

Project No. Title:	Public Opening Date & Time: Tuesday, January 15, 2009 2:00 P.M. Local Time	Advertised Date: Thursday, February 25, 2009
Procurement Representative: Jim Hyde (jim.hyde@gsfic.ga.gov)	Respond To: 270 Washington Street, Second Floor, Atlanta, Georgia 30334 Phone: 404-463-5600 Fax: 404-463-5699	

**PROJECT MANUAL**  
for  
**AMERICAN RECOVERY AND  
REINVESTMENT ACT OF 2009**

**INSERT TITLE OF PROJECT**  
**PROJECT NO. ECM-XXX**

**ATLANTA, GEORGIA**

**Insert Date Package Began Assembly**



**GEORGIA STATE FINANCING AND INVESTMENT COMMISSION**  
**270 Washington Street, Second Floor**  
**Atlanta, Georgia 30334**

On behalf of  
**{Insert User Agency}**

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**{INSERT PROJECT NAME}**  
**PROJECT NO. ECM-XXX**

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**SECTION A  
INVITATION TO BID  
Project No. ECM-XXX**

- A-01.** Notice is hereby given that the Georgia State Financing and Investment Commission (GSFIC) will accept sealed bids on behalf of the Georgia Environmental Facilities Agency (GEFA) for **{Insert Agency Name}** for **{Project name}** in strict conformity with the bidding and Contract Documents.
- A-02.** Each bid must be submitted on the prescribed Bid Form. All blank spaces for bid prices must be filled in, in ink or typewritten, in both words and figures, and the certification (reference Bid Form paragraph B-09) must be fully completed and executed when submitted.
- A-03.** Such sealed bids as received will be opened and read aloud at 2:00 P.M. on **{Bid opening date}** in the Bid Room #2104 located on the Second Floor, 270 Washington Street, Atlanta, Georgia 30334 **(If attending bid opening, enter through Room #2101)**. All mailed or hand delivered bids must be received by the Georgia State Financing and Investment Commission, Procurement Division, 270 Washington Street, Atlanta, Georgia 30334, prior to that date and time. Bidder retains full responsibility for assuring that bids are received prior to the time stated for bid opening.
- A-04. COPIES OF BIDDING DOCUMENTS AND INFORMATION REGARDING THE PRE-BID CONFERENCE MAY BE OBTAINED FROM THE ISSUING OFFICER LISTED BELOW:**

**{Architect Name or GSFIC Contact}**  
**{Vendor or GSFIC address}**  
**{City, State, Zip}**  
**{Phone number}**  
**{Email address}**

From the date that this Invitation To Bid (ITB) is issued until a bidder is selected and the selection is announced, there will be no communication for any reason, except during the pre-bid conference, between a bidder and any State employee other than the contracting officer listed regarding this ITB. The GSFIC reserves the right to reject any bid for violation of this provision. No questions other than written will be accepted, and no response other than written will be binding upon the GSFIC.

**IMPORTANT**

A **MANDATORY PRE-BID CONFERENCE** will be held beginning at **{insert location}** on **{insert date}**, at **10:00 A.M.** The GSFIC reserves the right to disqualify a potential bidder due to a failure by the bidder to arrive for the site visit by the scheduled time. Failure to attend a mandatory site visit will automatically result in disqualification from the bid process.

- A-05.** Bid documents are available at no charge and may be downloaded from the internet by visiting the State Purchasing website at [www.procurement.state.ga.us](http://www.procurement.state.ga.us). Upon reaching the Georgia Procurement Registry Search Engine Site, select State Government, then choose Georgia State Finance and Investment Commission under State Agencies and search for this solicitation. **Bidder should check the web site daily for updates, addenda and any other additional information.**

**{SELECT ABOVE OR BELOW, NOT BOTH}**

Applications for bidding documents, together with a deposit of \$\_\_\_\_\_ (Payable to the party noted above) should be filed promptly. Bidding documents will be forwarded, shipping charges collect, as soon as possible. The full amount of deposit for one set will be refunded to each general contractor who submits a bonafide bid upon his return of such set in good condition within thirty-five (35) days after the date of the bid opening.  
**{Confirm which statement applies, and then delete unneeded portion}**

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- A-06.** Each bid must be accompanied with a BID BOND (Bond only; certified checks or other forms are not acceptable) in an amount equal to 5% of the base bid, payable to the Georgia State Finance and Investment Commission and issued by a Corporate Surety authorized to do business in the State of Georgia, in order to guarantee that the bidder will enter into a contract to construct the project strictly within the terms and conditions stated in this bid and in the bidding and Contract Documents, should the construction contract be awarded to him.
- A-07.** The successful bidder shall be required to furnish a bond for the faithful performance on the contract and a bond to secure payment of all claims for materials furnished and/or labor performed in performance of the project, both in amounts equal to 100% of the Contract Price. Both bonds shall be issued by a Corporate Surety authorized to do business with the State of Georgia. All bids submitted shall remain open for a period of thirty-five (35) days after the date of the bid opening.
- A-08.** The owner reserves the right to reject any or all bids and to waive technicalities and irregularities.
- A-09.** All bids submitted in response to this Invitation to Bid shall be made in general accordance with the Georgia Vendor Manual and the applicable provisions of Georgia Law.
- A-10.** All expenses for preparing and submitting responses are the sole cost of the party submitting the response. The GSFIC is not obligated to any party to reimburse such expenses. All submittals upon receipt become the property of the GSFIC. Labeling information provided in submittals “proprietary” or “confidential”, or any other designation of restricted use will not protect the information from public view. Subject to the provisions of the Open Records Act, the details of the bid documents will remain confidential until final award.
- A-11.** This project is funded by the American Recovery and Reinvestment Act of 2009.

Contracting Officer:  
Georgia State Financing and Investment Commission  
270 Washington Street, Second Floor  
Atlanta, Georgia 30334  
Phone: 404-  
Fax: 404-463-5699  
Email:

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**SECTION B  
BID FORM**

BID CLOSING DATE: {Insert Date}  
BID CLOSING TIME: 2:00 PM

TO: Procurement Division  
Georgia State Financing and Investment Commission  
270 Washington Street, Second Floor  
Atlanta, Georgia 30334

Gentlemen:

**B-01.** Having carefully examined the Bidding Documents entitled: {Insert Project Name}, dated {Insert Date}, and Addendum(a) No.(s) \_\_\_\_\_ as well as the premises and conditions affecting the Work, [the state reserves the right to disqualify any bid submitted which fails to acknowledge receipt of all issued addendum (a)] the undersigned proposes to furnish all services, labor, and materials called for by them for the entire Work, in accordance with said documents, for the sum of:

\_\_\_\_\_ DOLLARS

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

**B-02. ALTERNATES / UNIT PRICES:** The following Alternate Prices/Unit Prices are hereby established and subject to Owner approval: (1) may form the basis of a Change Order or (2) may be incorporated into the Contract Price at the time of the award. Said Alternate Prices shall remain firm and in effect for 30 days after Notice to Proceed is issued by the Owner. The Owner reserves the right to exercise/accept any combination of independent Alternates and adjust the Contract Price Accordingly.

**ALTERNATE NO. 1: {Insert description}**

DEDUCT /ADD THE SUM OF \_\_\_\_\_ DOLLARS  
(\$ \_\_\_\_\_)

**B-03.** The undersigned hereby agrees that this bid may not be revoked or withdrawn after the time set for the opening of bids, but shall remain open for acceptance for a period of 35 days following such time.

**B-04.** In the event that the undersigned is notified in writing by mail, telegraph, or delivery of the acceptance of this bid within 35 days after the time set for the opening of bids, the undersigned agrees to execute, within fifteen (15) days, a contract (on a form supplied by the Georgia State Financing and Investment Commission, when a stipulated sum forms the basis of payment) for the Work for the above stated compensation and at the same time to furnish and deliver to the Owner a Performance Bond and Payment Bond in accordance with the forms shown in Exhibit C & D and the General Conditions of the Contract, both in an amount equal to 100% of the Contract sum. The surety must be one which is licensed to do business in the State of Georgia.

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

**B-06.** The undersigned agrees to commence actual physical work on the site with an adequate work force and equipment within ten days of the date of the Notice to Proceed and to complete fully all work by not later than {enter number of days or leave blank for bidder to insert} \_\_\_\_\_ consecutive calendar days from and including date of the Notice to Proceed.

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**B-07.** Enclosed herewith is a bid bond (Bid Bond only, Bonding Company Form is Acceptable; certified checks or other forms of bid security are not acceptable) in the amount of \_\_\_\_\_

DOLLARS

(\$ \_\_\_\_\_) (being not less than 5% of the base bid). The undersigned agrees that the above stated amount is the proper measure of liquidated damages which the Owner will sustain by the failure of the undersigned to execute the Contract and to furnish performance and payment bonds in case this bid is accepted.

**B-08.** If this bid is accepted within 35 days after the date set for the opening of bids, and the undersigned fails to execute the Contract within fifteen (15) days after notice of such acceptance or if he fails to furnish both performance and payment bonds, the obligation of the bid bond, if applicable, will remain in full force and effect and the money payable thereon shall be paid into the funds of the Owner as liquidated damages for such failure; otherwise, obligation of the bond will be null and void.

**B-09.** The bidder submits the following statement of bidder's qualifications for consideration by the Owner.

**STATEMENT OF BIDDER'S QUALIFICATIONS**  
**(To be subscribed and sworn to before a notary public)**

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

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

\_\_\_\_\_  
CITY STATE ZIP

\_\_\_\_\_  
MAILING ADDRESS IF DIFFERENT FROM ABOVE

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

Contact Person Name and Email Address: \_\_\_\_\_

Georgia Resident: YES \_\_\_ NO \_\_\_

When Organized: \_\_\_\_\_ Where Incorporated: \_\_\_\_\_

Federal I.D. No.: \_\_\_\_\_ or Social Security No.: \_\_\_\_\_

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

Georgia General Contractor: YES \_\_\_ NO \_\_\_ License Number(s): \_\_\_\_\_

Credit Available for This Contract: \_\_\_\_\_

Contracts Now in Hand, Gross Amount: \_\_\_\_\_

Plan of Organization:  Proprietorship  Corporation  Partnership

The bidder has refused to sign a contract at the original bid. YES \_\_\_ NO \_\_\_

The bidder has been declared in default on a contract. YES \_\_\_ NO \_\_\_

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If answer is Yes to any statement above, please explain:

The foregoing statement of qualifications is submitted under oath.

- B-10.** Contractor certifies that they have been granted and possess all necessary, valid, current licenses to do business in the State of Georgia as issued by the respective State Boards and Government Agencies responsible for regulating and licensing the services to be provided and performed pursuant to this Agreement.
- B-11.** Under oath I certify that I am a principal or other representative of the firm of \_\_\_\_\_ and that I am authorized by it to execute the foregoing offer on its behalf. I am a principal person of the foregoing with management responsibility for the foregoing subject matter and as such I am personally knowledgeable of all its pertinent matters. The foregoing statement of facts in the foregoing bid is true.
- B-12.** I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences and civil damage awards. I agree to abide by all conditions of this bid and certify that provisions of Georgia O.C.G.A. Section 45-10-20, *et. sec.*, have not and shall not be violated in any respect.
- B-13.** The bidder certifies it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- B-14.** The bidder certifies it has not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
- B-15.** The bidder certifies it is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification
- B-16.** The bidder certifies it has not within a three-year period preceding this application/bid has one or more public transactions (Federal, State or local) terminated for cause or default.

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

(1) \_\_\_\_\_

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

(2) \_\_\_\_\_

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

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

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

\_\_\_\_\_

DATE: \_\_\_\_\_

BY: \_\_\_\_\_  
Authorized Signature (BLUE INK PLEASE)

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

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

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

My commission expires: \_\_\_\_\_

**NOTICE TO BIDDERS**

- 1) **MAKE SURE YOU HAVE SIGNED THIS BID IN THE SPACE PROVIDED ABOVE.**
- 2) **SUBMIT ORIGINAL AND ONE COPY OF THE BID FORM.**
- 3) **MAKE SURE YOU AND YOUR SURETY HAVE PROPERLY EXECUTED THE BID BOND.**
- 4) **IF APPLICABLE, BIDDER SHOULD INCLUDE PAST WORK EXPERIENCE AND REFERENCES AS INDICATED IN SECTION C, ARTICLE C-08 AWARD.**
- 5) **SUBMIT THE GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT WITH BID. (EXHIBIT F)**

**B-13.** Please check the box if the definition below applies to your company:

- MINORITY BUSINESS ENTERPRISE (MBE).** The business is either: a) owner by a member of a minority race or b) a partnership of which a majority of interest is owned by one or more members of a minority race or c) a public corporation of which a majority of the common stock is owned by one or more members of a minority race. A member of a minority race is defined as an individual who is a member of a race which comprises less than 50 percent of the total population of the state of Georgia. This request is made for statistical purposes only.



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### SECTION C INSTRUCTION TO BIDDERS

- C-01. Basis of Contract.** See Invitation to Bid and Bid Form. (See also D-45)
- C-02. Bid Security.** See Invitation to Bid and Bid Form.
- C-03. Interpretations.** No oral interpretation will be made to bidders as to the meaning of the drawings and specifications. Requests for interpretation of drawings and specifications must be made in writing to the Architect and/or the Owner's Representative not later than **seven (7)** days prior to the date set for receipt of the bids, and failure on the part of the successful bidder to do so shall not relieve him as Contractor of the obligation to execute such work in accordance with a later interpretation by the Architect and/or the Owner's Representative. All interpretations made to bidders will be issued in the form of addenda to the Drawings and Project Manual and will be posted to the Georgia Procurement Registry web site. Such addenda are to be listed in the bids, and in closing the contract they will become a part thereof. (See also D-45)
- C-04. Bids**
- a. Bids will be opened and read as stated in the Invitation to Bid.
  - b. All bidders must deliver two (2) complete sets (one original clearly marked or stamped "original", and one (1) copy) of the required bid on the Bid Form and all copies must be signed. All blanks on the Bid Form must be filled in. Numbers shall be written in English words and in Arabic numerals. The completed form shall be without interlineation, alteration or erasure. Failure to submit a bid in the form required or the inclusion of any condition, alternate, limitation or provision not called for will render the bid irregular and shall be considered sufficient cause for rejection of a bid. Failure to complete entries in all blanks in the Bid Form shall be considered sufficient cause for rejection of a bid.
  - c. Bids are to be addressed to the Georgia State Financing and Investment Commission, at the address shown in the Invitation to Bid and must be enclosed in an opaque, sealed envelope and marked on the lower left corner with the Bid Date, Bid Time, Project Number, Name of Project and identified with the words "Bid for **[Insert Project Name]**." Bids are to reach the address designated in the invitation to bid not later than the hour and date named in the Invitation To Bid. After that time no bids may be received.
  - d. A bid must be submitted for all alternates. (See D-47)
  - e. Bids together with the full bid security accompanying same may be withdrawn by bidders prior to the time set for official opening. After time has been called, no bid may be withdrawn for a period of thirty-five days after the TIME AND DATE of opening. Negligence or error on the part of any bidder in preparing his bid confers no right of withdrawal or modification of his bid after time has been called.
  - f. Bid responses containing provisions for late or interest charges will not be considered for an award. Bidders are instructed to remove or strike through any reference to this provision and to initial changes prior to submitting a bid response to the Georgia State Financing and Investment Commission.
- C-05. Prebid Meeting.** A mandatory prebid meeting will be held at the time and place listed in Section A - Invitation to Bid. **All bidders are required to attend the mandatory prebid meeting.** A time for access to the project site will be scheduled at the mandatory prebid meeting and a general discussion of the project will take place. The GSFIC reserves the right to disqualify bidders arriving late to the pre-bid conference.
- C-06. Examination of Site.** The bidder's attention is directed to D-15(d).
- C-07. Contract Form and Bonds.** The bidder's attention is directed to B-04.

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- C-08. Award.** The Contract will be awarded, if at all, to the lowest responsible, responsive bidder. The lowest bid will be the bid whose price, after incorporating all accepted alternates, is the lowest and most responsive bid which was received. Only Contractors that have 3 years of demonstrated experience in projects of similar complexity will be eligible for award. Bidders should provide references of such projects with bid. References about the firm, and demonstrated experience in projects of similar size and scope may be a factor in determination of responsibility. (Highlighted portion is optional)
- C-09. Surety and Insurance Companies.** The contract provides that the surety and insurance companies must be acceptable to the Owner. To avoid inconvenience, any bidder should get in touch with the Owner to determine whether the surety or insurance companies expected to be used on the work are acceptable to the Owner. (See also D-27 and D-30)
- C-10. Employment of Georgia Citizens and Use of Georgia Products.** Since the work provided for in this contract is to be performed in Georgia, it is the wish of the Owner that materials and equipment manufactured or produced in Georgia shall be used in the work and that Georgia citizens shall be employed in the work at wages consistent with those being paid in the general area in which the work is to be performed. This desire on the part of the Owner is not intended to restrict or limit competitive bidding or to increase the cost of the work; nor shall the fulfillment of this desire be asserted by the Contractor as an excuse for any noncompliance or omission to fulfill any obligation under the contract.
- C-11. Georgia Security and Immigration Compliance Act Affidavit.** The Contractor shall complete and submit the Georgia Security and Immigration Compliance Act Affidavit, provided as Exhibit F, with the Bid Form.

