



**LIBERTY COUNTY DEVELOPMENT AUTHORITY**

**REQUEST FOR PROPOSALS**

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**Professional Engineering Services  
Liberty County, Georgia**

**December 11, 2017**

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**Liberty County Development Authority**  
**Professional Engineering Services**  
**Liberty County, Georgia**

**1. THE PROJECT**

The Liberty County Industrial Authority (LCIA) doing business as Liberty County Development Authority (LCDA) is seeking proposals from qualified engineering firms that have experience and support capabilities to provide general engineering services for a variety of economic development related projects.

Any and all transactions made necessary by this RFP, as well as the Proposal Documents, shall be subject to the approval of LCDA.

**2. INTRODUCTION**

The Liberty County Development Authority (LCDA) was created in 1958 by an amendment to the Constitution of the State of Georgia for the purpose of creating and enhancing the economic growth and development of Liberty County. It consists of a seven-member Board of Directors with automatic seats for the Chairman of the Liberty County Board of Commissioners and the Mayor of Hinesville - the county seat. Four additional positions are appointed by the Liberty County Board of Commissioners and one additional position is appointed by the Hinesville City Council.

The purpose of the LCDA is to develop and promote industry for the public good and welfare of the county. Toward that end, the LCDA has developed industrial parks, constructed shell buildings, supported local technical college and workforce development programs, and organized and led partnerships with other public and private entities.

A five-member staff consisting of a CEO, Director of Marketing & Research, Director of Administration & Finance, Project Manager, Administration & Finance Assistant, and Office Assistant is employed to assist the Board in the implementation of the Authority's mission statement. The staff also works closely with an "extended staff" consisting of development professionals in other allied organizations such as the Georgia Power Company, Coastal Electric Membership Cooperative, Canoochee EMC, Savannah Technical College, Georgia Department of Economic Development, and Georgia Department of Community Affairs.

The Authority currently maintains four (4) industrial parks: Hinesville Technology Park, Midway Industrial Park, Tradeport East Business Center, and Tradeport West Business Center. The Authority operates a water and wastewater system and is a partner in the MidCoast Regional Airport joint-use facility.

### 3. SCOPE OF WORK

Authority Engineer (or if a firm responds to the RFP, the person in charge of the project) shall administer the functions pertaining to the engineering needs of the LCDA, including but not limited to the following (“Scope of Work”):

#### **General Administrative Functions**

1. Be available to consult with the Engineering Committee and staff on all matters relating to engineering.
2. Review all matters pertaining to engineering to ensure that undertakings proposed and implemented by the LCDA and others are done in a manner that protects the LCDA’s interests and are in keeping with the LCDA’s goals, specifications and practices as well as with local, state, and federal laws.
3. Be available to public and private developers to handle matters dealing with the engineering functions of LCDA procedures.
4. Attend prospect visits, Board, Committee, and other meetings as requested by the Chief Executive Officer (CEO) or his/her designee.
5. Direct other contract engineering services to ensure compatible and timely response to LCDA needs.
6. Maintain, at the LCDA office, engineering records and maps required to ensure accurate information is available to the LCDA and public.
7. Prepare reports, investigations, exhibits, studies and evaluations as may, from time to time, be required and directed by the CEO or his/her designee.
8. Perform other engineering related functions as directed by the CEO or his/her designee.
9. Advise the CEO or his/her designee as to engineering and construction financing available from other government agencies and, when so directed, prepare and initiate applications for funding. Also serve as Resident Engineer when required pursuant to Federal requirements.
10. Provide technical assistance for LCDA personnel when so directed.

11. Provide for enforcement of engineering related LCDA ordinances.
12. Provide inspection services for investigations of engineering related complaints and conditions.
13. Assist clerical staff in management of records relating to engineering. Serve as liaison to other agencies for engineering related matters. Provide public information regarding LCDA engineering matters.
14. Assist LCDA personnel in the preparation of capital improvement projects, improvement plans, specifications, bid documents and public improvement project management.
15. Solicit proposals for capital improvement project construction work.
16. Assist the CEO and/or committees in the review and evaluation of proposal submittals.
17. Provide construction observation and management during the course of LCDA projects. Act as Resident Engineer. Assist with inspection, approval of payments, cost estimating, filing of notices and other related tasks.
18. Advise the LCDA on National Pollution Discharge Elimination System (NPDES) compliance.
19. Provide up to four (4) hours of public or inter-office service per week, at no charge, to assist with the evaluation and/or processing of utility excavation permits, grading plans, sub-division maps and other engineering related issues, as required.

#### **Development Review Functions**

1. Review proposed improvements and land developments and provide recommendations as to engineering matters to ensure conformance with LCDA, and County ordinances and State Law.
2. Perform statutory functions of the LCDA Engineer pertaining to the review and checking of lot line adjustments, parcel and tract maps, including tentative, final and vesting maps. Ensure map conformance with LCDA ordinances.

3. Provide a “turn around” checking time for maps and improvement plans generally not to exceed two weeks for first plan check after the application has been determined complete. The Engineer shall be responsible for notifying the applicant in writing of any final plan or final map deficiencies within (30) days, specifying those items needed to complete the application.
4. Establish performance, labor, and material bond amounts when required and ensure the posting of such securities and other development fees within the proper time sequence of such development control.

#### 4. DEFINED TERMS

In addition to the terms defined elsewhere in this RFP, the following terms shall have the meanings indicated below, which are applicable to both the singular and plural thereof.

- (a) **Addenda** - Graphic or written documents issued by LCDA prior to the opening of Proposals intended to clarify, revise, add to, or delete information in the original Proposal Documents or in previous addenda.
- (b) **Contract or Engineering Contract** – The professional services contract to be awarded to the Successful Offeror pursuant to this RFP. At present, it is anticipated that LCDA will provide the Engineering Contract. LCDA is under no legal duty or obligation to enter into said Engineering Contract prior to or following an award pursuant to this RFP, and shall in no event be bound under said Engineering Contract until such time, if at all, as the same is duly approved by the LCDA board at a duly called public meeting. The Engineering Contract shall additionally be reviewed and approved by the legal counsel for LCDA. A proposed form of the Contract is attached hereto.
- (d) **Offeror** - One who submits a Proposal directly to LCDA as distinct from a sub-offeror of sub-bidder, who submits a proposal to an Offeror.
- (e) **Proposal** - A complete and properly signed offer to perform the services for the prices stipulated in the form submitted by the Offeror in accordance with the Proposal Documents.
- (f) **Proposal Documents** – Shall collectively refer to this RFP and any and all contracts, instruments, or other documents specifically made a part of this RFP or otherwise contemplated to be entered into between LCDA and the Successful Offeror in connection with the Project (to include the Engineering Contract).
- (g) **Selection Committee** – The committee appointed by the LCDA Board to oversee the RFP process, evaluate the Proposals, and recommend action regarding the same to the Board.

- (h) **Successful Offeror** - The responsive and responsible Offeror whose Proposal LCDA determines to be most advantageous to LCDA (on the basis of LCDA's evaluation as hereinafter provided) and to whom LCDA makes an award, all in the sole and absolute discretion of LCDA.

Additionally, for purposes of this RFP, "herein," "hereby," "hereunder," hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this RFP and not solely to the particular portion thereof in which any such word is used, and "including" or "include" means including without limitation.

**5. RESTRICTED COMMUNICATION.**

From the issue date of this RFP until a Successful Offeror is selected and the selection is announced and Proposal Documents are executed, Offerors are not allowed to communicate for any reason with any employees of LCDA or members of the Selection Committee with respect to this RFP or the Scope of Work, except for (i) submission of questions as authorized by this RFP, (ii) during any pre-proposal conference, (iii) during scheduled and authorized interviews, if any, for purposes of evaluation, and (iv) during authorized negotiations, if any, following opening of the Proposals. For violation of this provision, the LCDA reserves the right to reject the Proposal of the offending Offeror.

**6. SCHEDULE OF RFP EVENTS**

The following Schedule of Events represents the LCDA’s best estimate of the schedule that will be followed. All times indicated are prevailing times in Hinesville, Georgia. The LCDA reserves the right to adjust the schedule as it deems necessary or convenient.

<b>Event</b>	<b>Projected Date</b>	<b>Projected Time</b>
Distribution of RFP	12/11/2017	5:00 PM
Mandatory Pre-Proposal Conference	12/18/2017	10:00 AM
Deadline for Questions	1/3/2018	10:00 AM
Submittal Deadline	1/9/2018	11:00 AM
Selection Committee Review	TBD	TBD
Selection Committee Interviews	TBD	TBD – If Required
Award of Proposal	1/22/2018	8:30 AM

**7. PROPOSAL FORM AND CONTENT**

All Proposals shall be prepared in accordance with this RFP, and shall include the following (i) a Statement of Qualification (see Sec. 17 below); (ii) a Proposal Form (attached); (iii); an Authorization to Investigate(attached); (iv) a Statement of Non-Collusion (attached); and (v) all other items or documents required or authorized by this RFP.

In order to be considered for selection, offerors must submit a complete response to the RFP. Incomplete proposals may not be considered if the omissions are determined to be significant.

Proposals must be submitted in three parts: (A) one (1) original marked "original", and six (6) copies of the Technical Proposal for a total of seven (7) sets of the Proposal, (B) one (1) original of the Cost Proposal, and (C) one (1) original of the MWBE Proposal. The Cost Proposal and the MWBE Proposal must each be submitted in a separate sealed envelope which specifies on the face the name of the engineering firm and "Cost Proposal" and "MWBE Proposal". Each Technical Proposal shall be identical and include a transmittal letter.

All Proposals shall be prepared simply, succinctly and economically, to provide a straight forward and concise description of the matters requested. Emphasis must be on completeness, relevance, and clarity of content.

