95 percent of the value of the Work completed (with the balance being retainage).
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

6.05 *Interest*

- A. All amounts not paid when due will bear interest at the maximum legal rate of per annum.

ARTICLE 7—CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 1. This Agreement.
 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 3. General Conditions.

4. Supplementary Conditions.
 5. Specifications as listed in the table of contents of the project manual.
 6. Drawings (not attached but incorporated by reference) consisting of all sheets bearing the following general title: **Downtown Blue Ridge Storm System Improvements**.
 7. Addenda (numbers [1] to [1], inclusive).
 8. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid
 9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *Contractor's Representations*

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders,

with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 9—MISCELLANEOUS

9.01 *Assignment of Contract*

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.02 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.03 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Owner:
City of Blue Ridge
(typed or printed name of organization)

Contractor:
North Georgia Concrete, Inc.
(typed or printed name of organization)

By: _____
(individual's signature)

By: *[Signature]*
(individual's signature)

Date: _____
(date signed)

Date: _____
(date signed)

Name: _____
(typed or printed)

Name: *KERRY DICKERSON*
(typed or printed)

Title: _____
(typed or printed)

Title: *President*
(typed or printed)

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Attest: *[Signature]*
(individual's signature)

Title: _____
(typed or printed)

Title: *Office mgr.*
(typed or printed)

Address for giving notices:

Address for giving notices:

Designated Representative:
Name: _____
(typed or printed)

Designated Representative:
Name: *CRAIG WEATHERLY*
(typed or printed)

Title: _____
(typed or printed)

Title: *VICE PRESIDENT*
(typed or printed)

Address:

Address:

Phone: _____

Phone: _____

Email: _____

Email: _____

City of Blue Ridge
Downtown Blue Ridge
Storm System Improvements

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September 2023

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents

License No.: GCCD 005264
(where applicable)
State: Georgia

RESOLUTION NO. BR2024-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BLUE RIDGE, GEORGIA AWARDING AND LETTING A BID CONTRACT FOR CITY OF BLUE RIDGE DOWNTOWN VISITOR CENTER, TO BENNING CONSTRUCTION COMPANY, GENERAL CORPORATION AT THE NEGOTIATED PRICE OF \$997,955.00; AUTHORIZING THE MAYOR TO EXECUTE THE NOTICE OF AWARD AND ASSOCIATED CONTRACTS AND DOCUMENTS; PROVIDING FOR THE APPROPRIATION AND ALLOCATION OF FUNDS FOR SAID BID AWARD; AND PROVIDING FOR AN EFFECTIVE DATE.

Whereas, the City has, pursuant to the various laws of the State of Georgia and Code of the City of Blue Ridge, properly solicited and accordingly accepted bids for BLUE RIDGE DOWNTOWN VISITOR CENTER; and

Whereas, sealed bids have been submitted to and received by the City pursuant to the City's Invitation to Bid/Notice to Bidders, specifications, proposals, and requirements for the project/work as cited above; and

Whereas, staff has determined that BENNING CONSTRUCTION COMPANY, GENERAL CORPORATION, had submitted the lowest responsible and responsive bid for said project/work but that such bid exceeded the funds originally budgeted, and

Whereas, in accordance with Georgia Local Government Public Works Construction Law, staff has negotiated with BENNING CONSTRUCTION COMPANY, GENERAL CORPORATION, and recommends that the bid be awarded in the amount of \$977,955.00; and

Whereas, the City Council, upon the recommendation of the Mayor, is therefore desirous of awarding said bid/contract to BENNING CONSTRUCTION COMPANY, GENERAL CORPORATION.

Now, Therefore, Be it resolved, that the City Council of Blue Ridge does hereby award the bid for BLUE RIDGE DOWNTOWN VISITOR CENTER in the amount of \$997,955.00 and authorizes the Mayor to execute the Notice of Award and associated contracts on the City's behalf. The funds to be allocated and appropriated pursuant hereto and for the purpose of carrying out the tenets of this Resolution shall be from Downtown Development Authority Fund 800-54-7540-1402 - \$450,000, Hotel/Motel Tax Fund 275-54-7540-1402 - \$550,000. This Resolution shall become effective immediately upon its adoption.

The forgoing Resolution was offered by _____ who moved it adoption. The motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Councilmember Angie Arp	_____
Councilmember Jack Taylor	_____
Councilmember Christy Kay	_____
Councilmember Bill Bivins	_____
Councilmember William Whaley	_____

PASSED AND ADOPTED this ____ day of _____, 2024.