#### IMPORTANT

- C-12. Trade Names.** The attention of bidders and all other parties is called to the procedure under D-03 of the general conditions for the submission of trade names, brand names, or names of manufacturers for approval which aforesaid procedure is used in place of what is commonly known as an "or equal" provision. The successful bidder may furnish no products of any trade names, brand names, or manufacturers' names except those designated in the contract documents including published addenda.
- C-13. Georgia State Financing and Investment Commission Policy Statement.** It is the policy of the GSFIC that minority business enterprises shall have the maximum opportunity to participate in the GSFIC purchasing process. Therefore, the GSFIC encourages all minority business enterprises to compete for, win, and receive contracts for goods, services and construction. Also, the State encourages all companies to sub-contract portions on any State contract to minority business enterprises. Any questions regarding statements contained hereunder should be directed to the State Small and Minority Business Coordinator referenced below.
- C-14. Georgia Vendor Manual.** All bids submitted in response to this Invitation to Bid shall be made in general accordance with the Georgia Vendor Manual and the applicable provisions of the Georgia Laws.
- C-15. Georgia Income Tax Incentive.** Bidders interested in taking advantage of the Georgia income tax incentives provided for by the Official Code of Georgia Annotated 48-7-38 relative to the use of minority subcontractors in the performance of contracts awarded by the State of Georgia should contact the State Small and Minority Business Coordinator at the following address:

Governor's Small Business and Entrepreneurial Office  
Georgia Department of Economic Development  
75 Fifth Street, NW, Suite 1200  
Atlanta, Georgia 30308  
Telephone: (404) 962-4000  
Fax: (404) 962-4001

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## SECTION D GENERAL CONDITIONS

**D-01. General Conditions.** The General Conditions of the Contract, D-01 thru D-72, inclusive, bound herein and hereafter referred to as the “General Conditions,” shall govern in the event of any conflict with any other provisions of the contract documents unless notice to the contrary shall have been issued by the Owner bearing the imprimatur of the Owner as follows:

*“By order of the Owner”*

In the event of conflict, the Supplementary General Conditions control is over the General Conditions, and the Contract control is over the Supplementary and General Conditions. [See E-01 and D-49] The Architect has no authority to amend the General Conditions orally or in writing either expressly or by implication.

**D-02. Legal Compliance.** The Contractor shall comply with all laws, rules, regulations, ordinances, and orders of any government agency having jurisdiction in the performance of the work and shall ensure the compliance of his subcontractors. Without limiting the generality of the foregoing, the following laws are specifically referenced:

- a) The Drug-Free Workplace Act, O.C.G.A. Section 50-24-1, *et. seq.*
- b) Preference for Georgia Supplies, materials, equipment, and agricultural products, O.C.G.A. Sections 50-5-60 through 61.
- c) Preference for Georgia forest products, O.C.G.A. Section 50-5-63.
- d) Preference to local sellers of Georgia products, O.C.G.A. Section 50-5-62.
- e) Standards and Requirements for Construction, Alterations, *etc.*, O.C.G.A. Section 8-2-1 *et. seq.*
- f) Control of Soil Erosion and Sedimentation, O.C.G.A. Section 25-2-1, *et. seq.*
- g) Regulation of Fire and other Hazards, O.C.G.A. Section 25-2-1 *et. seq.* [See Article 12(a)]
- h) Regulation of Blasting Operations, O.C.G.A. Section 25-2-1 *et. seq.* and 25-9-1 *et. seq.*
- i) Providing Safe workplace, O.C.G.A. Sections 34-2-10 and 34-7-20. [See Article D-12(b)]
- j) Underground Gas Pipes, O.C.G.A. Section 25-9-1 *et. seq.* [See Article D-12(f)]
- k) High Voltage Safety Act, O.C.G.A. Section 46-3-30 *et. seq.* [See Article D-12(g)]
- l) Access and Use by Physically Handicapped Persons, O.C.G.A. Section 30-3-1 *et. seq.*
- m) Small and Minority Business Enterprises, O.C.G.A. Sections 50-5-120 *et. seq.* and 50-5-130 *et. seq.*
- n) Trading with the State or State Officials, O.C.G.A. Sections 45-10-20 to 45-10-71.
- o) Title VII of the Civil Rights Act
- p) Age Discrimination in Employment Act
- q) Americans with Disabilities Act
- r) Federal Occupational Safety and Health Act, 29 U. S. C. Section 651 *et. seq.* [See Article D-12(j)]
- s) Federal Emergency Planning and Community Right-to-Know Act, 42 U. S. C. Section 11001 *et. seq.* [See Article D-12(k)]

### **D-03. Trade Names**

- a. *No Restriction of Competition.* When reference is made in the contract documents to trade names, brand names, or to the names of manufacturers, such references are made solely to indicate that products of that description may be furnished and are not intended to restrict competitive bidding. If it is desired to use products of trade or brand names or of manufacturers’ names which are different from those mentioned in the bidding documents, application for the approval of the use of such products must reach the hands of the Architect and/or the Owner’s Representative (hereinafter the “Architect”) at least **ten (10)** days prior to the date set for the opening of bids. The latter provision is a restriction that applies only to the party making a submittal. Therefore, the aforesaid restriction does not inhibit the Owner from adding trade names, brand names or names of manufacturers by addendum.
- b. *Burden of Proof.* The burden of proving acceptability of a proposed product must be accompanied by technical data that the party requesting approval desires to submit in support of his application. The

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Architect will give consideration to reports from reputable independent testing laboratories, verified experience records showing the reputation of the proposed product with previous users, evidence of reputation of the manufacturer for prompt delivery, evidence of reputation of the manufacturer for efficiency in servicing its products, or any other written information that is helpful in the circumstances. The application to the Architect for approval of a proposed product must be accompanied by a schedule setting forth in which respects the materials or equipment submitted for consideration differ from the materials or equipment designated in the bidding documents. The degree of proof required for approval of a proposed product as acceptable for use in place of a named product or named products is that amount of proof necessary to convince a reasonable person beyond all doubt. To be approved, a proposed product must also meet or exceed all express requirements of the contract documents.

- c. *Issuance of Addenda.* If the submittal is approved by the Architect, an addendum will be issued to all prospective bidders. Issuance of an addendum is a representation to all bidders that the Architect in the exercise of his professional discretion established that the product submitted for approval is acceptable and meets or exceeds all express requirements. In the event a submittal shall have been rejected by the Architect and there shall have been a request for a conference as provided in this article pursuant to which conference the said submittal shall have been found to comply with the requirements of this article, a separate addendum covering the said submittal will be issued prior to the opening of bids. In order for the Architect to prepare an addendum intelligently, an application for approval of a product must be accompanied by a copy of the published recommendations of the manufacturer for the installation of the product together with a complete schedule of changes in the drawings and specifications, if any, which must be made in other work in order to permit the use and installation of the proposed product in accordance with the recommendations of the manufacturer of the product. (See D-43, which requires the Contractor to do all cutting and fitting that may be required to make the several parts of his work come together properly and fit) Unless requests for approvals of other products have been received and approvals have been published by addendum in accordance with the above procedure, the successful bidder may furnish no products of any trade names, brand names, or manufacturers' names except those designated in the contract documents.
- d. *Conference with the Owner.* Any party who alleges that rejection of a submittal is the result of bias, prejudice, caprice, or error on the part of the Architect may request a conference with a representative of the Owner, PROVIDED: That the request for said conference, submitted in writing, shall have reached the Owner at least five days prior to the date set for the opening of bids, time being of the essence.

#### **D-1. Definitions**

- a. *Contract Documents.* The contract documents are as described in the Form of Agreement, D-71 of the general conditions. [See Exhibit E for specimen of form of agreement]
- b. *Parties.* The Owner, the Contractor and the Architect are those mentioned as such in the form of agreement. They are treated throughout the contract documents as if each were of the singular number and masculine gender.
- c. *Subcontractor.* The term subcontractor as employed herein includes only those having direct contract with the Contractor. It includes one who furnishes materials worked to a special design according to the plans and specifications of this work but does not include one who merely furnished materials not so worked.
- d. *Notices.* Written notice shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business address known to him who gives the notice.
- e. *Work.* The term "work" of the Contractor or subcontractor includes labor or materials or both.
- f. *Time Limits.* All time limits stated in the contract documents or shown on the construction progress schedule are of the essence of the contract. (See also D-46)

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- g. *Applicable Law.* This contract shall be governed by the law of Georgia.
- h. *Specifications.* The term “Specifications” shall include all written matter in the bound volume or on the drawings and any addenda or modifications thereto. (See D-49)
- i. *Order of Condemnation.* An order of condemnation shall be in writing, shall be dated, shall be signed by the Architect, shall be addressed to the Contractor with a copy to the Owner, and shall contain three elements as follows:

FIRST ELEMENT: Description of work:

- 1. which has been omitted; or
- 2. which is unexecuted as of the date of the order of condemnation, the time for its incorporation into the work under the construction progress schedule having expired (See also D-46); or
- 3. which has not been executed in accordance with the methods and materials designated in the contract documents.

SECOND ELEMENT: Citation of the provision or provisions of the contract documents that has or have been violated.

THIRD ELEMENT: Fixing of a reasonable space of time within which the Contractor shall have made good the deficiency which said space of time shall not be deemed to be an extension of contract time for filing the Notice of Readiness for Final Inspection pursuant to D-41 nor shall it be deemed to be authorization for amendment to the construction progress schedule. (See also D-19, D-20, and D-50)

An order of condemnation may be issued for failure of the Contractor to supply enough workmen or enough materials or proper materials. The order of condemnation in such event being based on D-46, q.v. and upon the definition of work as set forth under D-1(e), q.v. (See also D-26)

- j. *Proceed Order.* The proceed order is a written notice from the Owner pursuant to which the Contractor shall commence physical work on the site. (See D-46) A proceed order is a condition precedent to the execution of any work on the site by the Contractor.
- k. *Work Order.* A work order is a written notice from the Owner issued separately to the Contractor for each subcontractor. A work order is a condition precedent to the execution of any work on the site by a subcontractor.
- l. *Change Order Form.* The change order form is the instrument by which adjustments in the contract sum are effected pursuant to changes made in accordance with D-15. The change order form shall be accompanied by a breakdown in the form prescribed in a specimen which the Owner will supply to any bidder upon request. The Architect shall certify to the amount of the adjustment. The change order form shall be signed by the Contractor and the Owner. The breakdown is only for the purpose of enabling the Architect and the Owner to make a judgment on the dollar amount of the adjustment in the contract sum. No condition, term, qualification, limitation, exception, exemption, modification, or proviso shall appear in the breakdown. The breakdown shall be in the exact form and language of the above-mentioned specimen. In the event any condition, term, qualification, limitation, exception, exemption, modification, or proviso shall appear in a breakdown it shall be invalid unless expressly recited in the change order form under Paragraph 3, “Description of Change”. Only such conditions, terms, qualifications, limitations, exceptions, exemptions, modifications and provisos as are recited under Paragraph 3, “Description of Change,” are valid. (See also D-15)
- m. *Install, Deliver, Furnish, Supply, Provide and Other Such Words.* Such words mean the work in question shall be put in place by the Contractor ready for use unless expressly provided to the contrary.

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- n. *Article Not Plenary.* This article is not entire, plenary, or exhaustive of all terms used in the general conditions which require definition. There are definitions of other terms under articles to which the terms are related.
- o. *Grounds for Issuance of Notice of Declaration of Default.* It shall be a sufficient ground for the issuance of a notice of declaration of default that the Contractor has been unfaithful or delinquent in the performance of the contract or any part of it in any respect. Without limitation of the foregoing and without subtracting from any right or defense of the Owner under other provisions of the contract documents, the Contractor acknowledges and agrees that it is ipso facto ground for issuance of a notice of declaration of default under the performance bond if the Contractor shall have neglected or failed for any reason to remedy a breach of an order of condemnation within thirty (30) days after the Owner shall have given written notice of said breach to the Contractor and the surety on the performance bond with written demand of the Owner for curing of the delinquency. The Architect does not have authority to declare the Contractor in default.
- p. *Cross-reference and Citations of Articles and Paragraphs of the General Condition.* Cross-references and citations of articles and paragraphs of the general conditions are for the convenience of the Contractor, Architect and the Owner and are not intended to be plenary or exhaustive nor are they to be considered in interpreting the contract documents or any part of the contract documents.
- q. *Meaning of Words and Phrases.* Unless the context or the contract documents taken as a whole indicate to the contrary, words used in the contract documents that have usual and common meanings shall be given their usual and common meanings and words having technical or trade meanings shall be given their customary meaning in the subject business, trade or profession.
- r. *Shop Drawings.* Shop drawings are drawings, schedules, data, catalogue cuts, manufacturers' published recommendations, charts, bulletins, brochures, illustrations, circulars, roughing drawings or formulae distributed by Contractors, subcontractors, manufacturers, materialmen, or suppliers for use in installing work. (See also D-53)
- s. *Owner.* See Supplementary General Conditions, Section E.
- t. *Architect.* See Supplementary General Conditions, Section E.
- u. *Contractor.* The successful bidder who provides the lowest responsive bid and to whom a contract is awarded. The Contractor will execute a contract based on the specimen found at Exhibit E.

**D-2. Identification, Correlation, and Intent of Documents.** The contract documents are complementary, and what is called for by one shall be as binding as if called for by all. The Contract Documents consist of the Form of Agreement between Owner and Contractor with these General Conditions, Supplementary and other Conditions, the Drawings, the Specifications, all Addenda issued prior to the execution of this Agreement, and all Modifications issued by the Owner after execution of the Contract such as Change Orders, and written interpretations. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. Work not covered in the Contract Documents will not be required unless it is necessary to produce the intended results. [See also D-1(m), D-36, D-37, and D-45]

**D-3. Complete, Definite, and Clear Instructions and Schedules of Drawings.**

- a. *Refinement of Documents.* The Contractor shall do no work without complete, definite, and clear drawings and specifications. In the event the contract documents are not complete, definite, and clear the Contractor shall make demand upon the Architect in writing for additional instructions and shall furnish the Owner a copy of the aforesaid demand. With reasonable promptness the Architect shall furnish complete, definite, and clear instructions in writing, or by means of drawings, or in writing and by means of drawings. [See also D-2, D-14, D-18 and D-39] Such additional instructions if given orally shall be confirmed in writing or by drawings or both within a reasonable space of time. Any such additional instructions shall be consistent with the contract documents, true developments thereof, and reasonably inferable therefrom.

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The work shall be executed in conformity with the aforesaid instructions. The Architect shall furnish the Owner a copy of all additional instructions issued to the Contractor. [See also D-16 and D-39]

- b. *Schedules.* The Contractor and the Architect shall jointly prepare a schedule, subject to change from time to time in accordance with the progress of the work, fixing the dates at which the various detail drawings will be required, and the Contractor shall furnish them in accordance with that schedule. [See also D-5(b)]

**D-4. OMITTED**

**D-5. Shop Drawings.** The Contractor shall review, approve and submit to the Architect all Shop Drawings, Product Data and Samples required by the Contract Documents for approval. The Work shall be in accordance with approved submittals.

**D-6. Drawings and Specifications at the Site.** The Contractor shall keep at the site one copy of all drawings and specifications in good order with all addenda and change orders noted thereon and available to the Architect and to his representative(s).

**D-7. Ownership of Drawings and Models.** All drawings, specifications, and copies thereof furnished by the Architect are the property of the Owner. They are not to be used on other work, and with the exception of one set, are to be returned to the Architect on his request at the completion of the work. All models are the property of the Owner.

**D-8. Samples.** The Contractor shall furnish for approval all samples as directed. The work shall be in accordance with approved samples.

**D-9. Materials, Appliances, and Employees**

- a. *Payment for.* Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the proper execution and completion of the work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. (See also D-70)
- b. *Quality of Materials and Workmanship.* Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of the quality required by the specifications. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials and work. The burden of proof is on the Contractor. (See also D-13)
- c. *Quality and Discipline of Employees.* The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the work assigned to him. (See also D-14)

**D-10. Royalties and Patents.** The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall hold the Owner harmless from loss on account thereof.

**D-11. Surveys, Permits and Regulations**

- a. *General.* The Owner shall furnish all surveys unless otherwise specified. Permits and licenses of a temporary nature necessary for the prosecution of the work shall be obtained and paid for by the Contractor. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be obtained and paid for by the Owner unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work. If the Contractor observes that the drawings or specifications are at variance therewith, he shall promptly notify the Owner in writing, and any necessary changes shall be adjusted as provided in the contract for changes in the work. If the Contractor performs any work knowing it to be contrary to such laws,

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ordinances, rules or regulations without such notice to the Owner, he shall bear all costs arising therefrom. (See also D-42)

b. *Codes*

- 1) International Building Code, with Georgia State Amendments
- 2) International Mechanical Code, with Georgia State Amendments
- 3) International Fuel Gas Code, with Georgia State Amendments
- 4) International Plumbing Code, with Georgia State Amendments
- 5) International Electrical Code, with Georgia State Amendments
- 6) International Energy Conservation Code, with Georgia State Amendments

The latest edition of the above listed codes with all amendments as of the date of the opening of bids shall govern the installation of all work and is adopted and incorporated into the contract documents and made a part thereof by reference, Provided, however: That the drawings and specifications shall be adhered to in all cases where they call for quality of materials, quality of workmanship, or quality of construction which is equal to or in excess of the quality required by the above state codes and Provided also: That there may be no variances from the drawings and specifications except to the extent that the said variances shall be necessary in order to comply with the above stated codes. It shall be the responsibility of the Contractor to familiarize himself with the requirements of the above stated codes. If there are any express requirements in the drawings or specifications which are at variance to the above stated codes, all changes in the work necessary to eliminate the said requirements and make the work conform to the above stated codes shall be adjusted as provided in the contract for changes in the work.