To expedite the review of Proposals, **it is essential that Offerors follow the format and instructions set forth herein.**

The Proposal shall be signed as follows:

- (a) A Proposal submitted by a *partnership* shall list the names of all partners and shall be signed in the partnership name by one of the authorized members of the partnership. If there is no partner who is a Georgia resident, the name and address of an entity designated to receive service of process for the partnership in Georgia must be provided.
- (b) A Proposal submitted by a *corporation, limited liability company, or other legal entity not a partnership* shall be signed under the legal name of the entity by the officer, manager, or other person(s) duly authorized to bind said entity. The name of each person signing the proposal shall be typed or printed below the signature. If not a Georgia Corporation, there must also be evidence that the corporation is authorized to transact business in Georgia.
- (c) A Proposal from an *individual* who is not a Georgia resident shall provide the name and address of an entity in Georgia with the authority to accept service of process for the individual.
- (d) All names must be typed or printed in ink below the signature.
- (c) The address, email address, facsimile and telephone number for communications regarding the Proposal must be shown.

## **8. MANDATORY PRE-PROPOSAL CONFERENCE**

A mandatory pre-proposal conference will be held at **10:00 AM, Monday, December 18, 2017** at the LCDA office at 425 W. Oglethorpe Highway, Hinesville, GA 31313. A representative, but not necessarily the binding agent, for each Offering firm, must be present. Minutes of the conference will be issued as an addendum and will be made a part of the contract.

**9. EXAMINATION OF PROPOSAL DOCUMENTS, OTHER DATA, AND PROJECT SITES**

- (a) It is the responsibility of each Offeror before submitting a Proposal:
  - (i) To examine and study thoroughly the Proposal Documents and other related data identified in the Proposal Documents;
  - (ii) To become familiar with and consider as part of the Proposal all federal, state, and local laws and regulations that may affect cost, progress, or performance of the services requested;
  - (iii) To study and carefully correlate Offeror's knowledge and observations with the Proposal Documents and such other related data;
  - (iv) To promptly notify LCDA of all conflicts, errors, ambiguities or discrepancies which Offeror has discovered in or between the Proposal Documents and such other related documents;
  - (v) To determine that the Proposal Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the services requested.
- (b) The submission of a Proposal will constitute an incontrovertible representation by Offeror that Offeror has complied with every requirement of this Section 9, that without exception, the Proposal is premised upon performing and furnishing the services and materials required by the Proposal Documents and applying any specific means, methods, techniques, sequences, and procedures that may be shown or indicated or expressly required by the Proposal Documents; that Offeror has given the LCDA written notice of all conflicts, errors, ambiguities, and discrepancies that Offeror has discovered in the Proposal Documents and the written resolutions thereof by LCDA are acceptable to Offeror; and that the Proposal Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

**10. INTERPRETATION, CHANGES, AND ADDENDA**

- (a) All questions about the meaning or intent of the Proposal Documents are to be directed to the project officer. The Offeror shall do so in writing and be responsible for its prompt delivery. Interpretations or clarifications considered necessary by the officer in response to such questions will be issued by Addenda mailed or otherwise



delivered (e.g. electronic mail, posting on website, facsimile, etc.) to all prospective Offerors attending the mandatory pre-proposal conference. Only questions answered by formal written Addenda will be regarded as proper. Neither LCDA nor the project officer will be responsible for any oral instructions and oral or other interpretations or clarifications not issued in writing as specified herein will be without effect.

- (b) LCDA expressly reserves the right to revise, amend or otherwise change, at any time, any and all of the terms and requirements for Proposals set forth herein as deemed advisable by LCDA; provided that LCDA reserves the absolute right to waive technicalities and informalities (as determined by the LCDA) at such time(s) and to such extent as it deems appropriate.
- (c) Questions about any aspect of the Proposal Documents or the Scope of Work shall be submitted in writing (e-mail is preferable) to:

**Carmen Cole**  
**E-mail: carmen.cole@lcda.com**  
**Liberty County Industrial Authority**  
**425 W. Oglethorpe Highway**  
**Hinesville Georgia 31313**  
**Tele: (912) 368-3359**

- (d) It shall be the Offeror's responsibility to confirm that it has received any and all Addenda issued by the LCDA pursuant to this RFP, notwithstanding any failure in delivery or notification of said Addenda to Offeror. By submitting its Proposal, Offeror shall be deemed to have received all such Addenda and be fully apprised of their contents.
- (e) All questions must be received by the LCDA no later than **10:00 AM, Wednesday, January 3, 2018.**

**11. PROPOSALS BINDING ON OFFEROR**

Offerors will be required to honor their Proposals for a minimum of sixty (60) days following opening of such Proposals; provided that any Offeror that is determined by the LCDA to be unlikely of being selected for award of the contract opportunity shall be released from its Proposal as soon as practicable.

**12. PUBLIC RECORDS**

Offerors are advised that the contents of any Proposal and all documents and information submitted in connection therewith may be subject to disclosure as required by The Georgia Open Records Act and any and all other applicable laws, and Offeror does hereby release and forever discharge LCDA, and its members, officers, employees, representatives, and agents from any damage, losses, suit, costs, or other liabilities of whatever kind arising from such disclosure (whether or not permitted by applicable law). Without limiting the

foregoing, Offerors are specifically advised that labeling information provided in Proposals “proprietary” or “confidential”, or any other designation of restricted use will not protect the information from public view.

### **13. OWNERSHIP OF MATERIALS**

All plans, images, technical and other drawings, models, exhibits, surveys, reports, specifications, diagrams, illustrations, schedules, studies, records, data, information and other materials and deliverables, whether in printed or electronic media format (including, without limitation, in a format readily usable with AutoCAD), provided or furnished by Engineer to LCDA pursuant to this Agreement (or any agreements entered into pursuant hereto) (collectively, the “**Documents**”) shall become the sole property of the LCDA at the time of their preparation or creation regardless of the stage to which the development design may have progressed. More information is specifically provided in paragraph 6 of the Contract.

### **14. SUBMITTAL OF PROPOSALS**

- (a) Proposals shall be submitted at the offices of the LCDA located at 425 W. Oglethorpe Highway, Hinesville, Georgia 31313 prior to the time specified in the Schedule of RFP Events (Section 6), in three (3) opaque envelopes, one marked with the “Proposal for Engineering Services”, the second marked “Cost Proposal”, and the third marked “MWBE Proposal”. All should be marked with the name and address of Offeror, and containing the specific required documents. If the Proposal is sent through the mail or other delivery system, the sealed envelopes shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face of it.
- (b) Each Offeror is responsible for seeing that its Proposal is received to LCDA not later than the advertised time set for the submission deadline for the Proposals.
- (c) Any Proposals received after 11:00 AM EST on Tuesday, January 9, 2018, will not be opened.

### **15. MODIFICATION AND WITHDRAWAL OF PROPOSALS**

- (a) Proposals may be modified or withdrawn by an appropriate document duly executed (in the manner that a Proposal must be executed) and delivered to LCDA at the place where Proposals are to be submitted at any time prior to the opening of Proposals.
- (b) Once Proposals have been opened, Proposals may only be withdrawn for appreciable error, and only upon duly signed, written notice actually received by the LCDA prior to award of the Engineering Contract and not later than 48 hours after the opening of the Proposals, excluding Saturdays, Sundays, and legal holidays. Thereafter, that Offeror will be disqualified from further consideration.

## 16. OPENING OF PROPOSALS

Sealed Proposals are due on **Tuesday, January 9, 2018 at 11:00 AM** and will be opened as soon thereafter as practicable. All sealed Proposals shall be opened so as to avoid disclosure of contents to competing Offerors. **Unless otherwise stipulated by the LCDA by appropriate Addendum, the attendance of Offerors at the Proposal opening shall not be required.**

## 17. STATEMENT OF QUALIFICATIONS

A Statement of Qualifications shall be included and made a part of the Proposal, and shall be formatted as provided in Section 7 above and the other provisions of this RFP. The content of said Statement of Qualifications **must be categorized and numbered as outlined below**, and be responsive to all requested information:

### A. **Description and Resources of Firm**

- A1. **Basic Company Information.** Provide company contact information including e-mail address, and company website (if available). Identify the location of the office from which services will be managed and this office's proximity to the LCDA's location. Provide form of ownership, including state of residency or incorporation, and number of years in business. Identify whether the Offeror is a sole proprietorship, partnership, corporation, limited liability corporation (LLC), joint venture, or other legal organizational structure.
- A2. **Offeror History.** Describe the history and growth of the Offeror. Provide general information about the Offeror's history, including disciplines and numbers and classifications of employees, and locations and staffing of offices.
- A3. **Litigation History.** Has the Offeror or any member thereof been involved in any litigation in the past ten (10) years with clients where the Offeror was found responsible or paid settlement charges (to include any settlements paid under a confidentiality agreement)? If so, please explain. List any active or pending litigation and explain its nature and current status. List any active claims against Offeror or against clients where Offeror is named.
- A4. **Fiscal Solvency.** List the Offeror's annual average revenue for the past two (2) years and supply main financial and banking references.
- A5. **Involuntary Terminations.** Provide information as to whether or not the Offeror, or member thereof, has ever been involuntarily removed from a contract or failed to complete a contract as assigned.
- A6. **Insurance.** Offeror will provide evidence that the following policies are in place (or that Offeror has the ability to obtain said policies of insurance prior to execution of the Engineering Contract):

(1)	Commercial General Liability Insurance Policy (with appropriate endorsements commonly required on projects performed for the State of Georgia), and Offeror is insurable in the following minimum amounts: Bodily injury, including death, limits of \$1,000,000 for each occurrence and \$2,000,000 general aggregate with dedicated limits per project site, and \$2,000,000 products and completed operations aggregate.
(2)	Automobile Liability Policy covering liability arising out of any auto (including owned, hired and non-owned autos) in the following minimum amounts: \$1,000,000 combined single limit per accident.
(3)	Umbrella/Excess Liability on an occurrence basis in excess of the underlying insurance described above which is at least as broad as each and every of the underlying policies, and in the minimum amount of \$3,000,000 combined single limit and aggregate limit.
(4)	Professional Liability (Errors and Omissions) Policy having minimum limits of \$1,000,000 each claim and annual aggregate.
(5)	Worker's Compensation insurance as required by the State of Georgia Workers Compensation statutes.