RHONDA HAIGHT, MAYOR

ATTEST:

AMY MINTZ, CITY CLERK

BENNING

C O N S T R U C T I O N

January 22, 2024

City of Blue Ridge

Blue Ridge Restrooms
East Main Street
Blue Ridge, GA

Bid Breakdown

General Conditions	\$ 149,607.00
Asphalt Demolition	\$ 5,250.00
Concrete Foundation/Resteel	\$ 44,409.00
Concrete Floor Sealer	\$ 1,050.00
Concrete Stain	\$ 7,493.00
Masonry	\$ 20,800.00
Finish Carpentry	\$ 11,313.00
Rough Carpentry	\$ 7,127.00
Wood Framing	\$ 55,740.00
Wood Trusses	\$ 15,115.00
Countertops	\$ 10,976.00
Insulation	\$ 12,089.00
Roofing and Gutters	\$ 18,052.00
Cementitious Siding	\$ 43,970.00
Caulking and Waterproofing	\$ 5,530.00
Doors, Frames and Hardware	\$ 28,500.00
Glass and Storefront	\$ 32,133.00
Drywall	\$ 20,000.00
Flooring	\$ 13,500.00
Painting	\$ 20,615.00
Toilet Partitons and Accessories and Fire Ext.	\$ 39,973.00
Plumbing	\$ 101,376.00
HVAC	\$ 99,870.00
Electrical	\$ 65,588.00
Fire Alarm	\$ 9,875.00
	\$ -
Labor Burden & Sales Tax	\$ 30,826.00
Insurance	\$ 12,599.00
Fee	\$ 107,094.00
Bond	\$ 7,485.00
Total Bid Costs	\$ 997,955.00

EXHIBIT "A"
LIST OF DRAWINGS

Plans entitled "A Public Restroom Facility for City of Blue Ridge" prepared by Phillip T. Walker Architects containing the following sheets:

<u>DRAWING NO.</u>	<u>TITLE</u>	<u>DATE</u>	<u>LATEST REVISION DATE</u>
G0.1	Cover Sheet	12.07.23	---
LS1.1	First Floor Life Safety Plan	12.07.23	---
A1.1	Foundation Plan/Detail Sections	12.07.23	---
A1.2	Floor Plan	12.07.23	---
A1.3	Roof Framing Plan	12.07.23	---
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AIA[®] Document A101[®] – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Sixth day of September in the year Two Thousand Twenty-three
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Blue Ridge
408 West First Street
Blue Ridge, Georgia 30513

and the Contractor:
(Name, legal status, address and other information)

Benning Construction Company, General Corporation
4695 S. Atlanta Road SE
Atlanta, Georgia 30339
Telephone Number: 404-792-1911
Fax Number: 404-792-2337

for the following Project:
(Name, location and detailed description)

City of Blue Ridge Downtown Visitor Center Construction Project
East Main Street
Blue Ridge, Georgia 30513

The Architect:
(Name, legal status, address and other information)

Phillip T. Walker Architect, PC.
510 East Oneida Street
Waycross, Georgia 31501

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

RFE!

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

The date of this Agreement.

A date set forth in a notice to proceed issued by the Owner.

Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

Start date to be October 9th, 2023 contingent upon receipt of all necessary permits

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

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§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

Not later than One Hundred Eighty (180) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Not applicable	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million Six Hundred Sixty-five Thousand Three Hundred Ninety-six and 00/100 Dollars (\$ 1,665,396.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
TBD	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
TBD		

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
TBD	

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
TBD		

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

\$500/day liquidated damages are to be assessed against the Contractor for each calendar day that the project exceeds the substantial completion date. An extension in time will be granted on a day for day basis for any delay related to weather, utility relocation conflict, or other concealed conditions out of Benning Construction Company's control. Weather related delays include 'mud days' or any days where the site conditions have been altered by weather such that critical path work cannot proceed.

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§ 4.6 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

Not applicable

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the tenth (10th) day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the fifteenth (15th) day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than fourteen (14) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

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§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

ten (10%) percent retainage is to be held

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Insurance and performance and payment bond.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

At the Owners discretion, retainage may be reduced to five (5%) percent when the project is 75% complete

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

10 % (ten percent)

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ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker. *(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows: *(Check the appropriate box.)*

Arbitration pursuant to Section 15.4 of AIA Document A201-2017

Litigation in a court of competent jurisdiction

Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows: *(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*

General Contractors full fee for the project

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Eric Soroka
City Administrator
408 West First Street
Blue Ridge, Georgia 30513
Telephone Number: 706.632.2091

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Email Address: esoroka@cityofblueridgega.gov

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Ryce A. Elliott
Benning Construction Company
4695 South Atlanta Road
Atlanta, Georgia 30339
404.787.4735
ryce@benningcc.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

Not applicable

§ 8.7 Other provisions:

The cost of the demolition of the existing structure is to be evenly shared by the Owner and the Contractor. The tying in of utilities and stubbing to within 5' of the building line, and all site asphalt and concrete patching is to be done by others.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

1. AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
2. AIA Document A101™-2017, Exhibit A, Insurance and Bonds
3. AIA Document A201™-2017, General Conditions of the Contract for Construction

(Paragraph Deleted)

(Insert the date of the E203-2013 incorporated into this Agreement.)