**D-12. Protection of Work and Property**

- a. *Duty to Protect Property.* The Contractor shall continuously maintain adequate protection of all his work from damage (see also D-24] and shall protect all other property from damage, injury, or loss arising in connection with the work regardless of who may be the Owner of said property. He shall make good any such damage, injury, or loss except such as may be directly the result of errors in the contract documents or such as shall be caused directly by agents or employees of the Owner. (See also D-27)
- b. *Safety Precautions.* The Contractor shall comply with the rules and regulations of OSHA and/or the Department of Labor (O.C.G.A. section 34-2-6), and, where not inconsistent with the foregoing, the “Manual of Accident Prevention in Construction” issued by the Associated General Contractors of America, Inc., for safety and prevention of accidents, and shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work arising out of and in the course of employment on work under the contract. The Contractor alone shall be responsible for the safety, efficiency, and adequacy of his plant, appliances, and methods, and for any damage that may result from their improper construction, maintenance, or operations. He shall erect and properly maintain at all times as required by the conditions and progress of the work proper safeguards for the protection of workmen and the public and shall post danger warnings against any hazards created by the construction operations. He shall designate a responsible member of his organization on the work whose duty shall be the prevention of accidents. In the absence of notice to the contrary, filed with the Architect in writing with copy to the Owner, this person shall be the superintendent of the Contractor. (See also D-14)
- c. *Emergencies.* In an emergency affecting the safety of life or the work or of adjoining property, the Contractor, without special instruction or authorization from the Architect or Owner, shall act, at his discretion, to prevent such threatened loss or injury. Any remuneration claimed by the Contractor on account of emergency work shall be determined in accordance with allowances permitted on force account under Case (c) of D-15 of the general conditions.
- d. *Blasting.* In the absence of an express provision in the contract permitting blasting, there shall be no blasting. If blasting is permitted under the contract and under the law which is applicable to the premises



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[including but not limited to O. C. G. A. Sections 25-8-1 *et. seq.* and 25-9-1 *et. seq.*], such blasting shall in all events be done in such manner as to prevent all scattering. [See also Article D-27]

- e. *Rain Water, Surface Water, and Back-up.* The Contractor shall protect all work, including but not limited to excavations and trenches, from rain water, surface water, and back-up of drains and sewers. The Contractor shall furnish all labor, pumps, shoring, inclosures, and equipment necessary to protect and to keep the work free of water. [See D-02(f)]
- f. *Underground Gas Pipe Law.* The Contractor by signing the contract acknowledges that he is fully aware of the contents and requirements of O.C.G.A. Section 25-9-1 *et. seq.*, and any amendments and regulations pursuant thereto, (the preceding requirements being hereinafter referred to as the “underground gas pipe law”), and the Contractor shall comply therewith. The Contractor acknowledges that the Contractor is the “person” defined in the above-mentioned underground gas pipe law (a) who will engage in the activities which are regulated thereby, (b) who is required to examine maps filed pursuant thereto, (c) who is required to give written notices to gas companies in accordance therewith, (d) who is required to receive written statements from gas companies as prescribed thereby, and (e) who is to perform and do certain things referred to therein only after observing the precautions with respect to underground gas pipes and facilities which are prescribed therein. These provisions of the contract do not repeal the restrictions under Subparagraph (d) of D-12 of the general conditions nor do they limit or reduce the duty of the Contractor otherwise owed to the Owner, to other parties, or to both. The Contractor agrees that the foregoing provisions supplement D-12 and D-27 of the general conditions. The Contractor agrees and acknowledges that any failure on his part to adhere to the underground gas pipe law shall not only be a violation of law but shall also be a breach of contract and a specific violation of the provision under D-12 of the general conditions which pertains to safety precautions.
- g. *High Voltage Act.* The Contractor by signing the contract acknowledges that he is fully aware of the contents and requirements of O.C.G.A. Section 46-3-30 *et. seq.* and any amendments thereto, and Rules and Regulations of the Commissioner of Labor pursuant thereto (the preceding requirements being hereafter referred to as the “high voltage act”), and the Contractor shall comply therewith. The signing of the contract shall also confirm on behalf of the Contractor that he:
  - 1. has visited the premises pursuant to D-15(d) of the general conditions and has taken into consideration the location of all electric power lines on and adjacent to all areas onto which the contract documents require or permit the Contractor either to work, to store materials, or to stage operations; and
  - 2. has obtained from the Owner of the aforesaid electric power lines advice in writing as to the amount of voltage carried by the aforesaid lines.

The Contractor agrees that he is the “person or persons responsible for the work to be done” as referred to in the high voltage act and that accordingly the Contractor is solely “responsible for the completion of the safety measures which are required by Section 3 of the high voltage act before proceeding with any work.” The Contractor agrees that prior to the completion of precautionary measures required by the high voltage act he will neither bring nor permit the bringing of any equipment onto the site (or onto any area or areas onto which the contract documents require or permit the Contractor to work, to store materials, or to stage operations) with which it is possible to come within eight feet of any high voltage line as defined in the high voltage act, and the Contractor assumes complete and sole responsibility for any accident or accidents which may occur as a result of contact with a high voltage line or lines pursuant to operations arising out of performance of the contract. The foregoing provisions apply to power lines located (a) on the site and (b) on any area or areas onto which the contract documents require or permit the Contractor either to work, to store materials, or to stage operations, or (c) within working distance for equipment or materials being used on (a) and (b) above. These provisions of the contract do not limit or reduce the duty of the Contractor otherwise owed to the Owner, to other parties, or to both. The Contractor agrees that the foregoing provisions supplement D-12 and D-27 of the general conditions. The Contractor agrees and acknowledges that any failure on his part to adhere to the high voltage act shall not only be a violation of law but shall

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also be a breach of contract and a specific violation of the provision under D-12 of the general conditions which pertains to safety precautions. The Contractor is notified that the Rules and Regulations promulgated by the Commissioner of Labor under date of January 11, 1967, contain a statement under Section 12 that...

*“The Division of Inspection of the Department of Labor will act in an advisory capacity to any person, firm, or corporation contemplating any operations near high voltage lines as defined in the Act...”*

- h. *Building Construction Safeguards.* The Contractor acknowledges and agrees that he is the person responsible under the law and that he is the person EMPLOYING or directing others to perform labor within the meaning of O.C.G.A. Section 34-1-1 *et. seq.* He acknowledges and agrees likewise that he will comply with the aforesaid law.
- i. *Dust Control.* Dust-proof enclosures or partitions for protection wherever dusty or dirty work is performed and dampening of debris to avoid dusting when removed shall be provided and included as a cost of the work.
- j. *Occupational Safety and Health Act.* Contractor, by signing the contract, acknowledges that he is aware of and familiar with the contents and requirements of the Federal Occupational Safety and Health Act of 1970, 29 U. S. C. Section 651 *et. seq.*, as amended.
- k. *Emergency Planning and Community Right-to-Know Act.* Contractor, by signing the contract, acknowledges that he is aware of and familiar with the contents and requirements of the Federal Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001 *et. seq.*, as amended.

### **D-13. Inspection of Work**

- a. *Access to Work.* The Architect and his representatives shall at all times have access to the work wherever it is in preparation or progress, and the Contractor shall provide proper facilities for such access and for inspection. [See also D-9]
- b. *Notice to Architect from Contractor Prior to Covering Work.* If the specifications, the Architect’s instructions (either in the specifications or issued later in writing), laws, ordinances or any public authority require any work to be specially tested or approved, the Contractor shall give the Architect timely notice in writing of its readiness for inspection, and if the inspection is by any authority other than the Architect, of the date fixed for such inspection. (See also D-58) Inspections by the Architect shall be made promptly and where practicable at the source of supply. If any work should be covered without approval or consent of the Architect, it must, if required by the Architect, be uncovered for examination at the Contractor’s expense. (See also D-58)
- c. *Re-examination or Re-testing of Work Covered pursuant to Consent of Architect.* Re-examination or re-testing of questioned work covered pursuant to consent of the Architect may be ordered by the Architect, and if so ordered the work must be uncovered by the Contractor. If such work be found in accordance with the contract documents the Owner shall pay the cost of re-examination and replacement or of re-testing. If such work be found not in accordance with the contract documents the Contractor shall pay such cost unless he shall show that the defect in the work was caused by another Contractor, and in that event the Owner shall pay such cost. Re-examination or re-testing under the terms of D-13(c) applies only to work which has been covered with consent of the Architect. Work covered without consent of the Architect must be uncovered for examination as provided under D-13(b).
- d. *Inspection Does Not Relieve Contractor.* Under the contract documents the Contractor has assumed the responsibility of furnishing all services, labor and materials for the entire work in accordance with such documents. No provisions of this article nor any inspection of the work by the Owner, representatives of the Owner, resident engineer inspector, clerk-of-the-works, engineers employed by the Architect,

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representatives of the Architect, or the Architect shall in any way diminish, relieve, or alter said responsibility and undertaking of the Contractor; nor shall the omission of any of the foregoing to discover or to bring to the attention of the Contractor the existence of any work or materials injured or done not in accordance with said contract documents in any way diminish, relieve, or alter such obligation of the Contractor nor shall the aforesaid omission diminish or alter the rights or remedies of the Owner as set forth in the contract documents. The resident engineer inspector has no power to make decisions, to accept or reject work, or to consent to the covering of work. The resident engineer inspector owes no duty to the Contractor. (See also D-38, D-41, and D-60)

- e. *False Start.* In the event notice of readiness pursuant to D-13(b), above, shall have been issued prematurely by the Contractor, his action shall be deemed to be a “false start”, and the Contractor shall be liable for the damage resulting from the aforesaid false start, including but not limited to the salary, professional fees, and travel and living expenses of the person or parties inconvenienced by the aforesaid false start. [See also D-41 for further example of “false start”]

#### **D-14. Superintendence and Supervision by Contractor**

- a. *Superintendent of Contractor.* The Contractor shall keep on his work during its progress and until the final certificate has been executed by the Architect a competent superintendent and any necessary assistants, all satisfactory to the Architect. The superintendent shall not be changed except with the consent of the Architect unless the superintendent proves to be unsatisfactory to the Contractor and ceases to be in his employ. The superintendent shall represent the Contractor in his absence, and all directions given to the superintendent shall be as binding as if given to the Contractor. [See also D-9, D-12, D-15(c) and D-60]
- b. *Supervision by Contractor.* The Contractor shall supervise and direct the Work, using his best skill and attention and he shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract. [See also D-40 and D-41]

#### **D-15. Changes in the Work**

- a. *Owner’s Right to Make Changes.* The Owner, without invalidating the Contract, may order Changes in the Work consisting of additions, deletions, or modifications, the Contract Sum and the Contract Time being adjusted accordingly. The Contractor hereby expressly agrees that the Contractor shall have no right to a claim for damages or extended overhead because of changes made by the Owner. Such work is hereinafter designated “change” or “changes”. All such changes shall be performed under the conditions of the original contract except that any claim for extension of time caused thereby shall be adjusted at the time of signing of the change order form. All such changes in the Work shall be authorized only by written Change Order signed by the Owner.
- b. *Cost to Owner for Change.* The cost or credit to the Owner from a change in the Work shall be determined in one or more of the following ways:
- Case 1. By estimate and acceptance of a lump sum.
  - Case 2. By Unit Prices named in the Contract or subsequently agreed upon. Unit Prices are NET and include all compensation due the Contractor.
  - Case 3. By force account, which is defined as expenditures allowed under D-15 plus a percentage of percentages as stated hereinafter. [see paragraph (e)]
- c. *Changes Forbidden without Consent of Owner.* Neither the Architect nor the Contractor shall make any change whatsoever in the work without authorization or order of the Owner in writing except in emergency. The Contract Sum and the Contract Time may be changed only by written Change Order.
- d. *Existing Conditions.* By executing the Contract, the Contractor represents that it has visited the site and familiarized itself with the local conditions under which the Work is to be performed. The Owner does not undertake to represent or warrant site or local conditions.

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- e. *Cost to Owner, Allowances for Contractor and Allowable Expenditures.* In cases (1) and (3) above, the “allowance for overhead and profit” combined, included in the total cost to the Owner, shall be based upon the following schedule:
1. For the Contractor an allowance for work which he performs with his own forces, not to exceed 20% of his “net additional allowable expenditures”, if any, for changes.
  2. For a subcontractor an allowance for work which he performs with his own forces, not to exceed 20% of his “net additional allowable expenditures”, if any, for changes. A subcontractor shall receive no allowance for overhead and profit on work not performed by his own forces. Under this Contract, the forces of a subcontractor are deemed to be and are the forces of the subcontractor. (See also D-36 and D-37)
  3. For the Contractor an allowance for work performed by his subcontractors, not to exceed 7 1/2% of the amount, if any, due the subcontractor for changes.

The above percentages shall be applied to the “net allowable expenditures” if any, as limited and defined herein. If the net difference between “allowable expenditures” and savings results in a decrease in expenditures, the amount of credit allowed the owner shall be the net decrease without and credit for profit and overhead. “Net additional allowable expenditures” as used herein shall mean the difference between all “allowable expenditures” and savings. The term “allowable expenditures” is limited to and defined as items of labor or materials, the use of heavy construction equipment and all such items of cost as insurance premiums, social security and old age and unemployment insurance, and (in cases where there is an extension of time) pro rata expenditures for time of foreman employed in the direct superintendence of productive labor in execution of changes. All expenditures not included in the term “allowable expenditures” as limited and defined in this article shall be considered as overhead, including but not limited to insurance other than that which is mentioned in this article, bond premiums, supervision, travel (meals, transportation and lodging), superintendence (except pro rate time of foremen as referred to herein), timekeepers, clerks, watchmen, hand tools, small tools, incidental job burdens and office expense. Any other provisions in the Contract Documents to the contrary notwithstanding, only demonstrable, direct, out-of-pocket expenditures for the changes plus percentages as set forth hereinabove shall be allowable for changes. The Contractor shall provide to the Owner, upon request, any and all necessary information the Owner may require in order to verify any and all costs associated with “Changes in the Work.”

- f. *Breakdown of Expenditures, Cases (1) and (3).* To accompany all change orders, the Contractor shall furnish a breakdown of expenditures for labor and materials by units and quantities in the form prescribed by the Owner, and the breakdown shall be accompanied by the following declaration. “I do solemnly swear, under criminal penalty of a felony for false statement subject to punishment by not less than one year nor more than twenty years of penal servitude, that the costs shown hereinabove do not exceed current costs for like services or materials and do not exceed the actual costs to the Contractor therefore; and that the quantities shown do not exceed actual requirements.” For all force account changes the Contractor shall promptly and in no event later than thirty (30) days after receipt of written demand therefore pursuant to D-15(g) submit to the Architect a complete, accurate, and final breakdown and account together with vouchers, showing all expenditures and percentages allowable under Case (3). For all unit price changes the Contractor shall promptly and in no event later than thirty (30) days after receipt of written demand therefore pursuant to D-15(g) submit to the Architect an accurate account of the quantity of work performed under Case (2). In any case, the Architect shall certify to the amount [including under Case (1) and Case (3) the allowance prescribed in the contract for overhead and profit] due the Contractor. [See also D-1(1) and D-50] The Contractor shall obtain and furnish as backup to the Contractor’s breakdown a separate breakdown for each subcontractor’s charges prepared by each subcontractor on the letterhead of the subcontractor and properly signed by the subcontractor.
- g. *Time of Submission of Claims [“Statement of Claim”].* Budgeting and cash flow being of material importance to the Owner, no claim of the Contractor on account of any change or on account of any alleged negligence of the Architect or Owner whether said claim shall be accrued or prospective, shall be valid unless a “statement of claim” in full accompanied by vouchers and other supporting data shall have been

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filed with the Owner by the Contractor not later than thirty (30) days after receipt of written request thereof by the Contractor from the Owner, time being of the essence. The "statement of claim" shall contain a concise and clear recital of the ground or grounds on the basis of which the claim is asserted, including a designation of the provision or provisions of the contract documents on which the claim is based. The statement of claim shall indicate the dollar amount of the claim.

#### **D-16. Claims**

- a. *Extra Cost.* If the Contractor maintains that any instructions by drawings or otherwise involve extra cost to the Owner under this Contract, he shall give the Owner and the Architect written notice thereof within a reasonable time after the receipt of such instructions, and in any event before proceeding to execute any change except in emergency endangering life of property. The allowances to the Contractor shall then be as provided under D-15. No claim for extra cost shall be valid unless so made.
- b. *Damages.* If either party to this Contract should suffer damage in any manner because of any wrongful act of neglect of the other party or of anyone employed by the other party, then he shall be reimbursed by the other party for such damage. No claim of the Contractor for damages shall be valid unless written notice thereof shall have been received by the owner by registered mail within fifteen (15) days after occurrence of the event on which the claim is based. (See also D-15, D-39 and D-41)
- c. *Protests.* All reference to arbitration are deleted from the Contract Documents. Decisions of the Architect shall be rendered in all cases where provided for under the General Conditions of the Contract, but no decision of the Architect shall deprive the Owner or the Contractor of any form of redress which may be available under the laws of the State of Georgia to contracting parties. Any decision of the Architect shall be final and binding on the Contractor unless the Contractor shall have given written notice of protest to the Owner by registered mail within ten days of the receipt of the decision.

**D-17. Deductions for Uncorrected Work.** If the Architect and Owner deem it inexpedient to correct work injured or done not in accordance with the contract, an equitable deduction from the contract price shall be made therefore; but there is no duty on the part of the Owner to accept any work injured or done not in accordance with the methods and materials designated in the contract documents, nor does the Contractor have the right to demand that there shall be acceptance of work injured or done not in accordance with the methods and materials designated in the contract documents.