Confirmation of said insurance policy requirements will be provided by Offeror prior to execution of the Engineering Contract.

All policies except Worker's Compensation shall name as additional insured the LCDA, its directors, officers, employees, agents and representatives.

All policies shall provide that coverage cannot be cancelled without thirty (30) days prior written notice to the LCDA.

- A7. Transition Plan. All Offerors, excluding the Authority's current engineering firm, should provide a detailed plan of how the transition to the new firm would occur. Offerors should provide a timeline and explain what will be needed from staff and the previous firm regarding the transition. Also, please provide a listing of documents, drawings and permits that will need to be reviewed.

**B. Experience and Qualifications**

- B1. Provide professional qualifications and description of experience for principal management, key personnel, and sub-contractors proposed to undertake the Scope of Work. Relevant technical experience and the availability of the staff for the services provided. Provide a detailed description of the "depth" and "breadth" of the staff for short notice response. After selection of Offeror by the

LCDA, no substitutions of key staff or sub-contractors may occur without the written approval of the LCDA.

- B2. Furnish information on the Offeror’s experience providing Scope of Work services and clients of similar size, function, and complexity. Describe no more than five (5) and no less than three (3) projects, in order of most relevant to least relevant, which demonstrate the Offeror’s capabilities to perform the services contemplated by this RFP. For each project, the following information should minimally be provided:

a.	Owner’s and user’s name, location and dates of project.
b.	Description of services provided.
c.	Information on successes achieved by Offeror.
d.	Respective Owner’s and User’s stated satisfaction in service from Offeror. Provide client-written letters of reference/recommendation about the Offeror’s past performance.
e.	Owner’s and user’s contact information (current mailing address, email address, and phone number).

- B3. Provide information regarding the Offeror’s work with other development authorities, specifically responding to RFP’s, participating in site visits and providing exhibits in “time crunch” situations. Provide **copies** of exhibits produced by Offeror for similar types of customers (i.e. development authorities).
- B4. Provide a listing of current memberships and attendance at meetings and conferences directly related to economic development like the Georgia Economic Developers Association (GEDA).
- B5. Provide examples of Offeror’s work with project managers, site selection consultants, brokers, etc., related to economic development activities.
- B6. Provide up to five (5) letters of reference from current economic development or governmental clients.
- B7. Demonstrate estimating versus actual pricing for construction projects over the last 24 months. Offerors should provide a matrix outlining estimated cost versus actual costs for the construction projects that have been completed within the last 24 months under the Offeror’s guidance. The Authority relies on engineering estimates to prepare budgets and land pricing for potential clients. The selection committee will use this information to compare Offeror’s estimating abilities.

Offerors are not required to submit supporting documentation with the proposal, but the information may be requested during the evaluation process.

**C. Statement of Suitability.**

- C1. Provide any information that may serve to differentiate Offeror from other Offerors in suitability for the services contemplated in this RFP. Include all unique qualifications Offeror feels are especially relevant to the Scope of Work.
- C2. Provide information on current and projected workloads of Offeror and any potential impact to the services to be provided in connection with the Scope of Work.
- C3. Provide evidence of Offeror's ability to deliver the Scope of Work requirements within short time frames with the least risk of delay or dispute.
- C4. Provide detailed and verifiable information on the non-discrimination policies of Offeror, record of addressing public safety, social and environmental concerns; accessibility and opportunities for persons with disabilities and special needs, and special services for scope-related concerns.
- C5. Provide information on any special, relevant, innovative or unique qualifications for the requested Scope of Work.
- C6. Provide information on any management techniques or methodologies offered by Offeror that may be particularly suitable for the required services.
- C7. It is the policy of the LCDA that Minority Women Owned Businesses (MWBE) be given fair opportunity to participate in the performance of the Scope of Work, and that the Successful Offeror utilize minority and women owned subcontractors and suppliers as may be required by LCDA's MWBE Policy. A copy of the LCDA's MWBE Policy is available. Please complete the Request for Statement of Qualifications for Minority and Women-Owned Business Participation Plan form included as Attachment B.

**D. Cost Proposal**

- D1. Provide a Schedule of current Billable Rates and proposed Billable Rates.

**18. EVALUATION AND AWARD OF CONTRACT**

LCDA shall evaluate Proposals in order to obtain the most advantageous Proposal from responsive and responsible Offerors. LCDA will award the contract in accordance with this procedure.

Evaluation of the Proposals will be undertaken by LCDA through a Selection Committee. All Proposals will initially be evaluated by the Selection Committee based on the Technical Proposals including the Statement of Qualifications and other information made a part of the Proposal.

The Technical Proposals will be scored using the following criteria:

**Presentation of Proposal & Understanding of Services** **MAX SCORE 10 PTS**

- Is the proposal organized as outlined (i.e. bound, table of contents, tabbed)?
- Is the information legible and easily identifiable?
- Does the cover letter identify the individual responsible for answering questions during the evaluation period?
- Does the proposal indicate a clear and concise understanding of the services based on the information submitted?

**Engineer's Capabilities** **MAX SCORE 40 PTS**

The response should address the following:

- Ability to produce professional quality, distinctive exhibits in a time sensitive environment;
- Similar services performed within the last three (3) years that best characterize work quality and cost control;
- Acknowledgement of each type of engineering service requested and provide information on strengths and weakness to perform each type of work;
- Internal procedures and/or policies related to work quality and cost control;
- Management and organizational structure;
- Other on-going projects that may affect availability for this work;
- Availability to perform the work for the duration of the contract.

**Engineer (or PROJECT TEAM)** **MAX SCORE 30 PTS**

This relates to how well the Offeror's (project principal, project manager, and key support staff) qualifications and experience relate to the requested Scope of Work:

- Extent of management's involvement;
- Current on-going work assignments, project types, and location of key members;
- Provide the names of key members and support staff who will be performing the work on this project, their responsibilities, and relevant qualifications and individual experience;
- Experience with similar projects and interdisciplinary engineering teams;
- List five (5) current references for similar work projects completed within the past three (3) years (to include development authorities).

**Resources**

**MAX SCORE 15 PTS**

This relates to the total resources allocated to providing the requested services.

- Is the Offeror's office, from which the key member & support staff will be operating, located within a reasonable distance from Liberty County?
- Does the Offeror have the proper equipment, or access to the proper equipment to perform the requested tasks? (i.e. computers, software, printer, etc.)

**Response Time**

**MAX SCORE 35 PTS**

This relates to how quickly the Offeror can respond to any given assignment and what priority would be assigned to LCDA projects. The selected Offeror must demonstrate the ability to provide as much time as required to complete the Scope of Work. The Offeror must demonstrate how time will be managed (typical routine) and how quickly they can respond to extremely quick time requests. Include total staff available to assist primary staff if not available and how they will be kept abreast of engineer's ongoing project activities.

**Transition Plan**

**MAX SCORE 30 PTS**

This relates to how well developed and clear the proposed transition plan is. The plan should detail the process of transitioning, timeline, and specific requirement of staff and current engineering firm.



**Minority Employment Provisions**

**MAX SCORE 15 PTS**

Is Attachment B – Request for Statement of Qualifications completed:

- State corporate policy regarding MWBE participation.
- List recent history involving achievement of MWBE.
- Detail the proposed methodology to achieve the specified MWBE goal for this project. Please be concise in explaining the step-by-step process the Offeror will follow to obtain participation by MWBEs.

**Local Preference (Attachment A)**

**MAX SCORE 10 PTS**

For qualifications and evaluation criteria see Attachment A.

Following evaluation of said Technical Proposals, the Selection Committee will, determine the responsible Offerors based on a total aggregate score of at least 85 points out of 185 possible.

Cost Proposals will be evaluated for those Offerors that meet the minimum score of 85 points.

Although cost is a significant factor, it will not be the dominant factor.

Cost will be given more importance when all the other evaluation criteria are relatively equal.

The general approach is to first identify all responsive, responsible Offerors and then to award the contract to the most advantageous Offeror in that group.

If there is reason to believe that an unreasonably low proposal has been made, it will be rejected. One method of measuring reasonableness is to divide the proposed cost by a reasonable average hourly rate to show hours of effort that might be expected.

Following evaluation of said Proposals, the Selection Committee will, to the extent practicable and advisable, identify three (3) Offerors who are deemed by the Selection Committee (the “Short List Offerors”), in its sole judgment, to be the most qualified to provide the services contemplated by this RFP. Generally, no interviews or negotiations will be permitted as part of this initial evaluation.

Following identification of the Short List Offerors, LCDA **may** decide to schedule interviews with the Short List Offerors at which time the Committee may request additional

information. LCDA may elect to enter negotiations with one or more of the Short List Offerors so as to obtain the most advantageous Proposal. As soon as practicable following completion of said evaluations and related negotiations, LCDA (through its governing body), taking into consideration those same criteria relied upon by the Selection Committee (as well as the recommendation of said Selection Committee), shall consider and confirm (in writing) which Proposal is the most advantageous to LCDA (in its sole judgment), and, subject to its right to reject any such Proposal, LCDA will award the Proposal to such Offeror, subject to the execution and delivery by the LCDA of the Engineering Contract (in form and content satisfactory to LCDA). (Any cost proposals and other information submitted by a Short List Offeror to LCDA shall automatically be deemed a part of the Proposal).