4 Drawings

Plans entitled "A Public Restroom/Police Substation for City of Blue Ridge" prepared by Phillip T. Walker Architects containing the following sheets:

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DRAWING NO.	TITLE	DATE	LATEST REVISION DATE
G0.1	Title Sheet General Information	10.04.2022	08.02.2023
LS1.1	First Floor Life Safety Plan	10.04.2022	05.30.2023
LS1.2	Second Floor Life Safety Plan	10.04.2022	05.30.2023
A-01	Architectural Site Plan	05.30.2023	08.02.2023
A-02.1	First Floor Plumbing Dimension Plan	05.30.2023	08.02.2023
A-02.2	Second Floor Plumbing Dimension Plan	05.30.2023	08.02.2023
A-03	First Floor Note Plan	05.30.2023	08.02.2023
A-04	First Floor Dimension Plan	05.30.2023	08.02.2023
A-05	Second Floor Note Plan	05.30.2023	08.02.2023
A-06	Second Floor Dimension Plan	05.30.2023	08.02.2023
A-07	Interior Elevations / ADA Details	05.30.2023	08.02.2023
A-08	Front & Rear Elevations	05.30.2023	08.02.2023
A-09	Left & Right Elevations	05.30.2023	08.02.2023
A-10	Typical Wall Section / Building Sections	05.30.2023	08.02.2023
A-11	Roof Plan	05.30.2023	08.02.2023
M-001	Mechanical Notes, Schedules, and Details	05.26.2023	08.09.2023
M-100	Mechanical – First Floor	05.26.2023	08.09.2023
M-101	Mechanical Plan – Second Floor	05.26.2023	08.09.2023
P-001	Plumbing Notes, Schedules, and Details	05.26.2023	---
P-100	Sanitary Sewer Plan – First Floor	05.26.2023	---
P-101	Sanitary Sewer Plan – Second Floor	05.26.2023	---
P-200	Domestic Water Plan – First Floor	05.26.2023	---
P-201	Domestic Water Plan – Second Floor	05.26.2023	---
P-300	Plumbing Plan Riser	05.26.2023	---
E-001	Electrical Notes and Schedules	05.26.2023	08.22.2023
E-100	Power Plan – Lower Floor	05.26.2023	08.22.2023
E-101	Power Plan – Main Floor	05.26.2023	08.22.2023
E-200	Lighting Plan – Lower Floor	05.26.2023	08.22.2023
E-201	Lighting Plan – Main Floor	05.26.2023	08.22.2023
FA1.1	First Floor Fire Alarm Plan	05.30.2023	---
FA1.2	Second Floor Fire Alarm Plan	05.30.2023	---
S0.1	Notes & Specifications	05.16.2023	08.12.2023
S0.2	Calculations, Notes & Specifications	05.16.2023	---
S0.3	Calculations, Notes & Details	05.16.2023	---
S0.4	Special Inspections Schedule & Details	05.16.2023	---
S1.0	Foundation Plan	05.16.2023	08.12.2023
S2.0	Structural Floor Framing Plan	05.16.2023	---
S3.0	Roof Framing Plan	05.16.2023	08.12.2023
S4.0	Framing Elevations	05.16.2023	08.12.2023
S4.1	Framing Elevations	05.16.2023	08.12.2023
S4.2	Framing Elevations	05.16.2023	08.12.2023
S4.3	Framing Elevations	05.16.2023	08.12.2023
S5.0	Structural Framing Sections & Details	05.16.2023	08.12.2023
S6.0	Structural Details	05.16.2023	---
S6.1	Structural Details	05.16.2023	---
S6.2	Structural Details	05.16.2023	---
S6.3	Structural Details	05.16.2023	---

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.5 Specifications

Section	Title	Date	Pages
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.6 Addenda, if any:

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.7 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Not applicable			

.8 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

Ryce A. Elliott, Digitally signed by Ryce A. Elliott
Date: 2023.09.06 17:15:55 -04'00'

OWNER (Signature)

CONTRACTOR (Signature)

Eric Soroka, City Administrator

Ryce A. Elliott, President

(Printed name and title)

(Printed name and title)

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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

City of Blue Ridge Downtown Visitor Center Construction Project
East Main Street
Blue Ridge, Georgia 30513

THE OWNER:
(Name, legal status and address)

City of Blue Ridge
408 West First Street
Blue Ridge, Georgia 30513

THE ARCHITECT:
(Name, legal status and address)

Phillip T. Walker Architect, PC.
510 East Oneida Street
Waycross, Georgia 31501

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ADDITIONS AND DELETIONS:
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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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15 CLAIMS AND DISPUTES

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution 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 Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

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§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 1.2.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, 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.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2;

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

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Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

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§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is 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 caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

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Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

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and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

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prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,

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promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

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- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. 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 net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will

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affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and

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unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

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§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor 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, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

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§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

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the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and 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 Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

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§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,

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the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

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§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9:7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the

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Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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