#### **D-18. Delays and Extensions of Time**

- a. *Grounds.* If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control, then the contract time shall be extended by Change Order for such reasonable time as the Architect may determine. The Contractor expressly agrees that the Contractor's sole remedy for such delay shall be an extension of contract time and that the Contractor shall make no demand for damages or extended overhead.
- b. *Filing of Claim.* No such extension shall be made for delay occurring more than ten (10) days before claim thereof is made in writing to the architect with copy to the Owner. In the case of a continuing cause of delay, only one claim is necessary, but no claim for a continuing delay shall be valid unless the contractor, within ten days from the cessation of the delay, shall have given notice in writing to the architect, with copy to the Owner, as to the amount of additional time claimed.
- c. *Delay in Furnishing Drawings (See also D-5).* If no schedule or agreement stating the dates upon which drawings or approval of shop drawings shall be furnished is made, then no claim for delay shall be allowed on account of failure of the architect to furnish drawings or approval of shop drawings until two weeks after demand thereof and not then unless such claim be reasonable.

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- d. *No Damages for Delay.* In the event of any delay, not the fault of the Contractor, the Contractor shall be entitled to an extension of time for completion only, and shall not be entitled to any additional payment on account of such delay. Without limiting the foregoing, except as otherwise specifically provided under D-15 or D-22, the Contractor shall not be entitled to payment or compensation of any kind from the Owner for direct, indirect or impact damages, including but not limited to costs of acceleration arising because of hindrance or delay from any cause whatsoever, whether such hindrances or delays be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery by the contractor of damages for hindrances or delays due solely to fraud or bad faith on the part of the Owner or his agents.

#### **D-19. Correction of Work**

- a. The Contractor shall promptly correct any Work rejected by the Architect as defective or as failing to conform to the Contract Documents whether observed before or after Completion and whether or not fabricated, installed or completed, and shall correct any Work found to be defective or nonconforming within a period of one year from the Date of Completion of the Contract or within such longer period of time as may be prescribed by law or the terms of any applicable special warranty required by the Contract Documents. The provisions of this Article apply to Work done by Subcontractors as well as to Work done by direct employees of the Contractor. [See D-1(i)]
- b. *Remedy of the Owner for Breach of Order of Condemnation.* If the contractor does not make good a deficiency within a reasonable space of time fixed in an order of condemnation, the Owner may:
1. Remove the condemned work and store it at the expense of the contractor. If the contractor does not pay the expenses of such removal and storing within ten days after receipt of written demand of the Owner, the Owner may upon three days' notice in writing to the contractor sell such materials at private sale or at auction and shall account for the net proceeds thereof after deducting all proper costs incurred by the Owner; and
  2. Supply omitted work, perform unexecuted work, replace and re-execute work not done in accordance with the methods and materials designated in the contract documents and deduct the cost thereof from any payment then or thereafter due the contractor, Provided: That the architect shall approve the amount charged to the contractor. (See also D-21)

The remedies stated in this article are in addition to the remedies otherwise available to the Owner, do not exclude such other remedies, and are without prejudice to any other remedies. Time limits stated in orders of condemnation are of the essence of the contract.

- D-20. Correction of Work after Final Payment.** Neither (1) the final certificate, (2) nor any decision of the architect, (3) nor payment, (4) nor any provision in the contract shall relieve the Contractor of responsibility for faulty materials, faulty workmanship, or omission of contract work, and he shall remedy any defects or supply any omissions resulting therefrom and pay for any damage to other work resulting therefrom. The Owner shall give notice of observed defects or omissions with reasonable promptness. The Contractor shall within the space of time designated in orders of condemnation and without expense to the Owner, correct, remedy, replace, re-execute, supply omitted work, or remove from the premises all work condemned by the architect. The Contractor shall give prompt notice in writing to the architect, with copy to the Owner, upon completion of the supplying of any omitted work or the correction of any work condemned by the architect. In the absence of said notice, it shall be and is presumed under this contract that there has been no correction of the condemned work or supplying of omitted work. If the Contractor does not remove, make good the deficiency, correct, or remedy faulty work, or supply any omitted work within the space of time designated in orders of condemnation without expense to the Owner, the Owner, after ten days' notice in writing to the Contractor, may remove the work, correct the work, remedy the work or supply omitted work at the expense of the Contractor. In case of emergency involving health, safety of property, or safety of life the Owner may proceed at once. Correction of defective work executed under the plans and specifications or supplying of omitted work whether or not covered by warranty of a subcontractor or materialmen, remains the primary, direct responsibility of the Contractor. The foregoing obligation of the Contractor shall remain in effect until the same shall have been

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extinguished by operation of the statute of limitations. As additional security for the fulfillment of such obligation, but in no way limiting the same, the Contractor warrants and guarantees (1) that all work executed under the plans and specifications shall be free from defects of materials or workmanship for a period of one year from the date of the final certificate of the architect, and (2) that for not less than one year from the date of the final certificate of the architect, or for such greater space of time as may have been designated in the specifications, products of manufacturers shall be free from defects of materials and workmanship. Whenever written guaranties or warranties are called for, the Contractor shall furnish the aforesaid for such period of time as may be stipulated. The aforesaid instruments shall be in such form as to permit direct enforcement by the Owner against any subcontractor, materialmen, or manufacturer whose guaranty or warranty is called for, and the Contractor agrees that:

- a. The Contractor is jointly and severally liable with such subcontractors, materialmen, or manufacturers.
- b. The said subcontractors, materialmen, or manufacturers are agents of the Contractor for purposes of performance under this article, and the Contractor, as principal, ratifies the warranties or guaranties of his aforesaid agents by the filing of the aforesaid instruments with the Owner. The Contractor as principal is liable for the acts or omissions of his agents.
- c. Service of notice on the Contractor that there has been breach of any warranty or guaranty will be sufficient to invoke the terms of the instrument, Provided: That the Owner shall have furnished the Contractor with a copy of notice served on the subcontractor, materialmen, or manufacturer.
- d. The Contractor will bind his subcontractor, materialmen, and manufacturers to the terms of this article.

The calling for or the furnishing of written warranties shall in no way limit the contractual obligation of the Contractor as set forth hereinabove. The remedies stated in this article are in addition to the remedies otherwise available to the Owner, do not exclude such other remedies, and are without prejudice to any other remedies. [See also D-1(i), D-25, and D-60]

**D-21. The Owner's Right to Do Work.** If the Contractor should neglect to prosecute the work properly or fail to perform any provision of this contract, the Owner, after three days' written notice to the Contractor may without prejudice to any other remedy he may have (including without limitation remedies against the Contractor's surety), make good the deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor, provided, however, that the Architect shall approve the amount charged to the Contractor. (See also D-19 and D-22)

**D-22. Right of the Owner to Terminate Contract.** If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with Contract Documents or fails to perform any provisions of the Contract, the Owner may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor or, at its option that sufficient cause exists to justify such action, may terminate the Contract and take possession of the site and of all materials, equipment, tools and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method it may deem expedient, and if the unpaid balance of the Contract Sum exceeds the expense of finishing the Work, such excess shall be paid to the Contractor, but if such expense exceeds such unpaid balance, the Contractor shall pay the difference to the Owner.

**D-23. Contractor's Right to Stop Work or Terminate Contract.** If the Owner fails to make payment for a period of fifteen (15) days after receipt of proper pay request, the Contractor may, upon seven (7) additional days written notice to the Owner, terminate the Contract and recover from the Owner payment for all Work executed.

**D-24. Application for Payments**

- a. *Periodical Estimates and Receipts.* The Contractor shall submit to the Architect in accordance with a form to be supplied by the Owner [specimen of which will be supplied to any bidder on request] an application

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[sometimes herein designated “periodical estimate”] for each payment, and, if requested by the Owner or Architect, receipts or other vouchers, showing his payments for materials and labor, including payments to subcontractors as required by D-37. (See also D-32 and D-50)

- b. *Initial Breakdown and Periodical Payments.* If payments are made on valuation of work done, such application shall be submitted at least ten days before each payment falls due, and the Contractor shall, before the first application, submit to the Architect a schedule of values of the various parts of the work, including quantities, aggregating the total sum of the contract, divided in such manner as to facilitate payments to subcontractors in accordance with D-37, on a form to be furnished by the Owner with a complete breakdown of the contract price so arranged and so itemized as to meet the approval of the Architect and, if requested, supported by such evidence as to its correctness as the Architect may direct. The schedule designated herein the “initial breakdown” [specimen of which will be supplied to any bidder on request], when approved by the Architect shall be used as a basis for certificates of payment, unless it be found to be in error. In applying for payments, the Contractor shall submit a statement based upon this schedule on a periodical estimate form to be supplied by the Owner [specimen of which will be supplied to any bidder], and, if requested by the Architect or Owner, itemized in such form and supported by such evidence as the Architect or Owner may direct showing the Contractor’s right to the payment claimed on the periodical estimate.
- c. *Materials Storage.* If payments are made on account of materials delivered and suitably stored at the site but not incorporated in the work, they shall, if required by the Owner or the Architect, be conditional upon submission by the Contractor of bills of sale or such other procedure as will establish the Owner’s title to such material or otherwise adequately protect the Owner’s interest. (See also D-28 and D-32) The Contractor is responsible for the existence, protection, and, if necessary, replacement of materials until execution of the final certificate of the Architect. (See also D-12, D-25, and D-41) The Owner shall not pay for any materials stored off site.

**D-25. Certificate of Payments**

- a. *Issuance.* If the Contractor has made application for payment as provided under D-24, the Architect shall not later than the date when each payment falls due issue to the Contractor a certificate for such amount as he decides to be properly due or state in writing his reasons for withholding a certificate.
- b. *Effect.* No certificate issued, nor payment made to the Contractor, nor partial or entire use or occupancy of the work by the Owner shall be an acceptance of any work or materials not in accordance with the contract documents. (See also D-20) The making of the final payment shall constitute a waiver of all claims by the Owner other than those arising from unsettled liens, from faulty work appearing after final payment, or from requirements of the specifications or drawings. Acceptance of the final payment shall operate as and shall be a release to the Owner from all claims of any kind or character under the contract except for such specific amount or amounts as may have been withheld to cover the fair value of any incomplete work which has been certified by the Architect under the provision of Paragraph (d) of Article 5 of the form of agreement as incomplete through no fault on the part of the Contractor.
- c. *Date and Rate of Payment.* Progress payments will be made by the Owner to the Contractor in accordance with Article 4 of the form of agreement. Final payment will be made in accordance with Article 5 of the form of agreement. The date and rate of payment are subject to D-26. Sums retained pursuant to the present article are and remain the property of the Owner until such time as the Contractor shall have become entitled to receive payment of such retainage by (a) furnishing the remainder of the *quid pro quo* under the contract and (b) complying in full with the terms of the contract.

**D-26. Payments Withheld.** The Architect may withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any certificate to such extent as may be necessary to protect the Owner from loss on account of:

- a. Defective work not remedied. (See also D-19)
- b. Claims filed or reasonable evidence indicating probable filing of claims.



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- c. Failure of the Contractor to make payments properly to subcontractor or for materials or labor. (See also D-9 and D-37)
- d. A reasonable doubt that the contract can be completed for the balance then unpaid.
- e. Damage to another contractor or to some third party. (See also D-12)
- f. Failure to maintain a rate of progress in accordance with the construction progress schedule. [See also D-1(i), D-25(c), and D-46]
- g. Failure to supply enough skilled workmen or proper materials. (See also D-1 and D-19)

When the above grounds are removed, payment shall be made for amounts withheld because of them. At the option of the Owner adherence to the construction progress schedule shall be a condition precedent to the right of the Contractor to demand payment of a periodical estimate. No omission on the part of the Owner to exercise the aforesaid option shall be construed to be a waiver of breach of the construction progress schedule or acquiescence therein, and the Owner may exercise its option from time to time and as often as may be expedient.

#### **D-27. Indemnification, Insurance and Hazards**

- a. *Responsibility.* The Contractor shall be responsible to the Owner from the time of the signing the agreement or from the beginning of the first work, whichever shall be earlier, for all injury or damage of any kind resulting from any negligent act or omission or breach, failure or other default regarding the work by the Contractor, or any of its subcontractors, its agents, employees or others working at the direction of the Contractor or on its behalf, regardless of who may be the owner of the property. (See also D-12)
- b. *Indemnification Agreement.* Contractor hereby agrees to indemnify and hold harmless the Owner, the State of Georgia and its departments, agencies and instrumentalities and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees, due to liability to a third party or parties, for any loss *due to* bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this contract or any act or omission on the part of the Contractor, its agents, employees or others working at the direction of Contractor or on its behalf, or due to any breach of this contract by the Contractor, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification extends to the successors and assigns of the Contractor. This indemnification obligation survives the termination of the contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Contractor. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as the "Funds") established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (hereinafter "DOAS") the Contractor agrees to reimburse the Funds for such monies paid out by the Funds.
  - 1. This indemnification applies where the Indemnitees are partially responsible for the situation giving rise to the claim, provided however, that this indemnification does not apply to the extent of the sole negligence of the Indemnitees.
  - 2. This indemnification does not extend beyond the scope of this contract and the work undertaken thereunder. Nor does this indemnification extend to claims for loses or injuries or damages incurred directly by the Indemnitees due to breach or default by the Indemnitees under the terms and conditions of this contract.
  - 3. DOAS, Risk Management will endeavor to notify affected insurers of claims made against the State which fall within this indemnity. In the event of litigation, the Attorney General will endeavor to keep the Contractor and its general liability insurer as named on the insurance certificate informed regarding the claims and settlement. [See D-27.2.2(c) below]

- c. Insurance Requirements

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1. *Insurance Certificates.* The Contractor shall, prior to the commencement of work, procure the insurance coverages identified below at the Contractor's own expense and shall furnish the Owner an insurance certificate listing the Owner as the certificate holder. The insurance certificate must provide the following:
  - a) Name and address of authorized agent
  - b) Name and address of insured
  - c) Name of insurance company(ies)
  - d) Description of policies
  - e) Policy Number(s)
  - f) Policy Period(s)
  - g) Limits of liability
  - h) Name and address of Owner as certificate holder
  - i) Project Name and Number
  - j) Signature of authorized agent
  - k) Telephone number of authorized agent
  - l) Mandatory thirty day notice of cancellation / non-renewal (See D-27.2(a) below)
  - m) Evidence of Insurance Coverages shall be provided on a form acceptable to the Owner
  
2. *Policy Provisions.* Each of the insurance coverages required below (i) shall be issued by a company licensed by the Insurance Commissioner to transact the business of insurance in the State of Georgia for the applicable line of insurance, and (ii) shall be an insurer (or, for qualified self insureds or group self insureds, a specific excess insurer providing statutory limits) with a Best Policyholders Rating of "A-" or better and with a financial size rating of Class V or larger. Each such policy shall contain the following provisions:
  - a) The insurance company agrees that the policy shall not be canceled, changed, allowed to lapse or allowed to expire until thirty (30) days after the Owner has received written notice thereof as evidenced by return receipt of registered letter or until such time as other insurance coverage providing protection equal to protection called for in this contract shall have been received, accepted and acknowledged by the Owner. Such notice shall be valid only as to the project as shall have been designated by Project Number and Name in said notice.
  - b) The policy shall not be subject to invalidation as to any insured by reason of any act or omission of another insured or any of its officers, employees, agents or other representatives ("Separation of Insureds").
  - c) Each Insurer is hereby notified that the statutory requirement that the Attorney General of Georgia shall represent and defend the Indemnities remains in full force and effect and is not waived by issuance of any policy of insurance. In the event of litigation, any settlement on behalf of the indemnities must be expressly approved by the Attorney General. The contractor and its insurance carrier may retain, but are not obligated to retain, counsel to assist with the defense of the Indemnities, in which case there will be mutual cooperation between the Attorney general and such counsel.
  - d) The maximum deductible, except for worker's compensation qualified self-insurers or group self-insurers, in any policy shall not exceed \$100,000.00.
  
3. *Insurance Coverages.* The Contractor also agrees to purchase and have the authorized agent state on the insurance certificate that the following types of insurance coverages, not inconsistent with the policies and requirements of O.C.G.A. § 50-21-37, have been purchased by the Contractor. The minimum required coverages and liability limits are as follows:

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- a) *Workers' Compensation Insurance.* The Contractor agrees to provide Workers' Compensation coverage in accordance with the statutory limits as established by the General Assembly of the State of Georgia. A group insurer must submit a certificate of authority from the Insurance Commissioner approving the group insurance plan. A self-insurer must submit a certificate from the Georgia Board of Worker's Compensation stating the Contractor qualifies to pay its own worker's compensation claims. The Contractor shall require all subcontractors performing work under this contract to obtain an insurance certificate showing proof of Workers' Compensation Coverage and shall submit a certificate on the letterhead of the Contractor in the following language prior to the commencement of work:

*"This is to certify that all subcontractors performing work on this project are covered by their own workers' compensation insurance or are covered by the Contractor's worker's compensation insurance."*

- b) *Employers' Liability Insurance.* The Contractor shall also maintain Employer's Liability Insurance Coverage with limits of at least:
- i. Bodily Injury by Accident – \$1,000,000 each accident; and
  - ii. Bodily Injury by Disease – \$1,000,000 each employee.

The Contractor shall require all subcontractors performing work under this contract to obtain an insurance certificate showing proof of Employers Liability Insurance Coverage and shall submit a certificate on the letterhead of the Contractor in the following language prior to the commencement of work:

*"This is to certify that all subcontractors performing work on this project are covered by their own Employers Liability Insurance Coverage or are covered by the Contractor's Employers Liability Insurance Coverage."*

- c) *Commercial General Liability Insurance.* The Contractor shall provide Commercial General Liability Insurance (2004 ISO Occurrence Form or equivalent) which shall include, but need not be limited to, coverage for bodily injury and property damage arising from premises and operations liability, products and completed operations liability, blasting and explosion, collapse of structures, underground damage, personal injury liability and contractual liability. The Commercial General Liability Insurance shall provide at minimum the following limits:

<b>Coverage</b>	<b>Limit</b>
1. Premises and Operations .....	\$ 1,000,000.00 per Occurrence
2. Products and Completed Operations .....	\$ 1,000,000.00 per Occurrence
3. Personal Injury .....	\$ 1,000,000.00 per Occurrence
4. Contractual .....	\$ 1,000,000.00 per Occurrence
5. General Aggregate .....	\$ 2,000,000.00 per Project

Additional Requirements for Commercial General Liability Insurance:

- i. The policy shall include an additional insured endorsement naming the officers, members, and employees of the Owner and the State of Georgia as additional Insureds.
- ii. The coverage extended to the additional insureds for any claims not covered by the Georgia Tort Claims Act shall be no broader than the coverage extended to the Contractor and is not expanded to cover claims and losses that are not insurable under the contractor's policy.
- iii. The policy or policies must be on an "occurrence" basis.