- (a) LCDA at its sole discretion may, at any time, exclude an Offeror from further participation in the interview or negotiation process if LCDA determines, in its sole and absolute discretion, that such participation is not desirable or required for whatever reason, including, without limitation, (i) such Offeror is failing to progress in the interviews or negotiations, (ii) it is more advantageous to pursue interviews and negotiations with one or more other Offerors given the Proposals and/or needs of LCDA; (iii) Offeror is deemed not susceptible of selection by Owner. LCDA shall endeavor to give written notice of its decision to the affected Offeror at such time as determined convenient for LCDA. By entering into (or continuing) discussions and negotiations with one or more Offerors, LCDA is not obligated to enter into (or continue) discussions or negotiations with all Offerors; it being noted that LCDA is not obligated to give all Offerors the same opportunity for discussion and negotiation, but that the same shall be at the sole discretion of LCDA.
- (b) After receipt of Proposals, and as part of the evaluation process, LCDA may request, in its sole and absolute discretion, that additional, supplemental, or clarifying documents or information be submitted by an Offeror to better review and evaluate the Proposal and the qualifications of said Offeror. By virtue of LCDA requesting such information and/or documents from one or more Offerors does not obligate LCDA to request such information and/or documents from all Offerors; it being noted that LCDA is not obligated to give all Offerors the same opportunity in this regard, but that the same shall be at the sole discretion of LCDA.
- (c) LCDA may conduct such investigations as LCDA deems necessary to assist in the evaluation of any Proposal and to establish the responsibility, qualifications and financial ability of Offerors, proposed subcontractors and other persons and organizations to perform and furnish the services contemplated by this RFP.
- (d) The submission of Proposals hereunder shall invest Offeror with no interest, right or claim of any kind with respect to the Engineering Contract to be awarded. Furthermore, LCDA reserves the right to reject any or all Proposals in its absolute discretion for any reason whatsoever, with or without cause, and thereafter re-

advertise the contract opportunity, request resubmission, or take such other action as LCDA may determine appropriate.

- (e) There is no obligation on the part of LCDA to award the Engineering Contract to the Short List Offeror submitting the lowest cost proposal and LCDA reserves the right to award the Engineering Contract to the Offeror submitting the Proposal determined by LCDA, in its sole and absolute discretion, to be the most advantageous to (and in the best interest of) LCDA. LCDA shall be the sole judge of the Proposals, the Engineering Contract, and all matters relating to the RFP, and its decision in such matters shall be absolute and final.
- (f) **LCDA, in its absolute judgment, reserves the right to waive any technicality, noncompliance, or informality in evaluating Proposals or otherwise in administering the RFP process.**

#### **19. LCDA NOT BOUND**

This RFP is not an offer to contract or a solicitation of bids, and any Proposal submitted in response hereto, regardless of whether the Proposal is determined to be the most advantageous Proposal (or is in fact awarded), is not binding upon LCDA, and does not obligate the LCDA to procure or contract for any services. Neither LCDA, nor any Successful Offeror, will be bound unless and until all Proposal Documents (including the Engineering Contract) required by LCDA are negotiated and fully approved and accepted by the LCDA in a duly called public meeting, and the Successful Offeror, as evidenced by said parties' signature and delivery of the Proposal Document (including the Engineering Contract); provided, however, that submission of a Proposal shall bind any Offeror as set forth in paragraph 11 above.

#### **20. PROPOSAL SUBJECT TO GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

This RFP is subject to the provisions of the Georgia Security and Immigration Compliance Act, and Offerors shall submit whatever affidavits, documents, and other evidence of compliance as may be requested by LCDA from time to time in connection with its Proposal. Without limiting the foregoing, Offerors are advised they may be required to submit proof of their registration with and continuing and future participation in the E-Verify program established by the United States Department of Homeland Security. Additionally, it is not the intent of this paragraph to provide detailed information or legal advice concerning the Georgia Security and Immigration Compliance Act, and all Offerors shall be solely responsible for independently familiarizing themselves with, and strictly observing, the requirements of said Georgia Security and Immigration Compliance Act.

#### **21. SIGNING THE ENGINEERING CONTRACT**

When LCDA gives a conditional notice of award to the Successful Offeror, it will be accompanied by the required number of unsigned counterparts of the Engineering Contract (together with any other documents) required by the LCDA in connection with the Project.

Unless otherwise extended by LCDA, the Successful Offeror shall, within fifteen (15) calendar days from the receipt of such documents, sign and deliver the same to LCDA. Notwithstanding the foregoing, LCDA may elect to have the Successful Offeror prepare the Engineering Contract for its review and comment. In such case, a reasonable schedule for review, execution, and delivery of the Engineering Contract will be established by LCDA.

## **22. LAWS AND REGULATIONS**

The Successful Offeror and its subcontractors shall comply with local, State and Federal regulations, rules, order, and laws applicable to the Project.

## **23. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE**

The Successful Offeror shall not commence work under the Engineering Contract until it has obtained all the insurance required by the Proposal Documents (including the Engineering Contract) and provided evidence of the same to LCDA as required therein.

## **24. CONFLICT**

Any conflict between the public notice advertising this RFP and the Proposal Documents made available to Offerors following such advertisement shall be controlled by the latter.

## **25. COSTS INCURRED BY OFFERER**

All costs, fees (including legal), charges, and expenses incurred by Offeror in connection the Proposal and participation in the RFP process, of whatever amount and nature, direct or indirect, shall be borne exclusively and completely by Offeror, and LCDA shall have absolutely no liability or obligation of any kind for the same. In no event will any claim whatsoever be made against LCDA, or its employees, agents, or consultants, for reimbursement of any costs, fees, charges, and expenses incurred during the preparation of the Proposal or participation in the RFP process. **All Proposals upon receipt by LCDA shall become the property of LCDA.**

## **26. PROPOSAL NOT SUBJECT TO STATE PUBLIC WORKS CONSTRUCTION LAW**

This RFP is intended to solicit professional services in connection with the Scope of Work and is not subject to the provisions of the Georgia Local Government Public Works Construction Law, O.C.G.A. § 36-91-1 et seq. (the "Act"). Accordingly, LCDA shall evaluate the Proposals and select the Successful Offeror in whatever manner it determines most appropriate and to its best advantage; it being noted that said evaluation and selection is anticipated to be accomplished as set forth in this RFP. Notwithstanding any provision of this RFP to the contrary, however, LCDA shall be free to depart from the provisions of this RFP should it determine the same appropriate (in its sole and absolute discretion). Any such departure shall not entitle any Offeror to reimbursement of any costs, fees, charges

or expenses incurred in connection with its Proposal or this RFP or otherwise subject LCDA or its employees, agents or consultants to liability for any losses, damages, or other liabilities suffered by Offeror as a result of any such departure.



Liberty County Development Authority  
425 W. Oglethorpe Highway, Hinesville, Georgia 31313  
Tele: (912) 368-3359 Fax: (912) 368-5585

**PROPOSAL FORM**  
**Engineering Services**  
Hinesville, Georgia

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**MANDATORY PROPOSAL FORM:** This form must be submitted and returned to the LCDA at its offices located at 425 W. Oglethorpe Highway, Hinesville, Liberty County, Georgia 31313, prior to the Submission Deadline (i.e. 11:00 a.m. on **January 9, 2018**, unless changed by Addenda), and must be accompanied by the following documents:

The Request for Proposals, and any and all other forms, documents, materials, and other information (e.g. State of Qualifications pursuant to Sec. 17, Authorization to Investigate; Statement of Non-Collusion, etc.) required to be made a part of this Proposal, as indicated herein or in the Proposal Documents.

The above material must be submitted in a sealed envelope in the manner provided in the Proposal Documents. If this form is not fully and accurately completed and submitted to the LCDA, together with the other documents listed above, as required in the Proposal Documents, the LCDA may (in its sole and absolute discretion) reject the Proposal.

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**SECTION I – Terms of Proposal**

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This Proposal is submitted in accordance with, and subject to, all of the terms, conditions, and provisions set forth in the Proposal Documents, and is made further subject to the following:

- (a) The undersigned Offeror agrees, if this Proposal is accepted, to enter into the Engineering Contract with LCDA, as well as such contract(s) and warranties collectively as is necessary or appropriate for the subject Scope of Work, in the form included in the Proposal Documents (or if not included, in such form as may be reasonably prescribed by LCDA) and to fully perform and observe the obligations and terms on its part to be performed therein. Said Agreement shall be executed by Offeror in the manner indicated therein and returned to the LCDA within the time prescribed in the Proposal Documents. Failure to execute the Agreement in the time prescribed will result in disqualification of the Offeror.
- (b) Offeror accepts all of the terms and conditions set forth in the Proposal Documents. This Proposal will remain subject to acceptance for sixty (60) days following the Submission Deadline, or for such longer period of time that Offeror may agree to in writing upon request of LCDA.
- (c) In submitting this Proposal, Offeror represents, as may be more fully set forth in the Proposal Documents, that:
  - (1) Offeror has read, examined, and carefully reviewed the Proposal Documents and any and all other materials made available by LCDA in connection with this Proposal and the Scope of Work, and fully understands the same and freely and voluntarily submits this Proposal pursuant to the terms contained in the Proposal Documents.
  - (2) Offeror further acknowledges receipt of any and all Addenda issued by the LCDA in connection with this Proposal and the Scope of Work.