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iv. The policy must include separate aggregate limits per project.

- d) *Commercial Business Automobile Liability Insurance.* The Contractor shall provide Commercial Business Automobile Liability Insurance which shall include coverage for bodily injury and property damage arising from the operation of any owned, non-owned or hired automobile. The Commercial Business Automobile Liability Insurance Policy shall provide not less than \$1,000,000 Combined Single Limits for each occurrence.

Additional Requirements for Commercial Business Automobile Liability Insurance:

- i. The policy shall name as additional Insureds the officers, members, and employees of the Owner and the State of Georgia.
  - ii. The coverage extended to the additional insureds for any claims not covered by the Georgia Tort Claims Act shall be no broader than the coverage extended to the Contractor and is not expanded to cover claims and losses that are not insurable under the contractor's policy.
- e) *Commercial Umbrella Liability Insurance.* The Contractor shall provide a Commercial Umbrella Liability Insurance to provide excess coverage above the Commercial General Liability, Commercial Business Automobile Liability and the Workers' Compensation and Employers' Liability to satisfy the minimum limits set forth herein. The minimum amount of Umbrella limits required above the coverages and minimum limits state in D-27.2.3(a), (b), (c) and (d) shall be:

Minimum Combined Primary Liability and Excess Umbrella Limits of:

\$2,000,000 per Occurrence

\$4,000,000 Aggregate

Additional Requirements for Commercial Umbrella Liability Insurance:

- i. The policy shall name as additional Insureds the officers, members, and employees of the Owner and the State of Georgia.
  - ii. The coverage extended to the additional insureds for any claims not covered by the Georgia Tort Claims Act shall be no broader than the coverage extended to the Contractor and is not expanded to cover claims and losses that are not insurable under the contractor's policy.
  - iii. The policy must be on an "occurrence" basis.
- f) *Builders Risk Insurance.* Contractor shall provide a Builder's Risk Policy to be made payable to the Owner and Contractor, as their interests may appear. The policy amount should be equal to 100% of the contract sum, written on an all risk basis or its equivalent. All deductibles shall be the sole responsibility of the Contractor, and in no event shall the amount of any deductible exceed \$10,000.00. The policy shall be indorsed as follows:

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

- i. Furniture and equipment may be delivered to the insured premises and installed in place ready for use; and
- ii. Partial or complete occupancy by Owner; and

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- iii. Performance of work in connection with construction operations insured by the Owner, by agents or lessees or other contractors of the Owner, or by contractors of the lessee of the Owner.”

In the event that the contract is for renovation, addition or modification of an existing structure and Builders Risk Insurance is not available, the Owner will accept an Installation Floater Insurance Policy with the above endorsements [D-27.2.3(f)] in lieu of the Builders’ Risk Insurance Policy. Such floater must insure loss to materials and equipment prior to acceptance by Owner and must be on an ALL RISK BASIS with the policy written on a specific job site.

- g) *Disposition of Insurance Documents.* Prior to commencing work, one certificate of insurance with all endorsements attached must be deposited with Owner for each insurance policy required.

4. *Termination of Obligation to Insure.* Unless otherwise expressly provided to the contrary, the obligation to insure as provided herein shall not terminate until the Architect shall have executed the final certificate. (See D-20, D-24, D-29, and D-71 and Article 5, Form of Contract)

5. *Failure of Insurers.* The Contractor is responsible for any delay resulting from the failure of his insurance carriers to furnish proof of proper coverage in the prescribed form.

**D-28. Affidavits.** Before receiving any portion of the retainage (see also D-24 and D-32), the Contractor will be required to furnish a non-influence affidavit as shown in Exhibit A and a statutory affidavit in the exact form as shown in Exhibit B.

**D-29. Bonds on Roofs and Walls.** *Not applicable.*

**D-30. Performance Bond and Payment Bond.** The Bid Documents require the Contractor to furnish both a performance bond and a payment bond, said bonds shall be provided on the forms as set forth in Exhibit C and Exhibit D. The surety must be one which is licensed to do business in the State of Georgia, and the surety must in addition be acceptable to the Owner. [NOTE: To avoid inconvenience, the Contractor should get in touch with the Owner to determine whether the surety he expects to use is acceptable to the Owner.]

**D-31. Marked-up Construction Documents.** Prior to demand for payment of retainage, the Contractor shall provide a complete set of Marked-up Construction Documents to the Architect, which set shall reflect all changes caused by addenda, field changes, Change Orders, or observed changes by the Contractor or subcontractor(s) for the purpose of the Architect’s issuance of Record Documents to the Owner.

**D-32. Liens.** Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the Owner a complete release of all liens or claims arising out of this contract, or receipts in full in place thereof and, if required in either case, an affidavit that so far as he has knowledge or information the releases and receipts include all labor and materials for which a lien or claim could be filed; but the Contractor may, if any subcontractor or claimant refuses to furnish a release or receipt in full, furnish a bond satisfactory to the Owner to indemnify the Owner against any lien or claim. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien or claim, including all costs and a reasonable attorney’s fee. (See also D-24, D-25, and D-28)

**D-33. Assignment.** Neither party to the contract shall assign the contract or sublet it as a whole nor shall the Contractor assign any moneys due or to become due to him hereunder.

**D-34. Mutual Responsibility of Contractors.** Should the Contractor cause damage to any separate Contractor on the work the Contractor agrees, upon due notice, to settle with such Contractor by agreement if he will so settle. If such separate Contractor sues the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall defend such proceedings at his own expense, and if any judgment

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against the Owner shall arise therefrom, the Contractor shall pay or satisfy it and pay all costs incurred by the Owner.

**D-35. Separate Contracts.** The Owner reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly regulate, schedule, connect, and coordinate his work with theirs.

**D-36. Subcontractors, Materialmen, Suppliers and Employees**

- a. *Subcontractor.* A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site.
- b. *Submission of List.* Unless otherwise required by the Contract Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Owner in writing the names of Subcontractors for each of the principal portions of the Work. The Contractor shall not employ any Subcontractor to whom the Owner may have a reasonable objection. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection. The contract requires each Subcontractor, to the extent of the Work to be performed by the Subcontractor, (1) to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor, all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner, and (2) allow to the Subcontractor the benefit of all rights, remedies and redress afforded to the Contractor by these Contract Documents.
- c. *Warranty of Contractor.* The Contractor warrants that the subcontractors selected by him are reputable, skilled, reliable, competent, qualified in the trade or field in which they are to perform on the project, and thoroughly familiar with applicable codes.
- d. *Certification On Account Of.* The Architect shall, on request furnish to any subcontractor, wherever practicable, evidence of the amounts certified on his account.
- e. *Contractor Responsible for Acts and Omissions of Subcontractors, Materialmen, Suppliers and Employees.* The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors, materialmen, suppliers, and employees and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.
- f. *No Contract Between Owner and Any Subcontractor, Materialman, Supplier or Employee.* Nothing contained in the contract documents shall create any contractual relation between the Owner and any subcontractor or between the Owner and any materialman, supplier, or employee of the Contractor or his subcontractors. [See also Article D-02, D-37, D-45, and D-60]

**D-37. Relationship of Contractor and Subcontractors**

- a. *Obligations of Each.* The Contractor agrees to bind every subcontractor and every subcontractor agrees to be bound by the terms of the contract documents insofar as they are applicable to his work.
- b. *Owner Not Obligated to Any Subcontractor.* There is no obligation on the part of the Owner to pay to or to see to the payment of any sums to any (1) subcontractor, (2) materialman, (3) supplier, (4) laborer, (5) employee, or (6) claimant as defined in the payment bond. [See also D-36(d)]
- c. *Incorporation of Terms in Subcontracts.* The Contractor agrees that failure on his part to incorporate in all subcontracts an express provision in accordance with D-37(a) above, shall be deemed to be and is a breach of an essential covenant.

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#### **D-38. Architect**

- a. *Supervision.* The Architect shall have general supervision and direction of the work except in respect to safety as stated under D-12 and except as qualified by D-13 and D-60 of the general conditions. He is the agent of the Owner only when in special instances he is authorized in writing by the Owner so to act, and in such instances he shall, upon request, show the Contractor written authority. He has authority to stop the work whenever such stoppage may be necessary to ensure the proper execution of the contract.
- b. *Interpreter and Impartial Judge.* As the Architect is, in the first instance, the interpreter of the conditions of the contract and the judge of its performance, he shall side neither with the Owner nor with the Contractor but shall use his powers under the contract to enforce its faithful performance by both.

#### **D-39. Architect's Decisions**

- a. *Promptness.* The Architect shall make decisions with reasonable promptness after presentation of evidence on (1) any claim of the Owner or Contractor, (2) a demand of the Owner or Contractor for a decision on any matter relating to the execution or progress of the work, or (3) a demand of the Contractor or Owner for interpretation of or additional instructions with respect to the contract documents.
- b. *On Artistic Effect.* The Architect's decisions in matters relating to artistic effect shall be final if within the terms of the contract documents.

**D-40. Measurements and Dimensions.** Before ordering material or doing work which is dependent upon coordination with building conditions, the Contractor shall verify all dimensions, elevations, grades, and pitch by taking measurements at the building and shall be responsible for the correctness of same. No consideration will be given to any claim based on differences between the actual dimensions and those indicated on the drawings. Any discrepancies between the drawings and/or the specifications and the existing conditions shall be referred to the Architect for additional instructions before any work affected thereby is given.

**D-41. Notice of Readiness for Final Inspection.** When the Contractor is ready for a final inspection, he shall give notice to the Architect and a copy to the Owner in the following words:

*“The work on the contract for the [show name of improvement or project as it appears in the form of agreement] having been fully completed except as stipulated hereinbelow, it is requested that a final inspection be made promptly by the Architect in accordance with Article 5 of the form of agreement. The following work is incomplete through no fault of the Contractor [list any work which the Contractor regards as a proper exception under Subparagraph (d) of Article 5 of the form of agreement] “*

No final inspection shall be made until such time as the Architect has received a letter in the exact form indicated above and a copy thereof has been received by the Owner. In the event the Contractor shall have issued the “Notice of Readiness for Final Inspection” prematurely [hereinafter referred to as “false start”] he shall be liable for the damage resulting from the aforesaid false start including but not limited to the salaries, professional fees, and travel and living expenses of the persons or parties inconvenienced by the aforesaid false start. The Contractor agrees that he may not defend or excuse any deviation from the contract documents on the ground (a) that the deviation was not brought to his attention by another person or party or other persons or parties or (b) that a subcontractor is or subcontractors are at fault.

**D-42. Use of Premises.** The Contractor shall confine his plant, his apparatus, the staging and storage of materials, the operations of his forces, and the work to limits indicated by law, ordinances, permits, or the contract documents and shall not unreasonably encumber the premises with his materials. The Contractor shall not load or permit any part of the work to be loaded with weight that will endanger its safety. The Contractor shall enforce the Architect's instructions regarding signs, advertisements, fires and smoking. (See also D-11)

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- D-43. Cutting, Patching and Fitting.** The Contractor shall do all cutting, fitting, or patching of his work that may be required to make its several parts come together properly and fit. (See also D-03, D-40, and D-53)
- D-44. Cleaning Up.** The Contractor shall at all time keep the premises free from accumulations of waste material or rubbish caused by his employees or work. At the end of each working day, Contractor shall leave the premises in a broom clean condition and remove all trash and debris. The Contractor shall provide such mats, drop cloths, etc., as shall be necessary to protect the surrounding areas from soil or damage. Any damage to existing work shall be repaired or replaced in accordance with Article 12 of the General Conditions. At the completion of the work he shall remove all his rubbish from and about the building and all his tools, scaffolding, and surplus materials and shall leave his work “broom-clean” or its equivalent, unless more exactly specified. In case of dispute the Owner may remove the rubbish and charge the cost to the Contractor as the Architect shall determine to be just. (See also D-12 and D-27)
- D-45. Specification Arrangement.** The specifications are separated into numbered and titled divisions for convenience of reference. Neither the Owner nor the Architect assumes any responsibility for defining the limits of any subcontracts on account of the arrangement of the specifications. Notwithstanding the appearance of such language in the various divisions of the specifications as, “The Plumbing Contractor”, “The Electrical Contractor”, “The Roofing Contractor”, etc., the Contractor is responsible to the Owner for the entire contract and the execution of all of the work referred to in the contract documents. No partial sets of bidding documents shall be issued by the Architect. (See also C-03, D-02, D-36, and D-37)
- D-46. Commencement, Prosecution and Completion.** The Contractor will be required (a) to commence work under this contract within ten days after date of written notice from the Owner to proceed [See D-1(j)], (b) to prosecute the work with faithfulness and energy (c) to install the various parts of the work with equal steps shown on the construction progress schedule and at the same rate shown on the construction progress schedule to be furnished pursuant to D-50 and (d) to complete the work within the time stipulated in the bid form as adjusted by any extensions of time provided for under D-15 and D-18. Commencement of work shall mean actual physical work on the site. [See Also D-1(f) and D-1(i)] In the event the Contractor shall be delinquent in respect to compliance with the time limits established in the construction progress schedule, he shall, within seven days after receipt of written demand of the Owner, commence working not less than a twelve hour day and no less than six days a week until such time as he shall have brought the amount of work in place into compliance with the construction progress schedule. Fulfillment of this requirement as to overtime work (hereinafter referred to as “recovery of lost time required of the Contractor for his breach of covenant as to time”) shall not relieve the Contractor from liability for breach of the covenant as to time [Article D-1(f) of general conditions]. For account of recovery of lost time required of the Contractor for his breach of covenant as to time the Contractor shall be entitled to no claim against the Owner for any payment, repayment, reimbursement, remittance, remuneration, compensation, profit, cost, overhead, expense, loss expenditure, allowance, charge, demand, hire, wages, salary, tax, cash, assessment, price, money, bill, statement, dues, recovery, restitution, benefit, recoupment, exaction, injury or damages. (See also D-25 and D-26)
- D-47. Alternates.** Unless otherwise stipulated all alternates are deductive. If a price is not provided for all alternates the Contractor’s bid may be determined non-responsive and not considered for award.
- D-48. Omitted.**
- D-49. Conflicts.** The following principles shall govern the settlement of disputes which may arise over conflicts in the contract documents: (a) as between figures given on drawings and the scaled measurements, the figures shall govern; (b) as between large-scale drawings and small-scale drawings, the larger scale shall govern; (c) as between drawings and specifications, the requirements of the specifications shall govern; and (d) as between the form of agreement and the specifications, the requirements of the form of agreement shall govern. Conflicts noted shall be reported to the Architect. The principles set forth herein shall not alter provisions of D-2 of the general conditions.
- D-50. Progress Reports.** Within such reasonable space of time as the Owner shall designate in writing, the Contractor shall submit to the Owner such schedule of quantities and costs, construction progress schedules,



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payrolls, bills, vouchers, correct copies of all subcontracts, statements, reports, correct copies of all agreements, correspondence, and written transactions with the surety on the performance bond which have any relevance to the work, estimates, records, and other data as the Owner may request concerning work performed or to be performed under this contract. When requested by the Owner, the Contractor shall give the Owner access to accounts relating to the foregoing. The above reports shall include but are not limited to (a) written notice of dates by which specified work will have been completed, (b) written notice of dates by which condemned work shall have been made good, (c) written notice that condemned work has been made good, (d) written notice as to the date or dates by which work which has not been performed with equal steps and at the same rate required by the construction progress schedule shall have been brought into conformity with the construction progress schedule, (e) date by which any undisputed claim of a subcontractor, materialman, or laborer shall have been paid, (f) written advice regarding the nature and amount of any disputed claim of a subcontractor, materialman, or laborer, and (g) information regarding work performed upon demand of the Owner pursuant to D-15. Prior to submitting the first periodical estimate (see D-24), the Contractor shall have furnished to the Owner and the Architect a construction progress schedule (based on work in place only) in accordance with the style and format of a specimen to be furnished by the Owner [copies of which specimen will be furnished to any bidder on request]. (See also D-1(i), D-19, D-20, D-26, and D-46)

- D-51. Drug-Free Work Place Act.-** The Contractor acknowledges that he is fully aware of the contents and requirements of O.C.G.A. 50-24-1 *et. seq.* The Contractor, upon submission of a bid in connection with this contract, does thereby certify that he and his subcontractors are and will remain in compliance with the aforesaid act.
- D-52. Trading with the State Statute.-**In submitting a bid, the bidder certifies that the provisions of law contained in O. C. G. A. Sections 45-10-20 to 45-10-71 prohibiting officials and employees of the state from engaging in certain transactions with the state and state agencies, have not and will not be violated in any respect in regard to this contract.
- D-53. Manufacturer’s Recommendations.** In the event the contract shall require that given work or materials shall be installed in accordance with the manufacturer’s recommendations or requirements, the Contractor shall obtain for his use at the site in executing the work copies of the bulletin, circular, catalogue, or other publication of the manufacturer bearing the title, number, edition, date, etc., [hereinafter referred to as the “doctrine”] designated in the contract.
- D-54. Keys.** Keys with tags indicating number and/or description of door or room each key is intended to fit attached to each key shall be delivered to the Owner. Contractor shall prepare and furnish with the keys an itemized key schedule in quintuplicate listing the door or room number and/or description, serial number of key, and number of keys being delivered for each door or lock.
- D-55. Operation and Maintenance Data and Instructions.** The Contractor shall furnish proper instructions to the lessee of the Owner in the presence of the Architect concerning operation and maintenance of all mechanical and electrical equipment. The Contractor shall give notice in writing to the Architect with copy to the Owner at least fifteen days prior to the date on which it is proposed to give instructions to the lessee.
- D-56. Space Conditions.** All pipes passing through floors, walls, and ceilings shall be installed with sufficient space between them to permit installation of pipe insulation and floor, wall, and ceiling plates without cutting of insulation or plates. The Contractor shall locate all equipment that must be serviced, operated, or maintained in fully accessible positions.
- D-57. Cash Allowances.** The Contractor shall include in the contract sum all allowances named in the contract documents.
- D-58. Testing Services.** Laboratories for testing services shall be selected by, engaged by, and responsible to the Architect. This article does not apply to verification of design mix on concrete. (See also D-13 and D-65)
- D-59. Drilling Samples and Log of Drilling Wells.** Not used.

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- D-60. Contractor’s Warranty as to Performance.** The Contractor warrants that he is familiar with the codes applicable to the work and that he has the skill, knowledge, competence, organization, and plant to execute the work promptly and efficiently in compliance with the requirements of the contract documents. The Contractor having the obligation to keep a competent superintendent on the work during its progress, to employ only skilled mechanics, and to enforce strict discipline and good order among his employees, the Contractor, himself, is responsible for seeing that the work is installed in accordance with the contract documents. The Contractor warrants to the Owner that all materials and equipment incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements may be considered defective. (See also D-09, D-13, D-14, D-15, D-20, D-36, D-38, and D-39)
- D-61. Warranty and Guaranty.** The Contractor warrants and guarantees that all work executed under the Contract Documents shall be free from defects of materials or workmanship for a period of one year from the date of Completion.
- D-62. Mechanical Systems, Retainage Pending Balancing of.** Not used.
- D-63. Water Heaters.** Not used.
- D-64. Effect of Addenda, Amendments, Bulletins, Deletions, Omissions, and Change Orders.** No special implication, interpretation, construction, connotation, denotation, import, or meaning shall be assigned to any provision of the contract documents because of changes created by the issuance of any (1) addendum, (2) amendment, (3) bulletin, (4) notice of deletion, (5) notice of omission, or (6) change order other than the precise meaning that the contract documents would have had if the provision thus created had read originally as it reads subsequently to the (1) addendum, (2) amendment, (3) bulletin, (4) notice of deletion, (5) notice of omission, or (6) change order by which it was created.
- D-65. Concrete Specifications.** “Standard Minimum Concrete Specifications,” October 1963, revised May 1976, revisions approved jointly by the Georgia Branch, The Associated General Contractors of America, and Georgia Concrete and Products Association, Inc., successors to Georgia Ready-Mix Concrete Association are adopted as a minimum requirement.
- D-66. Fire Marshal Inspections.**
- a. *General.* The State Fire Marshal may make inspections at any time. It shall be the responsibility of the Contractor to request inspections at 80% completion and for 100% inspection and Certificate of Occupancy. Requests shall be in writing with a copy to the Owner and Engineer. (Confirm lead time for inspection.)
  - b. *Jurisdiction.* The facilities are under the jurisdiction of State Official Code of Georgia annotated 25-2-13 (O.C.G.A.)
  - c. 80% and 100% Inspections: The basic definitions for 80% and 100% inspections are as follows:
    1. 80% Field Review–The structural components are in place and open for review of the fire safety components. NOTE: Structural components include the following: fire walls, vertical shafts, stairways, smoke stops, hazardous area separation, roof and ceiling assemblies, corridor and door width, and HVAC system.
    2. 100% Completion–The building is ready to occupy and qualifies for a Certificate of Occupancy.
  - d. *Applications for 80% Inspection and 100% Inspection and Certificate of Occupancy.* The applications for inspection are included hereinafter.

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- D-67. Certificates of Manufacturers for Major Components.** Not used.
- D-68. Forms and Specimens.** - The forms and specimens attached as exhibits are incorporated by reference herein and shall be executed in substantial conformance as required or convenient in describing obligations under the contract documents.
- D-69. Copies of Notices to Owner.** Wherever the general conditions provide that a copy of any notice, request, or demand filed with the Architect by the Contractor shall be furnished to the Owner, such notice, request or demand shall not become effective until the Owner's copy shall have been received by the Owner. No notice in writing or orally to the Architect or to the resident engineer inspector is notice to the Owner unless copy of the aforesaid notice in writing shall have been properly served upon the Owner at the address shown in Article E-01 of the Supplementary General Conditions. [See also D-01(d), D-15, D-18, and D-39]
- D-70. Utilities.** Except for the cost of connection, the Owner shall furnish without cost to the Contractor all water and electricity as presently available at the site required to do the work. The Contractor shall make connection to utilities at locations agreeable to the Owner. The Contractor shall pay all costs for connections and extending these to the area where it proposes to use them. (See also D-09)
- D-71. Form of Agreement.** The form of agreement shall be executed on the form of agreement supplied by the Owner. Specimen of which is shown in Exhibit E. [See also Article D-1]
- D-72. Contractor Performance Evaluation Questionnaire.** (See Exhibit H)
- a. The Contractor Performance Evaluation Questionnaire is a method the State of Georgia intends to use to encourage contractors to perform their contractual responsibilities to complete contracts in a timely manner and at the quality level specified in the Contract Documents.
  - b. The Contractor's retainage on the current contract could be affected by the performance rating the contractor is issued. A performance evaluation of unsatisfactory may result in the contractor's retainage remaining at 10% or being reinstated to 10% from the lump sum. Upon correction of the deficiencies which led to the unsatisfactory rating, the Contractor's retention may be reduced to a lump sum or reinstated back to a lump sum.
  - c. Performance evaluations will be issued, depending upon project duration, when 50% completion has been attained, at the time of final acceptance of the project or at any time that the Owner determines that the Contractor's performance is deemed to be unsatisfactory.
  - d. Performance evaluation ratings of outstanding, satisfactory and unsatisfactory can be issued.
  - e. The issuance or failure to issue a performance evaluation questionnaire does not affect the State's right to seek redress from the Contractor for work not in compliance with the Contract Documents or for latent defects.

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**SECTION E  
SUPPLEMENTARY GENERAL CONDITIONS**

**Note to preparer:** These Supplementary Conditions are not mandatory. Please adjust for your project.

**E-01.** Section E, General Conditions are amended / clarified as follows:

a. *Article D-1. Definitions.*

1. Sub-paragraph (s), Owner, is further defined as follows:

- a) The Owner as referred to herein is {insert Owner}.
- b) The address of the Owner to which all correspondence regarding this Project should be addressed is:

{Owner Name}  
{Contact person and title}  
{Owner Address}  
Atlanta, Georgia 30334

c) The address of the Owner to which all deliveries regarding this Project should be addressed is:

{Insert Project Address}  
{City, State, Zip Code}

2. Sub-paragraph (t), Architect is further defined as follows:

a) The Architect as referred to herein is:

{Insert Project Architect Firm}  
{Insert Architect/Engineer Person}  
{Street Address}  
{City, State, Zip}

b) In the absence of a Project Architect, specifically retained by the Owner to perform design services for this project, the term Architect appearing in these documents shall mean Owner or Owner's Representative.

**E-02. Notices.** Prior to any shut-down of any system (electrical, mechanical, etc.), Contractor shall supply not less than five (5) working days notice to the Architect with a copy to the Owner. No shutdown of any system shall occur until the Contractor has received permission from the Owner in writing.

**E-03. Working Hours.** The Contractor shall perform all work, make all deliveries and have access to work areas between 7:30 A.M. and 5:00 P.M. Monday through Friday and, upon written permission of the Owner, may make deliveries and have access to work areas at any hour of any day, but shall bear without any contribution from the Owner, any extra expense and responsibility for doing so, including, without limitation, its own overtime expense. Contractor's promise to perform the work under the contract within the maximum time stated is not dependent on the availability of the working area for hours other than identified hereinabove.

**E-04. Building Occupancy**

- a. Contractor recognizes and agrees that portions of the building are occupied by State employees performing essential tasks necessary to the efficient operation of State government. Consequently, Contractor agrees that he shall perform his work in such a manner as to provide the least possible disruption to the occupants of the building. Accordingly, the Contractor agrees to the following stipulations, but without limitation:

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1. The Contractor and its personnel shall not use the passenger elevators for transportation of equipment, supplies, goods and material unless otherwise agreed to in writing by the Owner.
2. The Contractor's employees may (if approved in writing by the Owner) use toilets designated by the Owner in the building. Temporary toilets will not be allowed on the site. The Contractor shall be responsible for maintaining the toilet or toilets in a clean, sanitary condition. If, in the opinion of the Owner, the Contractor fails to keep the designated toilet or toilets in a clean and sanitary condition, the Owner shall direct the Contractor to maintain a full-time person in the toilet or toilets at no additional cost to the Owner to ensure that the toilet or toilets are maintained in a clean and sanitary condition.
3. The Owner will not provide parking space for the Contractor or Contractor's employees, unless otherwise agreed to in writing by the Owner, except for vehicles which are loading or unloading goods, equipment, supplies and materials in the loading area. Contractor shall not block any loading dock area or permit its employees to park in this area.
4. No project or advertising signs of any description will be allowed. Contractor shall provide directional and warning signs at protective barricades to assure safe passage of pedestrians in and near areas of work.
5. The Contractor shall generally be prohibited from entering areas of the building except where work is in progress. Work and access shall cause as little disruption to building occupants as possible. The Contractor shall give a minimum of five (5) working days advance notice and shall receive permission from the Owner for building access other than during normal business hours.
6. Contractor shall be responsible for the proper attire and actions of all workmen at all times. Any improper attire or action by any person is cause for immediate dismissal of the offending person from the site and project.
7. Contractor shall remove an employee (or any person working on behalf of the Contractor) upon notice that such person does not meet the requirements of the Contract or upon notice the Owner does not want such person (with or without cause) working on the Owner's premises.

**E-05. Fire Prevention**

- a. Contractor shall take adequate and reasonable precautions to protect work against damage by fire and smoke. For example, without limitation, Contractor shall:
  1. Provide fire extinguishers in readily accessible locations.
  2. Periodically inspect fire extinguishers, remove discharged extinguishers immediately and replace with new or recharged extinguishers.
  3. Keep one fire extinguisher within five (5) feet of any welding or open flame operations.
  4. Remove oil-soaked and paint-soaked materials, including paper and rags, from building daily, and more frequently as necessary, to eliminate danger of fire.
  5. Not permit workmen to smoke during operations involving combustible adhesives, solvents, mastics, or other fire hazard materials.

**E-06. Sales Tax.** Unless otherwise provided in the Contract Documents, the Contractor shall pay all sales, consumer, use and other similar taxes, which are legally enacted at the time bids are received.

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- E-07. Defective Work.** If the Contractor fails to correct defective Work or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner, by written order, may order 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 any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.
- E-08. Third Party Beneficiaries.** Contractor acknowledges, stipulates and agrees that the owner is a public authority performing an essential public function by means of the Contract. Failure of Contractor to comply with this Contract may cause general and special or consequential damages to Owner or to officers, agencies, commissions, departments, instrumentalities or other entities of the State of Georgia, which will occupy the completed work or which provide governmental services or supplies to them. By way of illustration and not limitation, breach or repudiation of the Contract may cause the need to crowd other premises, to extend occupancies of other premises or to occupy unsatisfactory premises. Contractor shall be liable for damages under this Contract not only to Owner but also to, and as third party beneficiaries of its Contract, the State of Georgia, or to any officer, agency, commission, department, instrumentality or entity of the State of Georgia, which is to occupy the work or which performs a governmental function for the same and whose costs or burden is increased by a breach in the Contract. This Contract contemplates general and special or consequential damages not only to Owner but to such third party beneficiaries (“State beneficiaries”). Liability to third party beneficiaries shall be without regard to whether Owner has breached any duty of its own to third party beneficiaries, and neither Contractor nor its surety shall have any right of subrogation against Owner or the State or other third party beneficiaries.
- E-09. Hazardous Material.** A Hazardous Material is any substance or material identified as of the date of the Agreement as hazardous under any governmental law, rule, or regulation, or otherwise subject to governmental requirements concerning handling, disposal, and/or cleanup. Unless provided by Change Order, the Contractor shall not be required to perform any work related to hazardous materials encountered at the Site. The Contractor is fully responsible for any Hazardous Materials brought on the Site by any party, other than the Owner, who has a contractual relationship with the Contractor to perform Work under the Contract Documents. If the Contractor knows of the presence of hazardous materials in any form existing on or delivered to the Site, the Contractor shall immediately notify the Architect and the Owner as to the quantity and nature of the hazardous material.
- E-10. Material Storage.** Should the Owner provide limited storage space in the work area, Contractor assumes full, complete and nondelegable responsibility for the security of the equipment so stored and for determining that the material stored in this area will not overload the floor system. Any damage to the structure as a result of the Contractor overloading the floor shall be repaired by the Contractor at no cost to the Owner.
- E-11. Inspection of Existing Facilities prior to Commencing Work**
- a. The Contractor shall give a notice in writing to the Architect, prior to commencing work for the purpose of arranging for a joint inspection by (a) the Architect, (b) the Contractor and (c) the authorized representative of the Owner, during the course of which inspection the three parties to the joint inspection shall prepare a schedule identifying and showing the location of any damage to the existing work which is ascertainable by inspection. The schedule shall be prepared in four counterpart originals each of which shall be dated and signed on behalf of each part to the joint inspection. An executed and dated counterpart original shall be filed with: (a) the Architect, (b) the Contractor and (c) the authorized representative of the Owner.
  - b. It is agreed that the preparation of the schedule is for the benefit of the Contractor and is intended to enable him to have the protection afforded by a record of such existing damage as is visually ascertainable. The Contractor shall have no responsibility to repair any damage that shall appear on the above-mentioned schedule nor shall he be responsible for repairing any existing damage which was not ascertainable by visual inspection or which was not the result of negligence on his part. Subsequently to the signing of the above-mentioned schedule the Contractor shall be responsible for repairing any damage except as noted.
- E-12. Notification to Owner when Contractor Visits Site after Final Inspection**

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- a. When the Contractor's representative visits the job site after the final inspection to perform specific work such as maintenance service, seasonal balance, or to correct a deficiency, the Contractor shall notify the Owner not less than 48 hours prior to the date on which they will visit the site, except under an emergency condition.
- b. The Contractor shall visit the designated office of the Owner to notify the Owner that the Contractor is on the site prior to visit, thereby enabling the Owner representative to accompany the Contractor, should they so desire while the Contractor is on the project site.
- c. A carbon copy of the notification shall be provided to the Architect with the intent of the site visit. After the Contractor has completed the site visit, he shall give a written report to the Architect within five (5) days of the actions taken and any incomplete work yet to be performed.

**E-13. Indoor Air Quality.** The building will be in use and occupied during construction. Contractor shall schedule work and provide temporary ventilation and/or isolation to insure that fumes from welding, other construction tasks, and out-gassing from construction materials do not migrate to occupied areas.

**E-14. Pre-construction Meeting.** After award of contract a Pre-construction meeting shall be held between the Owner, the Contractor and the Architect to review the project and set up the approximate work sequence schedule. Within ten (10) days after this meeting, Contractor shall submit five (5) typed copies of the work sequence schedule, showing proposed dates of beginning, completion milestones, and completing work, to the Architect for approval. The Contractor shall submit the project safety plan to the Architect for review a minimum of five (5) days prior to the Pre-construction conference. Notwithstanding this review, Contractor retains full, complete and total responsibility for all job related safety.

**E-15. Immigration Reform Compliance. Georgia Security and Immigration Compliance Act Requirements.** The Contractor hereby certifies its compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act OCGA 13-10-90 *et seq.* Contractor certifies that Contractor has registered at <https://www.vis-dhs.com/EmployerRegistration> to verify information of all newly hired employees in order to comply with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act. Contractor further certifies that it shall execute any affidavits required by the rules and regulations issued by the Georgia Department of Labor set forth at Rule 300-10-1-.01 *et seq.* Contractor warrants that it has included a similar provision in all written agreements with any subcontractors engaged to perform services under this Contract.

**E-16. Georgia Security and Immigration Compliance Act Affidavit.** The Contractor shall complete and return, with their bid, the Georgia Security and Immigration Compliance Act Affidavit, provided as Exhibit F.

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## SECTION F SPECIAL CONDITIONS

### American Recovery and Reinvestment Act Terms and Conditions

Contractor agrees that in consideration of receipt of Federal ARRA funds, it will comply with all of the terms, conditions, requirements and limitations as set forth below:

#### Revisions to Requirements

Contractor acknowledges that these Special Conditions may be revised pursuant to ongoing guidance from the relevant federal agency regarding requirements for ARRA funds. Contractor agrees to abide by any such revisions upon receipt of written notification from the Commission or Owner of the revisions, which will automatically become a material part of this Contract, without the necessity of either party executing any further instrument.

#### Registrations and Identification Information

Contractor must maintain current registrations in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded with ARRA funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration.

If applicable, the Contractor agrees to separately identify to each subcontractor, and document at the time of award of contract or approval of application and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of ARRA funds.