Addenda	Date

- (3) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation. Offeror has not, directly or indirectly, (i) induced or solicited any other Offeror to submit a false or sham Proposal; (ii) solicited or induced any Person to refrain from submitting a Proposal; or (iii) sought by collusion to obtain for itself any advantage over any other Offeror or over LCDA.
- (4) If the Offeror is not a natural person, that it has the full and complete right, power and authority to submit this Proposal and perform the terms of the Agreement (if accepted by LCDA), and the same has been duly and validly authorized by all necessary action on the part of the Offeror, and no additional authorization, consent or permit is required.
- (5) If the Offeror is not a natural person, the individual or individuals signing this Proposal on behalf of the Offeror has or have the right, legal power and actual authority to bind the Offeror to the terms and conditions of this Proposal.

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**SECTION II – Proposal Submittal Authorization**

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Subject to the foregoing and the terms contained in the Proposal Documents, the Offeror does hereby submit a Proposal for the delivery of the professional services contemplated by the RFP.

Unless otherwise provided herein, all capitalized terms used in this Proposal shall have the meaning ascribed in the Proposal Documents.

DATE: \_\_\_\_\_, 2018.

OFFEROR:

If an individual(s):

Name(s): \_\_\_\_\_

Signature(s): \_\_\_\_\_

Offeror's Address: \_\_\_\_\_

Offeror's Tele/Fax: \_\_\_\_\_ / \_\_\_\_\_

Offeror's Email: \_\_\_\_\_

If a legal entity not an individual(s):

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

A limited liability company/corporation/other

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

Name/Title: \_\_\_\_\_  
(Printed)



To: Liberty County Development Authority

Re: Request for Proposals for Engineering Services

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**AUTHORIZATION TO INVESTIGATE**

The undersigned Offeror consents to and authorizes the full investigation by the Liberty County Development Authority, Liberty County, Georgia, or its related departments and agencies, of the information given in connection with the proposal submitted by the undersigned in connection with the above referenced Scope of Work, and consents to representatives and agents of said Liberty County Development Authority contacting the named references, named financial institutions, and such other persons and entities as may be needed to confirm such information or evaluate the merits of the subject proposal, and waives any right the undersigned may have for such information to remain confidential. The furnishing of false or misleading information or the intentional withholding of material facts (as determined by the Liberty County Development Authority in their sole discretion), shall be a reason for rejection of any proposal submitted by the undersigned in connection with the Scope of Work and may further subject the undersigned to forfeiture of any proposal security and additional civil liability and/or criminal prosecution.

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

Offeror: \_\_\_\_\_  
(Print Name)

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





To: Liberty County Development Authority

Re: Request for Proposals for Engineering Services

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**STATEMENT OF NON-COLLUSION**

The undersigned Offeror affirms that it has not prevented or endeavored to prevent any other person or entity from submitting a competing sealed proposal by any means whatsoever, or otherwise caused or induced another to withdraw a proposal from consideration. The below Offeror further affirms and covenants that it will make an oath confirming the foregoing prior to commencing any work, should it be awarded the contract which is the subject of the above referenced proposal.

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

Offeror: \_\_\_\_\_  
(Print Name)

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

## **Attachment A**

### **Local Preference in Contracting**

- (a) Except as otherwise be required by applicable state or federal law, in the contracting for goods and services of all kinds and description, when such goods are to be obtained, whether through an invitation for bids or a request for competitive sealed proposals, local preference shall be given to:

  - (1) Businesses having a business location within the geographic boundaries of Liberty County; and
  - (2) Businesses where at least 51 percent of the LCDAs of the business are residents of Liberty County but the business is located outside of Liberty County; and
  - (3) Businesses where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County.
  
- (b) For purposes of this section:

  - (1) The term "business location" means that the business has a staffed, fixed, physical, place of business located within Liberty County and has had the same for at least one year prior to the date of the business' submission of its proposal or bid, as applicable and has had held a valid business license from Liberty County for the business at a fixed, physical, place of business, for at least one year prior to the date of the business' submission of its proposal or bid, as applicable.
  - (2) The term "residents of Liberty County" means persons whose residence is within the geographic boundaries of Liberty County; and
  - (3) The residence of any person shall be held to be that place in which such person's habitation is fixed, without any present intention of removing therefrom.
  
- (c) Whenever goods or services of any kind or description are to be obtained through the solicitation of competitive sealed proposals, local preference shall be included as an evaluation criteria to be considered by the vendor selection committee. In this regard, ten percent of the total points available to each proposer shall be awarded on the basis of whether the proposer has a business location within the geographic boundaries of Liberty County, or has a business where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County, or has a business where at least 51 percent of the employees of the business arc residents of Liberty County but the business is located

outside of Liberty County. Proposers having a business location within Liberty County, or having a business where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County, or having a business where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County, shall be entitled to and shall receive the local preference points provided for in this section.

- (d)** Whenever goods or services of any kind or description are to be obtained through an invitation for bids, for the purpose of making an award to the lowest responsible bidder where two or more bidders have submitted the lowest bid with each of said bids being otherwise equal with respect to cost, but only one such bidder has a business location within Liberty County, or has a business where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County, or has a business where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County, then the recommendation for award shall be in favor of the bidder having a business location within Liberty County, or having a business where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County, or having a business where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County.
- (e)** Whenever a proposal or bid is submitted by a partnership, or joint venture, the local preference provided for in this section shall be awarded if the proposer or bidder, or any member of the proposer or bidder, defined as a business that is a signatory to the partnership or joint venture agreement, has a business location within Liberty County, or has a business where at least 51 percent of the owners of the business are residents of Liberty County but the business is located outside of Liberty County, or has a business where at least 51 percent of the employees of the business are residents of Liberty County but the business is located outside of Liberty County. No local preference shall be given on the basis of the business location, the percentage of owners of the business whom are residents of Liberty County, or the percentage of employees of the business whom are residents of Liberty County of any affiliated business, subcontractor, or consultant.
- (f)** Each business seeking local preference points under section 102-358 shall certify under oath that it is eligible to receive the local preference points as set forth above as a part of the submission of its proposal or bid to Liberty County and, in the event the affidavit or other declaration under oath is determined to be false, such business shall be deemed "non-responsive" and shall not be considered for award of the applicable contract.

**Attachment B**  
**Request for Statement of Qualifications**  
**MINORITY AND WOMEN-OWNED BUSINESS PARTICIPATION PLAN**

Project specific goals for utilization of Minority and Women Owned Business Enterprises (M/WBEs) as suppliers and/or sub-contractors have been established:

**Project Goal:**      **13%**                      **MBE:**      **10%**                      **WBE:**      **3%**

The Contractor shall submit a Minority and Woman Owned Business Enterprise (M/WBE) Compliance Plan to demonstrate their corporate policy regarding M/WBE's, their recent history involving achievement of MWBE utilization goals, and the compliance plan and methodology proposed to achieve the specified utilization goal.

Please respond to the following questions in order to comply with this request.

<b>1. State your corporate policy regarding M/WBE participation.</b>		
<b>2. List your recent history involving achievement of M/WBE in the table below.</b>		
<b>Name of past projects involving M/WBEs.</b>	<b>M/WBE Goal of Project</b>	<b>% of M/WBE</b>
<b>3. Detail the proposed methodology to achieve the specified M/WBE goal for this project in the space provided below. Please <u>be concise</u> in explaining the step-by-step process you will follow to obtain participation by M/WBEs.</b>		
1.  2.  3.  4.  5.  6.		

**Attachment C**

**Sample Engineering Contract**

STATE OF GEORGIA

COUNTY OF LIBERTY

**AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES**

THIS AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES is made and entered into as of the Effective Date (as defined herein) by and between **LIBERTY COUNTY INDUSTRIAL AUTHORITY**, a public body created and existing under the Constitution and laws of the State of Georgia, having a mailing address of 425 W. Oglethorpe Hwy., Hinesville, Liberty County, Georgia (hereinafter referred to as the "**Authority**"), and \_\_\_\_\_ a corporation created and existing under the laws of the State of Georgia, having a mailing address of \_\_\_\_\_ (hereinafter referred to as the "**Engineer**").

**WITNESSETH:**

**WHEREAS**, the Authority requires the services of a duly licensed and qualified professional engineer to perform the services described on the attached **Exhibit "A"** (the "**Services**"); and

**WHEREAS**, the Engineer desires to offer such professional services, and the Authority is willing to engage Engineer to furnish the same, on the terms and conditions set forth hereinbelow; and

**WHEREAS**, this Agreement was awarded through a Request for Proposals opened on January 9, 2018 (the "**RFP**").

**NOW THEREFORE**, incorporating the foregoing recitals, and in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the Authority and the Engineer mutually agree and bind themselves as follows:

**1. Replacing Prior Agreements.** Any and all agreements, understandings, or contracts that may presently exist between the Authority and the Engineer regarding the subject matter hereof, whether written or oral, are hereby mutually rescinded, canceled, and annulled.

**2. Services Provided; Standard of Care, Etc..** During the term of this Agreement, the Engineer agrees to perform the Services described on the attached **Exhibit "A"**, and will at all times during the term hereof faithfully, industriously, and to the best of the Engineer's ability, provide the Services described therein to the entire satisfaction of the Authority. Engineer shall also fully and satisfactorily comply with and observe any and all additional requirements on the part of Engineer to be performed or observed under the terms of the RFP, which is incorporated

and made a part hereof for all purposes. In connection with said Services, the Engineer hereby additionally covenants and agrees as follows:

(a) Standard of Care. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by professional engineers licensed to practice in the State of Georgia experienced with projects similar to those to be undertaken by Engineer during the term of this Agreement.

(b) Technical Accuracy. The Authority shall not be responsible for discovering deficiencies in the technical accuracy of the Services provided hereunder, and Engineer shall correct any and all deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in the information furnished from time to time by Authority in connection with such Services.