#### Reporting Requirements

No later than 5 days after the end of each calendar quarter, or more frequently as directed by the Commission or the Owner, the Contractor shall submit a report, on a web based database, to the Georgia Environmental Facilities Authority (GEFA), that contains:

- (1) The total amount of recovery funds received;
- (2) The amount of recovery funds received that were obligated and expended to projects or activities. If required by GEFA or the Owner, Contractor shall submit backup documentation for expenditures of ARRA funds, including such items as timecards, payroll, and invoices.
- (3) Detailed information on any subcontracts awarded by the Contractor must include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.
- (4) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.
- (5) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.
- (6) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and only address the impact on the contractor's workforce. At a minimum, the contractor shall provide—



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(A) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(B) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(7) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—

(A) In the Contractor's preceding fiscal year, the Contractor received—

(i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(8) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(9) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (A), (I), (J), and (K) below to the contractor for the purposes of the quarterly report. The contractor shall advise the subcontractor that the information will be made available to the public as required by section 151 of the Recovery Act. The contractor shall provide detailed information on these first-tier subcontracts as follows:

(A) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(B) Name of the subcontractor.

(C) Amount of the subcontract award.

(D) Date of the subcontract award.

(E) The applicable North American Industry Classification System (NAICS) code.

(F) Funding agency.

(G) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(H) Subcontract number (the contract number assigned by the prime contractor).

(I) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(J) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(K) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(a) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(b) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

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(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

## Definitions

“Contract,” as defined in FAR 2.101, means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, et seq. For discussion of various types of contracts, see FAR Part 16.

“First-tier subcontract” means a subcontract awarded directly by a prime contractor whose contract is funded by the Recovery Act.

“Jobs created” means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

“Jobs retained” means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

“Total compensation” means the cash and noncash dollar value earned by the executive during the contractor’s past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

- (1) Salary and bonus.
- (2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- (3) Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- (4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- (5) Above-market earnings on deferred compensation which is not tax-qualified.
- (6) Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

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## General

This agreement incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. The full text of a clause may be accessed electronically at one of these website addresses:

<http://farsite.hill.af.mil/> or <http://www.acquisition.gov/FAR/>

- FAR 52.226-3 Convict Labor (June 2003)
- FAR 52.226-4 Contract Work Hours and Safety Standards Act -- Overtime Compensation. (Jul 2005)
- FAR 52.226-5 Davis-Bacon Act (Jul 2005)
- FAR 52.226-7 Withholding of Funds (Feb 1988)
- FAR 52.226-8 Payrolls and Basic Records (Feb 1988)
- FAR 52.222-9 Apprentices and Trainees (Jul 2005)
- FAR 52.222-10 Compliance with Copeland Act Requirements (Feb 1988)
- FAR 52.222-11 Subcontracts (Labor Standards) (Jul 2005)

### **FAR 52.203-15 Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Mar 2009)**

(1) The Contractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

(2) The Contractor shall include the substance of this clause including this paragraph (2) in all subcontracts.

### **Buy American - Use of American Iron, Steel, and Manufactured Goods – Section 1605 of the American Recovery and Reinvestment Act of 2009**

Recipients may not use any funds obligated under this award for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States unless the Agency waives the application of this provision (ARRA Sec. 1605).

(a) *Definitions.* As used in this award term and condition—

*Designated country —*

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

*Designated country iron, steel, and/or manufactured goods —*

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

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*Domestic iron, steel, and/or manufactured good* —(1) Is wholly the growth, product, or manufacture of the United States; or (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

*Foreign iron, steel, and/or manufactured good* means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

*Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

*Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

*Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

(1) The award term and condition described in this section implements—

- (i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and
- (ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:  
None

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—

- (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

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(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) (1) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*

(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

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### Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

*[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]*

*[Include other applicable supporting information.]*

*[\*Include all delivery costs to the construction site.]*

#### **Wage Rate Requirements (ARRA)**

Subject to further clarification issued by the Office of Management and Budget, and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this award shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code (ARRA Sec. 1606).

Davis Bacon Wage Rates for the State of Georgia may be accessed at the following website:

<http://www.gpo.gov/davisbacon/ga.html> Heavy Construction Wage Rates are to be used in the performance of projects awarded under this agreement.

#### **Limit on Funds (ARRA)**

None of the funds appropriated or otherwise made available in ARRA may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool (ARRA Sec. 1604).

#### **Disclosure of Fraud or Misconduct**

Each recipient or sub-recipient awarded funds made available under the ARRA shall promptly refer to the USDA Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-recipient, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds. To implement the [FAR rule on Contractor Disclosures](#) (effective December 12th, 2008), USDA has a web-based form (<http://www.usda.gov/oig/contractorform.htm>) that allows the Contractor or Recipient to notify, in writing, the USDA

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Office of the Inspector General, whenever the contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor or Recipient has committed a violation of the civil False Claims Act or a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations in connection with the award, performance, or closeout of a contract or any related subcontract. If you wish to provide information that does not fall within these guidelines, please visit the Office of Inspector General, USDA web site at [www.usda.gov/oig](http://www.usda.gov/oig) and/or e-mail the USDA OIG hotline at [usda\\_hotline@oig.usda.gov](mailto:usda_hotline@oig.usda.gov).

### Drug-Free Workplace

By signing this agreement, the Contractor is providing the certification set out below. If it is later determined that the contractor knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the Commission, in addition to any other remedies available, may take action authorized under the Drug-Free Workplace Act.

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a contractor directly engaged in the performance of work under a contract, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the contract and who are on the contractor's payroll. This definition does not include workers not on the payroll of the contractor (e.g., volunteers, even if used to meet a matching requirements; consultants or independent contractors not on the contractor's payroll; or employee of subcontractors in covered workplaces).

Certification:

(1) The contractor certifies that it will or will continue to provide a drug-free workplace by:

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

(B) Establishing an ongoing drug-free awareness program to inform employees about—  
 (i) The danger of drug abuse in the workplace;  
 (ii) The grantee's policy of maintaining a drug-free workplace;  
 (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and  
 (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(C) Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (A);

(D) Notifying the employee in the statement required by paragraph (A) that, as a condition of employment under the grant, the employee will—

(i) Abide by the terms of the statement; and  
 (ii) Notifying the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such a conviction;

(E) Notifying the Commission in writing, within ten calendar days after receiving notice under paragraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide

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notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(F) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (D)(ii), with respect to any employee who is so convicted-

- (i) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(G) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (A),(B),(C),(D),(E) and (F).(H) Agencies shall keep the original of all disclosure reports in the official files of the agency.

(2) The contractor may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions, (7 CFR 3017)**

(1) The contractor certifies to the best of its knowledge and belief, that it and its principals:

(A) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(B) Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(C) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (A)(ii) of this certification; and

(D) Have not within a three-year period preceding this application/bid has one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the primary contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

**Examination of Records**

The contractor agrees to give to the Commission or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this contract. The contractor also agrees to retain all records related to this contract for a period of three years after completion of the terms of this contract.

**Environmental Requirements.** The Contractor shall comply with all applicable federal, state, and local environmental and historic preservation requirements and shall provide any information requested by the Commission to ensure compliance with applicable laws.



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**Certification Regarding Lobbying (7 CFR 3018) (Applicable if this contract exceeds \$100,000)**

The contractor certifies to the best of their knowledge and belief, that:

- (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the contractor, to any person for influencing or attempting to influence an officer or employee of an agency, Member of Congress, and officer or employer of Congress, or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

**Clean Air and Water Certification**

(Applicable if this agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. 1319(c) and is listed by EPA, or is not otherwise exempt.)

The contractor certifies as follows:

- (1) Any facility to be utilized in the performance of this proposed agreement is \_\_\_\_\_, is not \_\_\_\_\_, listed on the Environmental Protection Agency List of Violating Facilities.
- (2) To promptly notify the Commission prior to the signing of this contract by the Commission, of the receipt of any communication from the Director, Office of Federal Activities, U.S. Environmental Protection Agency, indicating that any facility which he proposes to use for the performance of the agreement is under consideration to be listed on the Environmental Protection Agency List of Violating Facilities.
- (3) To include substantially this certification, including this subparagraph (3), in every nonexempt subagreement.

**Clean Air and Water Clause**

(Applicable only if the agreement exceeds \$100,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act (33 U.S.C. (1319(c)) and is listed by EPA or the agreement is not otherwise exempt.)

(1) The contractor agrees as follows:

- (A) To comply with all the requirements of section 114 of the Clean Air Act as amended (42 U.S.C. 1857, et seq., as amended by Public Law 91-604) and section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports, and information, as

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well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the signing of this contract by the Commission.

(B) That no portion of the work required by this agreement will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was signed by the Commission unless and until the EPA eliminates the name of such facility or facilities from such listing.

(C) To use their best efforts to comply with clean air standards and clean water standards at the facilities in which the agreement is being performed.

(D) To insert the substance of the provisions of this clause in any nonexempt sub-contract, including this subparagraph (1)(D).

(2) The terms used in this clause have the following meanings:

(A) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Public Law 91-604).

(B) The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

(C) The term "clean air standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1857c-5(d)), and approved implementation procedure or plan under section 111(c) or section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

(D) The term "clean water standards" means any enforceable limitation, control, condition, prohibition, standards, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with per treatment regulations as required by section 307 of the Water Act (3 U.S.C. 1317).

(E) The term "compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with the scheduled or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or any air or water pollution control issued pursuant thereto.

(F) The term "facility" means any building, plant, installation, structure, mine, vessel or other floating craft, location or site of operations, owned leased, or supervised by a contractor, to be utilized in the performance of an agreement or subagreement. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

### **Nondiscrimination Provisions**

The Contractor covenants and agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this Agreement. Accordingly, and to the extent applicable, the Contractor covenants and agrees to comply with the following:

(1) On the basis of race, color or national origin, in Title V I of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by applicable regulations.

(2) On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 (3 CFR, 1964-1965 Comp. pg. 339), as implemented by applicable regulations.

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(3) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by applicable regulations.

(4) On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by applicable regulations.

(5) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by applicable regulations.

**Flow Down Requirement.** Contractor must include these ARRA Terms and Conditions in any subcontract.

SECTION G  
EXHIBIT A

NON-INFLUENCE AFFIDAVIT

COUNTY OF \_\_\_\_\_

STATE OF \_\_\_\_\_

I do solemnly swear on my oath that as to the contract dated \_\_\_\_\_, 20\_\_\_\_\_,

between \_\_\_\_\_ and  
(NAME OF CONTRACTOR)

the Owner I have no knowledge of the exertion of any influence or the attempted exertion of any influence on the firm on behalf of which this affidavit is made in any way, manner, or form in the purchase of materials, equipment, or other items involved in construction, manufacture, or employment of labor under the aforesaid contract by any employee, officer, or agent of the Owner, or any person connected with the State Government of Georgia in any way whatsoever.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(L.S.)  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Firm

COUNTY OF \_\_\_\_\_

STATE OF \_\_\_\_\_

Personally before me, the undersigned authority, appeared \_\_\_\_\_  
(NAME OF PERSON SIGNING THE AFFIDAVIT)

who is known to me to be an official of the firm of \_\_\_\_\_ who, after being duly  
(NAME OF CONTRACTOR)

sworn, stated on his oath that he had read the above statement and that the same is true and correct.

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

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

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

EXHIBIT B

STATUTORY AFFIDAVIT

COUNTY OF \_\_\_\_\_ STATE OF \_\_\_\_\_

FROM: \_\_\_\_\_  
Contractor

TO: \_\_\_\_\_  
Owner

Re: Contract entered into the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the above-mentioned parties for the construction of Project No. \_\_\_\_\_ located at \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:**

1. The undersigned hereby certifies that all work required under the above contract has been performed in accordance with the terms thereof, that all materialmen, subcontractors, mechanics, and laborers have been paid and satisfied in full, and that there are no outstanding claims of any character [including disputed claims or any claims to which the Contractor has or will assert any defense] arising out of the performance of the contract which have not been paid and satisfied in full except as listed hereinbelow:

**[Instructions-ENTER THE WORD "NONE" OR LIST THE NAMES OF CLAIMANTS AND THE AMOUNT CLAIMED BY EACH]**

2. The undersigned further certifies that to the best of his knowledge and belief there are no unsatisfied claims for damages resulting from injury or death to any employees, subcontractors, or the public at large arising out of the performance of the contract, or any suits or claims for any other damage of any kind, nature, or description which might constitute a lien upon the property of the Owner.

3. The undersigned makes this affidavit for the purpose of receiving final payment in full settlement of all claims against the Owner arising under or by virtue of the contract, and acceptance of such payment is acknowledged as a release of the Owner from any and all claims arising under or by virtue of the contract.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_(L.S.)  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Firm

COUNTY OF \_\_\_\_\_ STATE OF \_\_\_\_\_

Personally before me, the undersigned authority, appeared \_\_\_\_\_, who  
(NAME OF PERSON SIGNING AFFIDAVIT)

is known to me to be an official of the firm of \_\_\_\_\_ who, after being duly  
(NAME OF CONTRACTOR)  
sworn, stated on his oath that he had read the above statement and that the same is true and correct.

\_\_\_\_\_  
Notary Public, My commission expires \_\_\_\_\_

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

EXHIBIT C  
SPECIMEN  
**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ as  
(Legal Name and Address of Contractor)

principal (hereinafter referred to as "Contractor") and

\_\_\_\_\_  
(Legal title and address of Surety) as

surety (hereinafter referred to as "Surety"), are held and firmly bound unto **{Insert Name of Owner}** as Obligee (hereinafter referred to as "Owner"), in the amount of \$\_\_\_\_\_, to which payment Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has entered into a contract with Owner bearing date of \_\_\_\_\_, for PROJECT NO. \_\_\_\_\_ in accordance with drawings and specifications prepared by \_\_\_\_\_, which said contract is incorporated herein by reference and made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform and comply with the terms and conditions of said contract; and shall indemnify and save harmless the Owner against and from all costs, expenses, damages, injury or loss to which said Owner may be subjected by reason of any wrongdoing, including patent infringement, misconduct, want of care or skill, default or failure of performance on the part of said Principal, his agents, subcontractors or employees, in the execution or performance of said contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

1. The said Surety to this bond, for value received, hereby stipulates and agrees that no change or changes, extension of time or extensions of time, alteration or alterations or addition or additions to the terms of the contract or to the work to be performed thereunder, or the specifications or drawings accompanying same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change or changes, extension of time or extensions of time, alteration or alterations or addition or additions to the terms of the contract or to the work or to the specifications or drawings.

2. If pursuant to the contract documents the Contractor shall be declared in default by the Owner under the aforesaid Contract, the Surety shall promptly remedy the default or defaults or shall promptly perform the Contract in accordance with its terms and conditions. It shall be the duty of the Surety to give an unequivocal notice in writing to the Owner within twenty-five (25) days after receipt of a declaration of default of the Surety's election either to remedy the default or defaults

promptly or to perform the contract promptly, time being of the essence. In said notice of election, the Surety shall indicate the date on which the remedy or performance will commence, and it shall then be the duty of the Surety to give prompt notice in writing to the Owner immediately upon completion of (a) the remedy and/or correction of each default, (b) the remedy and/or correction of each item of condemned work, (c) the furnishing of each omitted item of work, and (d) the performance of the contract. The Surety shall not assert solvency of its Principal as justification for its failure to give notice of election or for its failure to promptly remedy the default or defaults or perform the contract.

3. Supplementary to and in addition to the foregoing, whenever the Owner shall notify the Surety that the Owner has notice that the Contractor has failed to pay any subcontractor, materialman, or laborer for labor or materials certified by the Contractor as having been paid for by the Contractor, the Surety shall, within 30 days of receipt of such notice, cause to be paid any unpaid amount for such labor or materials.

4. It is expressly agreed by the Principal and the Surety that the Owner, if he desires to do so, is at liberty to make inquiries at any time of subcontractors, laborers, materialmen, or other parties concerning the status of payments for labor, materials, or services furnished in the prosecution of the work.

5. The Surety agrees that other than as is provided in this bond it may not demand of the Owner that the Owner shall (a) perform any thing or act, (b) give any notice, (c) furnish any clerical assistance, (d) render any service, (e) furnish any papers or documents, or (f) take any other action of any nature or description which is not required of the Owner to be done under the contract documents.

6. No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the legal successors of the Owner.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 20\_\_\_\_\_.

IN THE PRESENCE OF:

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

(Principal)

\_\_\_\_\_  
(Title)

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

(Surety)

\_\_\_\_\_  
(Title)

EXHIBIT D  
SPECIMEN  
**PAYMENT BOND**

THIS BOND IS EXECUTED TOGETHER WITH ANOTHER BOND IN FAVOR OF THE  
OWNER AS OBLIGEE CONDITIONED UPON PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ as  
(Legal Title and Address of Contractor)

Principal (hereinafter referred to as "Contractor"), and

\_\_\_\_\_ as Surety  
(Legal title and address of Surety)

(hereinafter referred to as "Surety"), are held and firmly bound unto **{Insert Name of Owner}** as obligee

(hereinafter referred to as "Owner"), for the use and benefit of claimants defined, hereinafter, in the amount of

(\$ \_\_\_\_\_), to which payment Principal and Surety bind themselves, their heirs, executors,  
(Insert Contact Price)

administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has entered into a contract with Owner dated \_\_\_\_\_ for

Project No. \_\_\_\_\_ in accordance with drawings and specifications prepared by

\_\_\_\_\_ which contract is incorporated herein by reference and made a part  
hereof, and is hereinafter referred to as the Contract.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and materials supplied in the prosecution of the work provided for in said Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. The said Surety to this bond, for value received, hereby stipulates and agrees that no change or changes, extension of time or extensions of time, alterations or addition or additions to the terms of the contract or to the work to be performed thereunder, or the specifications or drawings accompanying same shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such change or changes, extension of time or extensions of time, alteration or alterations or addition or additions to the terms of the contract or to the work or to the specifications or drawings.
2. A claimant is defined as any subcontractor and any person supplying labor, materials, machinery, or equipment in the prosecution of the work provided for in said contract.
3. Every person entitled to the protection hereunder and who has not been paid in full for labor or materials furnished in the prosecution of the work referred to in said bond before the expiration of a period of ninety days after the day on which the last of the labor was done or performed by him, or materials or equipment or machinery was furnished or supplied by him for which such claim is made, or when he has completed his subcontract for which claim is made, shall have the right to sue on such payment bond for the amount, or the balance thereof, unpaid at the time of the commencement of such action and to prosecute such action to final execution and judgment for the sum or sums due him; provided, however, that any person having direct contractual relationship with a subcontractor, but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have the right of action upon the said payment bond upon



giving written notice to said contractor within ninety days from the day on which such person did or performed the last of the labor, or furnished the last of the materials or machinery or equipment for which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished or supplied or for whom the labor was performed or done; provided further that nothing contained herein shall limit the right of action to said 90-day period. Notice may be served by depositing a notice, registered mail, postage prepaid, duly addressed to the contractor at any place he maintains an office or conducts his business, or his residence, in any post office or branch post office or any letter box under the control of the Post Office Department, or notice may be served in any manner in which the sheriffs of Georgia are authorized by law to serve summons or process. Every suit instituted under this section shall be brought in the name of the claimant without the Owner being made a party thereto. The official who has the custody of said bond is authorized and directed to furnish, to any person making application therefor who submits an affidavit that he has supplied labor or materials for such work and payment therefor has not been made, or that he is being sued on any such bond, a copy of such bond and the contract for which it was given, certified by the official who has custody of said bond; this copy shall be primary evidence of said bond and contract and shall be admitted in evidence without further proof. Applicants shall pay for such certified copies and such certified statements such fees as the official fixes to cover the cost of preparation thereof, but in no case shall the fee exceed the fees which the clerks of the superior courts are permitted to charge for similar copies.