(c) Subcontractors and Consultants. Engineer may employ such consultants and subcontractors as Engineer deems necessary to assist in the performance or furnishing of the Services; provided that (i) such subcontractors and consultants shall be duly licensed and otherwise competent and qualified to perform the services for which they have been engaged by Engineer and otherwise observe the standard of care required by this Agreement, as applicable; (ii) Engineer shall remain liable for the performance, acts, and omissions of any such consultants and subcontractors as though the same were an employee of Engineer; (iii) unless otherwise specifically and expressly agreed to by the Authority, such subcontractors and consultants shall have such insurance (and shall execute such releases and indemnifications) as may be consistent with the general requirements applicable to Engineer under this Agreement.

(d) Laws and Policies. In the performance of this Agreement, Engineer agrees that the Services shall be conducted in full compliance with (i) any and all applicable statutes, laws, rules, and regulations adopted or promulgated by any governmental agency or regulatory body, whether state, federal or local, having jurisdiction over the Engineer or the Services; and (ii) any and all policies and procedures now or hereafter promulgated by the Authority.

(e) Independent Contractor. Engineer will perform the Services as an independent contractor only, and nothing in this Agreement (or any conduct of the parties) shall be construed to be inconsistent with such status. In this connection, Engineer will maintain complete control of and responsibility for its employees, subcontractors, consultants, and agents, as well as the means and methods for performing the Services and for the safety of said employees, subcontractors, consultants, and agents. Engineer is not to be considered an agent or employee of the Authority for any purpose, and will have no authority to bind the Authority or otherwise incur liability on behalf of the Authority except with the express prior written approval thereof. Furthermore, notwithstanding anything in this Agreement to the contrary, the Authority shall have no obligation to provide, and the Engineer shall not be entitled to receive, any benefits that the Authority may provide for the Authority's employees, including, but not limited to, pension and annuity benefits, medical insurance, and sick, holiday and vacation pay. Engineer assumes full responsibility for the payment of all contributions, payroll taxes, or assessments as to any employees engaged in the performance of the Services hereunder, and further agrees to meet

all requirements that may be specified under regulations of administrative officials or bodies charged with enforcement of any state or federal laws on this subject.

(f) Immigration Compliance. To the fullest extent applicable to the Services to be furnished hereunder, Engineer shall fully comply with the provisions of the Georgia Security and Immigration Compliance Act, O.C.G.A. § 13-10-90 et seq. (and any related state and federal statutes, laws and regulations), and shall submit (and cause its agents, subcontractors, and consultants to submit) whatever affidavits, documents, and other evidence of compliance as may be required by said law(s) or otherwise requested by the Authority from time to time in connection with the Services. It is not the intent of this paragraph to provide detailed information or legal advice concerning the Georgia Security and Immigration Compliance Act (or any related federal statute, law or regulation), and Engineer shall be solely responsible for independently familiarizing itself with, and strictly observing, the requirements thereof.

(g) Non-Discrimination; Equal Opportunity. It is the policy of the Authority that minority and women owned business enterprises (MWBE) be given fair opportunity to participate in the performance of services for the Authority, and that Engineer will utilize minority and women owned subcontractors, consultants, and suppliers in accordance with the Authority's MWBE policy (as the same may be modified from time to time) to the fullest extent practicable consistent with the efficient and cost-effective performance of the Services. Engineer further represents to the Authority and covenants as follows: (i) no person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin, or gender in connection with any subcontract or consultant opportunities in the performance of the Services; (ii) that Engineer shall provide equal opportunity to all business persons seeking to contract or consult with Engineer in connection with the Services, including MWBEs; and (iii) Engineer will take affirmative action to provide MWBEs with the maximum practicable opportunities to do business with Engineer in connection with the Services consistent with the written policies and intent of the Authority with respect to MWBEs.

(h) Conflict of Interest. At all times during the term of this Agreement, Engineer shall take such action as may be necessary from time to time to identify any potential conflict(s) of interest presented by the performance of any of the Services hereunder, and thereafter promptly notify the Authority of the circumstances given rise to such potential conflict of interest and the action proposed by Engineer to remedy or otherwise minimize the consequences of any such potential conflict.

(i) Document Retention. All Documents and other materials, correspondence, electronic mail and other documentation relating to this Agreement and the Services provided hereunder shall be preserved by Engineer in a readily accessible form at all times during the term of this Agreement and for a period of five (5) years following the expiration or any earlier termination of this Agreement.

### **3. Term of Agreement; Termination.**



(a) Term. The Engineer shall provide the Services specified in this Agreement as of the date hereof until the earlier of the following (i) on the anniversary date of this Agreement; or (ii) the date this Agreement is terminated by the Authority as provided in subparagraphs (b) and (c) below; provided, however, that this Agreement shall be deemed to be automatically renewed for three (3) successive one-year periods unless, prior to the then current term, the Authority notifies Engineer of its intent not to renew this Agreement. Unless otherwise agreed by the parties in writing, any renewal of this Agreement shall be on the same terms and conditions as set forth herein. As used in this Agreement, "term" shall mean the initial term of this Agreement as the same may be renewed hereunder.

(b) Termination Generally; Suspension. Notwithstanding any other provision of this Agreement to the contrary, this Agreement may be terminated at any time during its term by either party, for any or no reason, with or without cause, upon thirty (30) days' prior written notice to the Engineer if terminated by the Authority, and upon ninety (90) days' prior written notice to the Authority if terminated by Engineer. Additionally, this Agreement and the performance of any Services to be provided hereunder may be temporarily suspended, in whole or in part, by the Authority immediately upon written notice to Engineer advising of such suspension.

(c) Termination for Reasonable Cause. In addition to, and not by limitation of, the rights of the Authority specified in subparagraph (b) hereinabove, this Agreement may also be terminated by the Authority at any time following prior notice to Engineer as set forth in paragraph 9(a) below upon a determination by the Authority that "reasonable cause" exists for such termination. "Reasonable Cause" shall include, but not be limited to:

(i) Any act or omission which reasonably constitutes dishonesty, fraud, deceit, negligence, willful misconduct or recklessness; or

(ii) Inattention to, neglect of, or any other failure to competently perform the Services described hereunder in the manner and to the extent required by the Authority.

Additionally, Engineer may terminate this Agreement as set forth in (and limited by) paragraphs 9(c) and (d) below.

Upon the termination of this Agreement, neither party shall thereafter have any further rights, duties or obligations under this Agreement (except as otherwise specifically provided hereunder), but each party shall remain liable and responsible to the other for all obligations and duties hereunder accruing prior to said termination and for all acts and omissions of such party prior to such termination.

**4. Compensation.** In consideration of the satisfactory performance of Engineer's obligations under this Agreement, the Authority agrees to compensate Engineer for the Services as set forth on the attached **Exhibit "B"**. To the extent requested by the Authority, each payment to be made to Engineer hereunder shall be conditioned upon receipt by the Authority from the

Engineer of such evidence and documentation, in form and content satisfactory to the Authority (including, but not limited to, certificates and affidavits of Engineer, or such other persons as the Authority may require) showing, without limitation, the following: (a) the Services provided to date by Engineer; (b) that the representations made by the Engineer hereunder are truthful and otherwise correct as of the date of said payment request; and (c) that Engineer has complied with all of its obligations required to be performed or observed under this Agreement.

Notwithstanding the foregoing or any other provision in the Agreement to the contrary, the Authority shall be entitled to set off and withhold any payment to Engineer otherwise due under the Agreement to the extent of any sum the Authority reasonably claims is owed to Authority by Engineer under the terms of this Agreement or at law or in equity arising out of (i) any failure of performance or other breach or violation of this Agreement on the part of Engineer or its employees, consultants, contractors, or agents; (ii) any indemnification on the part of Engineer in favor of the Authority under the Agreement; or (iii) the negligence of Engineer or its employees, consultants, contractors, or agents; provided that Engineer may contest any such set off or similar action by Authority in accordance with the provisions of this Agreement regarding dispute resolution or as otherwise authorized by law.

**5. Representations of Engineer.** In order to induce the Authority to enter into this Agreement and provide the funds described herein, the Engineer represents and warrants to the Authority as follows:

(a) Organization; Professional Engineers. Engineer is a corporation duly and validly existing, in good standing, under and by virtue of the laws of the State of Georgia, and has all requisite power and authority to transact the business in the State of Georgia in which it is now engaged or proposed to be engaged. The professional engineers employed by Engineer and who will perform the Services are duly licensed professional engineers in the State of Georgia and possess all requisite skill, education and knowledge to fully and satisfactorily perform the Services as required by this Agreement.

(b) Authorization. Engineer has the full and complete right, power and authority to enter into this Agreement, and the performance by Engineer of the Services and other obligations hereunder has been duly and validly authorized by all necessary action on the part of Engineer and its directors and officers; and no additional authorization, consent or permit is required.

(c) Permits. To the extent required by applicable law, Engineer possesses, or will possess prior to undertaking the Services described herein, all necessary permits, authorizations, licenses, and other certifications and approvals which may be necessary to satisfactorily discharge the Services to be provided hereunder.

(d) Binding Agreement. This Agreement constitutes the valid obligations of Engineer, legally binding upon it and enforceable in accordance with its terms. No further consent or approval of any other party is required in connection with the execution, delivery, performance, validity and enforcement of this Agreement.

(e) No Material Litigation. There is no action, suit or proceeding pending or threatened against or affecting Engineer before any court, arbitral body, governmental department, commission, board or other federal, state, authority, or municipal instrumentality, agency or authority which might, in any one case or in the aggregate, materially or adversely affect the ability of Engineer to fully and satisfactorily discharge his obligations under this Agreement.

(f) Information. All representations, warranties and other information heretofore or hereafter furnished by Engineer to the Authority in connection with the RFP or otherwise is or will be true and correct as of the date such information was furnished.

(g) Signatories. The individual or individuals signing this Agreement on behalf of Engineer has or have the right, legal power and actual authority to bind the Engineer to the terms and conditions of this Agreement.

**6. Ownership of Documents.** All plans, images, technical and other drawings, models, exhibits, surveys, reports, specifications, diagrams, illustrations, schedules, studies, records, data, information and other materials and deliverables, whether in printed or electronic media format (including, without limitation, in a format readily usable with AutoCAD), provided or furnished by Engineer to Authority pursuant to this Agreement (or any agreements entered into pursuant hereto) (collectively, the “**Documents**”) shall become the sole property of the Authority at the time of their preparation or creation regardless of the stage to which the development design may have progressed; provided, however, that the Engineer and/or its consultants and contractors, as the case may be, shall have the right to retain copies of such Documents, in whatever form, for its records and for its future professional endeavors and in connection with any and all projects and other activities undertaken by Engineer (and the same may be used for such purposes without condition or payment to or subsequent consent of the Authority, but without any warranty or liability or legal exposure to Authority). Notwithstanding the foregoing, the Authority expressly acknowledges that (1) the Documents are not intended or represented to be suitable for use on a specific project or for the purpose intended by Engineer unless completed by Engineer, or for use or reuse by the Authority or others on extensions of any other project, or for any other use or purpose, without the written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at the Authority’s or such other person’s sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and contractors, and any and all warranties of whatever kind, whether express or implied, regarding such unauthorized use are hereby expressly and specifically disclaimed; and (3) the Authority does hereby release Engineer its officers, directors, members, partners, agents, employees, and contractors from any claim or liability (or negligent design or otherwise) arising from the Authority’s unauthorized use of said Documents.

**7. No Liability of Authority; Indemnity; Release.**

(a) Engineer Liable. Engineer will be entirely and solely responsible and liable for all negligent, willful, or intentional acts and omissions of the Engineer and his agents, employees, associates, consultants, and contractors while engaged in the performance of the Services contracted for hereunder, and the Authority shall in no event be liable for any injury or damage to person or property resulting from any such Services except to the extent such injury or damage is caused by the negligence or willful or intentional misconduct of the Authority or its employees. Moreover, Engineer hereby fully assumes all risk and liability for damage or destruction to property and injury or death to person arising from its (or its agents', employees', representatives', associates', consultants' or contractors') entry upon the property of the Authority; it being acknowledged that (i) the Authority makes no representations or warranties about the condition or safety of such property, and specifically disclaims the same; and (ii) such persons enter the property of the Authority at their sole risk.

(b) Indemnification. The provisions of this Agreement notwithstanding, and in addition to any other indemnities in favor of the Authority specifically provided for herein, Engineer agrees to fully protect, defend, indemnify and save the Authority and its officials, representatives, agents, and employees harmless against and from any and all liabilities, loss, claims, suits, proceedings, damages, demands, penalties, judgments, costs and expenses (including but not limited to litigation expenses and reasonable attorneys' fees) of every kind and nature, whether known or unknown, relating to or arising from, either directly or indirectly: (i) any negligent, willful, or intentional act or omission of the Engineer or its agents, employees, representatives, associates, consultants, or contractors in connection with the Services or otherwise; or (ii) any breach, violation or nonperformance of this Agreement by Engineer, or any applicable local, state or federal statute, ordinance, law or regulation; provided, however, with respect to any matter referenced in the preceding clauses (i) or (ii), this indemnity shall not apply to the extent that any damage, penalty, judgment, loss, cost, expense, or other liability is caused by the negligence or willful or intentional misconduct of the Authority or its employees. In case any action or proceeding is brought against the Authority by reason of any such claims, Engineer (upon notice from the Authority) covenants to resist or defend such action or proceeding by and through counsel reasonably satisfactory to the Authority; provided that if a court of competent jurisdiction determines that any of the provisions of this paragraph violate O.C.G.A. Section 13-8-2 and are applicable to this Agreement, the indemnity contained in this Agreement shall not extend to any indemnification which is prohibited by O.C.G.A. Section 13-8-2, but the remainder of this indemnification shall be unaffected. In the event that the Authority is found liable by a court of competent jurisdiction in connection with any action or proceeding defended by Engineer pursuant to this subparagraph, then the Authority shall reimburse to Engineer all reasonable third-party costs and expenses incurred by Engineer as a result of said defense; provided that the Authority's obligation of reimbursement hereunder shall only apply to the extent of its share of liability adjudicated in any such action or proceeding. The obligations contained herein shall indefinitely survive the expiration or earlier termination of this Agreement.

(a) Release. Engineer, on behalf of itself and its representatives, associates, employees, agents, consultants, contractors, successors and assigns (collectively, the "**Releasing Parties**") hereby releases, acquits, and forever discharges the Authority and its employees,

officials, officers, agents, representatives, successors and assigns (collectively, the “**Released Parties**”), from any and all claims, claims for relief, actions, causes of actions (whether ex contractu or ex delicto), suits, debts, liens, contracts, obligations, agreements, promises, representations, liabilities, demands, losses, damages, costs, penalties, and expenses (including, but not limited to, litigation expenses and reasonable attorneys’ fees), of every kind or nature, whether known or unknown, joint or several, fixed or contingent, relating to or arising out of, directly or indirectly those matters which Engineer has indemnified the Authority pursuant to subparagraph (b) above. Additionally, the Releasing Parties, and each of them, do hereby further covenant not to sue or otherwise seek recourse against the Released Parties, or any of them, on any such claim, demand, action, cause of action, suit, liability, indebtedness, duty, obligation or responsibility hereinabove released. The provisions of this paragraph shall indefinitely survive the expiration or earlier termination of this Agreement.

**8. Insurance.** Engineer shall be required to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage, motor vehicle damage and injuries, professional liability, and other insurance necessary to protect the Authority's and Engineer's interests in connection with the Services to be performed hereunder. Without limiting the foregoing, Engineer shall, at a minimum, procure and maintain the following insurance in such amounts as shown below and with such companies and having such deductibles as may be otherwise reasonably required by the Authority:

Workers’ Compensation:	Statutory
General Liability:	
Each Occurrence (Bodily Injury and Property Damage):	<u>\$1,000,000</u>
General Aggregate:	<u>\$2,000,000</u>
Products and Completed Operations Aggregate:	<u>\$2,000,000</u>
Excess or Umbrella Liability:	
Combined Single Limit and Aggregate:	<u>\$3,000,000</u>
Automobile Liability (Combined Single Limit):	
Each Accident	<u>\$1,000,000</u>
Professional Liability –	
Each Claim Made	<u>\$1,000,000</u>
Annual Aggregate	<u>\$1,000,000</u>

Engineer shall cause its contractors and consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Engineer in connection with the Services. Engineer shall cause the Authority to be listed as an additional insured on any

applicable general liability insurance policy carried by Engineer. Engineer shall deliver to the Authority certificates of insurance evidencing the coverages (and copies of related policies required hereunder). Such certificates shall be furnished prior to commencement of the Services and thereafter upon request of the Authority from time to time during the term of this Agreement.

All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to the Authority and to each other additional insured (if any) to which a certificate of insurance has been issued.

At any time, Authority may request that Engineer or its consultants or contractors provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified herein; provided, however, that Engineer shall be entitled to adjust its rates charged to the Authority under this Agreement should such additional insurance coverage materially increase the premium(s) for such insurance. If so requested by the Authority, and if commercially available, Engineer shall obtain and shall require its consultants and contractors to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by the Authority.

## **9. Remedies and Damages.**

(a) Engineer's Failure to Perform Under Agreement. If, due to circumstances other than the Authority's failure to perform any term or condition of this Agreement binding on the Authority, Engineer fails, refuses, or is unable to timely perform any of its obligations under this Agreement, or if any warranty or representation made herein by Engineer proves untrue (individually or collectively, and following notice and a period to cure as provided herein, an "**Engineer's Default**"), the Authority shall deliver to Engineer written notice detailing Engineer's Default. Engineer shall have fifteen (15) days from receipt of such notice from the Authority within which to remedy Engineer's Default; provided, however, that if Engineer's Default involves the withholding, refusal, or other failure by Engineer to deliver to the Authority any and all Documents requested, an Engineer's Default shall be deemed to exist following twenty-four hours' written notice to Engineer.

(b) Authority's Non-Exclusive Remedies. If at the expiration of the curative period set forth in subparagraph (a) above Engineer has not cured such failure of performance, the Authority shall be entitled, subject to the restrictions and limitations contained in subparagraph (f) below, to pursue any and all remedies available to the Authority at law or in equity, to include without limitation the right to obtain specific performance of this Agreement or other injunctive relief; it being understood and acknowledged that no remedy herein conferred upon or reserved to the Authority under this Agreement, or any other document delivered hereunder or in connection herewith, is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative, and shall be in addition to every other remedy so given or reserved or now or hereafter existing at law or in equity or by statute (unless otherwise provided in this Agreement).

(c) Authority's Failure to Perform Under Agreement. If, due to circumstances other than Engineer's failure to perform any term or condition of this Agreement binding on Engineer, the Authority fails, refuses, or is unable to timely perform any of its obligations under this Agreement (individually or collectively, and following notice and a period to cure as provided herein, a **"Authority's Default"**), Engineer shall deliver to the Authority written notice detailing Authority's Default. The Authority shall have thirty (30) days from receipt of such notice from Engineer within which to remedy Authority's Default, or if such failure of performance cannot be cured within said 30-day period, then the Authority shall have a reasonable amount of time under the circumstances to cure Authority's Default, provided the Authority commences to cure such failure of performance within said 30-day period and diligently prosecutes such cure thereafter.