4. No action can be instituted on this bond after one year from the date of the final certificate of the architect.
5. Further, this bond shall be considered the same as a bond furnished under Section 13-10-1 *et seq.*, of the Code of Georgia, as amended, and all provisions of law pertaining to bonds furnished under said Section shall pertain hereto.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 20\_\_\_\_\_.

IN THE PRESENCE OF:

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

(Principal)

\_\_\_\_\_  
(Title)

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

(Surety)

\_\_\_\_\_  
(Title)

EXHIBIT E  
SPECIMEN  
**CONSTRUCTION CONTRACT**

**THIS AGREEMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by and between the **{AGENCY NAME}**, an agency of the State of Georgia, (hereinafter, called the "Owner"), with a place of business at **{Agency Address}** and **{VENDOR NAME}**, a corporation duly authorized by law to transact business in the State of Georgia (hereinafter, called the "Contractor"), whose mailing address is **{Vendor Address}**.

**WITNESSETH:**

**WHEREAS**, This project is funded by the American Recovery and Reinvestment Act of 2009; and

**WHEREAS**, Owner has had prepared drawings, plans, specifications and addenda describing certain construction work it requires, the originals of which are on file and of record in the owner's offices, and are, by this reference, specifically incorporated herein; and

**WHEREAS**, Contractor, having obtained an exact copy of said drawings, plans, specifications and addenda, has submitted the bid for such work that is the most beneficial to the State of Georgia.

**NOW, THEREFORE**, the Owner and the Contractor in consideration of the mutual promises and benefits flowing to the parties hereto as hereinafter stated, agree as follows:

1. **SCOPE OF WORK** - The Contractor shall furnish all labor, materials, tools and equipment to perform all the Work shown on the drawings and called for in the specifications entitled: **{INSERT NAME OF PROJECT}**, as prepared by: **{INSERT NAME OF ARCHITECT}**, who is referred to in the Contract Documents as the Architect. It is the intent and it is hereby agreed that the Contractor shall perform all work covered by this Contract and the Contract Documents.
2. **TIME OF COMPLETION** - This Contract shall be commenced within ten (10) days after notice to proceed is issued by the Owner and shall be fully completed in \_\_\_\_\_ consecutive calendar days from and including the date of the Notice to Proceed, time being of the essence.
3. **CONTRACT SUM** - The Owner shall pay the Contractor the sum of **{INSERT BID AMOUNT, WRITTEN AND NUMBERS}** subject to adjustment by additive or deductive Change Orders.
4. **PROGRESS PAYMENTS** -
  - (a) The Owner shall make progress payments on account of the contract as follows: On or about the 15th day of each month 90 per cent of the value, based on the contract prices, of labor and materials incorporated in the work and of materials suitably stored at the site thereof up to the 1st day of that month, as estimated by the Architect, less the aggregate of previous payments, until one-half of the contract sum is due.
  - (b) At any time after one-half of the contract sum, including change orders, becomes due and the work is: (1) on or ahead of the construction progress schedule; (2) there are no breaches of orders of condemnation; (3) there is no delinquency in the filing of the final breakdown and accounting, together with vouchers, on force account work as referred to in Article D-15 of the general conditions; and (4) there are no unsatisfactory performance evaluations, if the Contractor requests and the Owner and Architect approve, the sum being withheld as retainage will be converted to a lump sum and held by the Owner until final completion.
  - (c) No further retainage will be withheld by the Owner from payments to the Contractor unless the following deficiencies occur: (1) the percentage of work complete falls behind the percentage required by the construction progress schedule by as much as 15 per cent, or; (2) the Contractor breaches an order of condemnation, or; (3) there are [further or additional] unsatisfactory performance evaluations,

or; (4) the Contractor becomes delinquent in regard to the filing of the final breakdown and accounting, together with vouchers, on force account work as referred to in Article D-15 of the general conditions. In such event or events the Owner shall reinstate the 10 per cent retainage on all periodical estimates due to be paid while one or more of the events continues to exist. The Contractor will be given written notice of the reinstatement of the retainage.

(d) If the Contractor (1) recovers all lost time and puts the work back on schedule; and (2) remedies all breaches of orders of condemnation; and (3) corrects the deficiencies which caused the unsatisfactory performance evaluations, and (4) supplies a proper breakdown and accounting on force account work, then the sums withheld while either or all of the events existed will be converted to an additional lump sum and held by the Owner until final completion, and no further retainage will be withheld unless any of the deficiencies recur, in which event or events the Owner shall reinstate the 10 per cent retainage on all subsequent periodical estimates.

(e) At the discretion of the Owner, the retainage of each subcontractor may be released separately as he completes his work. An application for release of a subcontractor's retainage shall bear the original certificate of the subcontractor, the Contractor, and the Architect that the subcontractor's work has been fully performed and that the sum for which payment is requested is due by the Contractor to the subcontractor. Checks releasing a subcontractor's retainage shall be made payable to the Contractor, the Contractor's surety, and the subcontractor and shall be mailed to the Contractor's surety. This article does not create any contractual relationship between the Owner and the subcontractor or any duty of the Owner to any subcontractor. All warranties shall run from the date of the final certificate of the Architect unless otherwise expressly provided in the contract. Payments pursuant to this article shall in no way diminish, change, alter or affect the rights of the Owner under the contract documents.

5. **FINAL PAYMENT -**

(a) Final payment under this Contract will be due to the Contractor thirty (30) days after the issuance of the final certificate by the Architect. The Contractor agrees that before applying for final payment, he will furnish to the Owner the Statutory Affidavit, and the warranties and guarantees called for in the specifications.

(b) Upon receipt of written notice from the Contractor pursuant to Article D-41 of the general conditions that the work is ready for final inspection, the Architect shall promptly make such inspection, and when he finds the work complies with the contract and when the contract shall have been fully performed he shall promptly issue a final certificate, over his own signature, stating that the work provided for in this contract has been completed under the terms and conditions thereof, and that the entire balance found to be due the Contractor, and noted in said final certificate, is due and payable.

(c) Before issuance of final certificate, the Contractor shall submit evidence satisfactory to the Architect that all payrolls, material bills, and other indebtedness connected with the work have been paid.

(d) If full completion of the work is materially delayed through no fault of the Contractor, and the Architect so certifies, the Owner shall, upon certificate of the Architect, and without terminating the contract, make payment of the balance due for that portion of the work fully completed. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

6. **THE CONTRACT DOCUMENTS -** The Contract Documents which form the basis of this Contract shall be the plans and specifications as enumerated below, together with any other documents so listed and enumerated, and it is expressly understood that these documents are specifically made a part of this Contract.

PROJECT MANUAL: Entitled: **{INSERT NAME OF PROJECT}**

Dated: **{INSERT DATE ON PROJECT MANUAL}**

Addendum: **{INSERT ADDENDA NUMBER IF APPLICABLE}**

CONTRACT: This form of AGREEMENT dated \_\_\_\_\_ by and between the parties written above.

7. The Owner and the Contractor hereby agree to the full performance of the conditions and stipulations contained herein.
8. This Agreement and all rights, privileges and responsibilities shall be interpreted and construed according to the laws of the State of Georgia. Any lawsuit or other action based on claims arising from this Contract shall be brought in a court or the forum of competent jurisdiction in Fulton County, in the State of Georgia.
9. The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance required under this Agreement. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed or contracted with.
10. The parties hereto certify that the provisions of law contained in the Act prohibiting full-time appointive officials and employees of the State from engaging in certain transactions affecting the State as defined in Section 45-10-20 through 45-10-26 of the O.C.G.A. have not and will not be violated in any respect in regard to this Agreement.
11. This Agreement and the proceeds of this Agreement may not be assigned nor may the performance thereunder be assigned, except with the prior written consent of the Owner.
12. The failure of the Owner at any time to require performance by the Contractor of any provision hereof, shall in no way affect the right of the Owner thereafter to enforce any provision or any part of the Contract, nor shall the failure of the Owner to enforce any breach of any provision hereof to be taken or held to be a waiver of such provision, or as a waiver, modification or recession of the Contract itself.
13. If the Contractor is a nonprofit Contractor as defined in Section 50-20-2 of the O.C.G.A., then the Contractor agrees to comply with the provision of said Act, and in particular requirements of Section 3 thereof, and with such further instructions and requirements as the State of Georgia may subsequently require in the implementation of said Act.
14. **DAVIS-BACON WAGE REQUIREMENT:** Contractor warrants that it shall pay wage rates in accordance with the 40 U.S.C. § 3141 *et. seq.*
15. **ARRA REPORTING REQUIREMENT:** Contractor warrants that it shall comply with the reporting requirements contained in the American Recovery and Reinvestment Act of 2009 and the Federal Funding Accountability and Transparency Act of 2006.
16. **USE OF AMERICAN STEEL, IRON AND MANUFACTURED PRODUCTS:** Contractor warrants that it shall comply with the requirement for use of iron, steel and manufactured goods that are produced in the United States pursuant to the American Recovery and Reinvestment Act of 2009.
17. **IMMIGRATION REFORM COMPLIANCE.** The Contractor hereby certifies its compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act OCGA 13-10-90 *et seq.* Contractor certifies that Contractor has registered at <https://www.vis-dhs.com/EmployerRegistration> to verify information of all newly hired employees in order to comply with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act. Contractor further certifies that it shall execute any affidavits required by the rules and regulations issued by the Georgia Department of Labor set forth at Rule 300-10-1-

.01 *et seq.* Contractor warrants that it has included a similar provision in all written agreements with any subcontractors engaged to perform services under this Contract.

18. No amendment to this Contract shall be effective unless it is in writing and signed by duly authorized representatives of the parties. **NO REPRESENTATION, REQUEST, INSTRUCTION, DIRECTIVE OR ORDER, MADE OR GIVEN BY ANY OFFICIAL OF ANY AGENCY OF THE STATE OF GEORGIA, WHETHER VERBAL OR WRITTEN SHALL BE EFFECTIVE TO AMEND THIS CONTRACT OR EXCUSE OR MODIFY PERFORMANCE HEREUNDER UNLESS REDUCED TO A FORMAL AMENDMENT AND EXECUTED AS SET FORTH ABOVE. CONTRACTOR SHALL NOT BE ENTITLED TO ADDITIONAL COMPENSATION, DELAY IN PERFORMANCE, OR OTHER BENEFIT CLAIMED FOR RELYING UPON OR RESPONDING TO ANY SUCH REPRESENTATION, REQUEST, INSTRUCTION, DIRECTIVE, OR ORDER.**

19. This Contract, including all documents incorporated herein, constitutes the entire agreement between the parties with respect to the subject matter; hereby superseding all other prior and contemporaneous agreements, representations, statements, negotiations, and undertakings whether oral or written.

THE PERSON SIGNING ON BEHALF OF EACH PARTY REPRESENTS THAT SUCH PERSON IS DULY AUTHORIZED AND FULLY EMPOWERED TO ENTER INTO THIS CONTRACT ON BEHALF OF SUCH PARTY. EACH PARTY WARRANTS THAT SUCH PARTY HAS FULL POWER AND AUTHORITY TO ENTER INTO AND PERFORM THIS CONTRACT. THE PARTIES HERETO ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THIS CONTRACT, AND AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS CONTRACT, AS INDICATED BY THE SIGNATURES OF THEIR DULY AUTHORIZED REPRESENTATIVES SET OUT BELOW.

EXECUTED AS OF THE DAY AND YEAR FIRST WRITTEN ABOVE

{AGENCY NAME}

{CONTRACTOR}

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

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

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

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

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

**EXHIBIT F**  
**(Must be submitted with Bid Form)**

**GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT AFFIDAVIT**

Project No. and Name: \_\_\_\_\_

\_\_\_\_\_

Construction Professional: \_\_\_\_\_

**STATE OF GEORGIA;**

**COUNTY OF \_\_\_\_\_:**

**CONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned Contractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the {insert agency name} has registered with and is participating in a federal work authorization program\*, in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the {insert agency name}, Contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. § 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the {insert agency name} at the time the subcontractor(s) is retained to perform such service.

\_\_\_\_\_  
EEV / E-Verify™ User Identification Number

\_\_\_\_\_  
BY: Authorized Officer or Agent  
(Contractor Name)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title of Authorized Officer or Agent of Contractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN  
BEFORE ME ON THIS THE

\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_

[NOTARY SEAL]

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

My Commission Expires:

\*any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603

**(End of Form)**

**EXHIBIT G**

**CONTRACTOR PERFORMANCE EVALUATION QUESTIONNAIRE**

FINAL REPORT                       INTERIM REPORT, \_\_\_\_\_% COMPLETE

Facility (Owner): \_\_\_\_\_ Project Number: \_\_\_\_\_

Project: \_\_\_\_\_

Description: \_\_\_\_\_

Contractor: \_\_\_\_\_

Legal Name and Address

When Organized \_\_\_\_\_ State Incorporated \_\_\_\_\_ Type \_\_\_\_\_ Corporation., Partnership,

Sole Proprietorship

Federal I.D. No. \_\_\_\_\_ or S. S. No. \_\_\_\_\_ Georgia Resident: YES \_\_\_ NO \_\_\_

The full names of persons interested in the foregoing project as principals are as follows:

(1) \_\_\_\_\_

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

(2) \_\_\_\_\_

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

Original Contract Amount: \$ \_\_\_\_\_ Date of Award: \_\_\_\_\_

# of CO's \_\_\_\_\_ Total CO's \$ \_\_\_\_\_ Original Contract Completion Date: \_\_\_\_\_

Final Contract Amount \$ \_\_\_\_\_ Revised Contract Completion Date: \_\_\_\_\_

Owner Acceptance Date: \_\_\_\_\_

Punch List Completion Date: \_\_\_\_\_

Final Payment Date: \_\_\_\_\_

Contractor's Overall Performance Rating:

4 = Outstanding                       2 = Satisfactory                       0 = Unsatisfactory

Remarks: (Attach additional sheets or documentation if necessary)

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

EVALUATED BY: \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

EXHIBIT H  
PAGE 2

PERFORMANCE EVALUATION OF CONTRACTOR			
	PERFORMANCE CATEGORY	RAT	REMARKS
1	Project Mobilization		
2	Environmental Protection		
3	Compliance / Submission of Labor Reports		
4	Job Site Safety		
5	Knowledge and Compliance with Applicable Codes		
6	Contract Management		
7	Adherence to Project Schedule		
8	Quality of Superintendence/Supervision		
9	Coordination of Trades/Subcontractors		
10	Submittal Reviews by Contractor		
11	Submittal Timeliness		
12	Subcontractor Management/Scheduling		
13	Mechanical Systems		
14	Electrical Systems		
15	Adherence to Plans/Specifications		
16	Maintenance/Operation Manuals		
17	O&M Equipment Demonstrations		
18	Cooperation with Inspectors		
19	As Built Drawings		
20	Cooperation with Owner/User		
21	Change Orders		
22	Job Site Appearance/Clean-up		
23	Project Status at Punch List Inspection		
24	Completion of Punch List		
25	Punch List Size		
26	Timeliness of Project Completion		
27	Quality of Construction		
28	Submission of Close Out Data		
CODE RATING: 4 = Outstanding 2 = Satisfactory 0 = Unsatisfactory (Explain all outstanding or unsatisfactory ratings)			



PERFORMANCE EVALUATION OF CONTRACTOR'S SUB-CONTRACTOR S			
SUB-CONTRACTOR (NAME AND WORK PERFORMED)		RATING	REMARKS
A.			
B.			
C.			
D.			
E.			

CODE RATING: 4 = Outstanding 2 = Satisfactory 0 = Unsatisfactory (Explain all outstanding or unsatisfactory ratings)

1. This evaluation of the contractor's performance should be completed upon completion of the project. At the Agency's discretion, a report of the contractor's performance can be done at any time during the project.
2. Copies of all performance evaluations (pages 1, 2 & 3) are to be sent to the Georgia State Financing and Investment Commission, to the attention of the Procurement Division.
3. Interim and Final Unsatisfactory Evaluation Reports will be used to determine whether contractors are responsible bidders on future bids and in possible suspension or debarment proceedings.