(d) Engineer's Exclusive Remedy. If at the expiration of the curative period set forth in subparagraph (c) above the Authority has not cured such failure of performance, Engineer shall, as its sole and exclusive remedy, be entitled to terminate this Agreement and seek monetary damages against the Authority for any outstanding sums owed to Engineer under this Agreement for Services performed prior to the date of said termination, together with reasonable attorneys' fees authorized pursuant to paragraph (e) below. ENGINEER DOES HEREBY WAIVE ITS RIGHT TO PURSUE ANY AND ALL OTHER REMEDIES OF WHATEVER THAT MAY OTHERWISE BE AVAILABLE TO ENGINEER AT LAW OR IN EQUITY, AND FOREVER AND UNCONDITIONALLY RELEASES THE AUTHORITY FROM THE SAME.

(e) Attorneys' Fees. Should either party hereto employ attorneys, accountants, or other experts or incur other expenses in connection with the enforcement of performance or observance of any obligation or agreement on the part of the other herein contained, the Authority and Engineer (as the case may be) agree that they shall on demand therefor pay to the other party the reasonable fees of such attorneys, accountants, or other experts and such other reasonable expenses so incurred by the party seeking such performance to the extent such party prevails in any action pursued against the other in a court of competent jurisdiction.

(f) Limitation of Liability. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT OR ANY OTHER DOCUMENTS OR INSTRUMENTS EXECUTED IN CONNECTION HEREWITH, IT IS UNDERSTOOD AND AGREED THAT IN NO EVENT (EXCEPT FOR THE INTENTIONAL AND WILLFUL BAD FAITH ACTIONS OF ENGINEER FOLLOWING NOTICE SPECIFICALLY REFERRING TO THIS PARAGRAPH AND DESCRIBING SUCH INTENTIONAL AND WILLFUL BAD FAITH ACTIONS, AS WELL AS AN OPPORTUNITY TO CURE AS PROVIDED HEREIN) SHALL THE AUTHORITY OR ENGINEER BE ABLE TO CLAIM OR OTHERWISE SEEK CONSEQUENTIAL, PUNITIVE, SPECULATIVE OR LOST BUSINESS DAMAGES, OR SIMILAR CONSEQUENTIAL DAMAGES, AS A RESULT OF ANY ENGINEER'S DEFAULT OR AUTHORITY'S DEFAULT OR ANY OTHER BREACH OR ACTION (OR FAILURE TO ACT) BY THE OTHER PARTY (OR ITS OFFICERS, MEMBERS, AGENTS OR REPRESENTATIVES) IN CONNECTION WITH THIS AGREEMENT, THE SERVICES OR ANY UNDERTAKINGS CONTEMPLATED HEREUNDER, AND THE RIGHT OF THE AUTHORITY AND ENGINEER TO SEEK THE SAME IS HEREBY EXPRESSLY WAIVED AND FOREVER RELINQUISHED; PROVIDED, HOWEVER, THAT NO SUCH LIMITATION SHALL APPLY WITH RESPECT TO ANY CLAIM BROUGHT BY THE AUTHORITY AGAINST ENGINEER OR ANY OTHER PERSON TO THE EXTENT SUCH

CLAIM IS COVERED BY ENGINEER'S OR SUCH OTHER PERSON'S APPLICABLE POLICY(IES) OF INSURANCE (AND IN SUCH EVENT THE LIMITATION SET FORTH IN THIS PARAGRAPH SHALL APPLY ONLY UP TO THE LIMITS OF SUCH COVERAGE). THE PROVISIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

(g) Immunity of Authority's Members, Officers, and Employees. Notwithstanding anything in this Agreement to the contrary, no recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Authority or Engineer contained in this Agreement or for any claim based hereon or relating to the Services or any transactions or undertakings contemplated hereunder or related hereto against any member, officer, attorney, representative, or employee, as such, in his individual capacity, past, present, or future, of the Authority whether by virtue of any constitutional provision, statute, or rule of law or otherwise, it being expressly agreed and understood that this Agreement is solely an obligation of the Authority as a public entity and that no personal liability whatsoever shall attach to, or be incurred by, any member, officer, attorney, representative, or employee, as such, past, present, or future, of the Authority, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Authority and Engineer whether contained in this Agreement or to be implied herefrom as being supplemental hereto, and that all personal liability of that character against every such member officer, attorney, representative, and employee is, by execution of this Agreement, expressly waived and released by Engineer, on behalf of itself and its employees, contractors, consultants, and associates. The immunity of members, officers, attorneys, representatives, and employees of the Authority under the provisions contained in this paragraph shall survive the termination of this Agreement.

#### **10. Miscellaneous.**

(a) No Third-Party Beneficiaries. This Agreement is made between and limited to the Authority and Engineer, and no other person or entity shall be considered a third-party beneficiary by virtue of this Agreement or otherwise entitled to enforce the terms of this Agreement for any reason whatsoever.

(b) No Assignment by Engineer. Engineer shall not, without the express prior written consent of the Authority, assign, hypothecate, encumber or otherwise transfer this Agreement or any interest, obligation, responsibility, or right hereunder, which consent may be withheld, conditioned, or delayed in the sole discretion of the Authority. Any assignment or other transfer hereunder by Engineer (whether or not in violation of the provisions of this Agreement) shall not relieve Engineer of any liability or obligation under this Agreement, and Engineer shall remain liable hereunder notwithstanding such assignment or transfer (unless otherwise agreed to by the Authority).

(c) Neutral Construction; Exhibits. The parties hereto acknowledge that this Agreement was jointly negotiated and reviewed by them, and therefore no provision of this Agreement shall be construed against either party by any Court or other judicial or arbitral body by reason of such party's being deemed to have drafted or structured such provision. The exhibits referred to herein and attached hereto, or to be attached hereto, are incorporated



herein to the same extent as if set forth in full herein.

(d) Interpretation. All references to sections, schedules and exhibits are to sections, schedules and exhibits in or to this Agreement unless otherwise specified. Unless otherwise specified, the words “hereof,” “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and “include” or “including” shall mean including without limitation. “Person” means an individual, partnership, corporation, trust, unincorporated association, joint venture or other entity of whatever nature or description. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Whenever the context requires, each gender shall include all other genders. In the event that any date or any period provided for in this Agreement shall end on a day that is not a business day (i.e. any day other than a Saturday, Sunday or other day on which commercial banks in Hinesville, Georgia are authorized or required to be closed), the applicable date or period shall be extended to the first business day following such non-business day.

(e) No Waiver. Any failure of either party to seek redress for the violation of, or to insist upon the strict and prompt performance of, any covenants or conditions of this Agreement shall not operate as a waiver of any such violation or the other party’s right to insist on prompt compliance in the future with such covenant or condition, and shall not prevent a subsequent action by such party for any such violation. No provision, covenant or condition of this Agreement may be waived by Engineer or the Authority unless such waiver is in writing and signed by such party.

(f) Time of the Essence. Time is of the essence of all provisions of this Agreement.

(g) Counterparts; Facsimile. This Agreement may be executed in multiple counterparts, each of which shall serve as an original for all purposes, but all copies shall constitute but one and the same Agreement, binding on all parties hereto, whether or not each counterpart is executed by all parties hereto, so long as each party hereto has executed one or more counterparts hereof. To facilitate the execution and delivery of this Agreement, the parties may execute and exchange counterparts of the signature pages by facsimile or other electronic transmission, and the signature page of either party to any counterpart may be appended to any other counterpart. The parties further expressly acknowledge and agree that, notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile transmittal or other electronic transmission shall be deemed to be “written” and a “writing” for all purposes of this Agreement, and shall otherwise constitute an original document binding upon the transmitting party.

(h) Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matters addressed herein, and supersedes any and all prior or contemporaneous agreements, discussions, representations or understandings between them, whether written or oral, with respect to said subject matters. Each party to this Agreement

further acknowledges that no promises, representations, inducements, agreements, or warranties, have been made to induce the execution of this Agreement by said party, and each party acknowledges that it has not executed this Agreement in reliance on any promise, representation, inducement, or warranty not contained herein or therein.

(i) Modification. Any modification, amendment or other change to this Agreement, or additional obligation assumed, by either party in connection therewith shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

(j) Severability of Provisions. If any provision of this Agreement or the application of any such provision to any person or circumstance is held unenforceable or invalid for any reason, then provided that the essential consideration for entering into this Agreement on the part of any party is not unreasonably impaired, such provision or portion thereof shall be modified or deleted in such manner as to render this Agreement legal and enforceable to the fullest extent permitted under applicable law.

(k) Governing Law; Venue. THIS AGREEMENT AND ALL RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED UNDER AND ACCORDING TO THE LAWS OF THE STATE OF GEORGIA, AND ENGINEER AGREES THAT ANY ACTION RELATING TO, OR ARISING OUT OF, THIS AGREEMENT OR ANY CONTROVERSY HEREUNDER, OR ANY SERVICES OR OTHER UNDERTAKING CONTEMPLATED BY THE AGREEMENT, SHALL BE INSTITUTED AND PROSECUTED IN THE COURTS OF THE COUNTY OF LIBERTY, STATE OF GEORGIA, OR, TO THE EXTENT JURISDICTION APPLIES, THE U.S. DISTRICT COURT SITTING IN THE SOUTHERN DISTRICT OF GEORGIA, AND ENGINEER AGREES TO SUBMIT, AND DOES HEREBY SUBMIT, TO THE PERSONAL JURISDICTION AND VENUE OF THE AFORESAID COURTS AND DOES FURTHERMORE EXPRESSLY AND SPECIFICALLY WAIVE ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY SUCH LITIGATION. ENGINEER FURTHER ACKNOWLEDGES THAT IT HAS NO EXPECTATION THAT, AND THERE IS NO BASIS FOR, ANY SUCH ACTION BEING INSTITUTED OR MAINTAINED IN ANY COURT OTHER THAN AS SPECIFIED HEREINABOVE, AND THE ENGINEER COVENANTS AND AGREES IT SHALL IN NO EVENT INSTITUTE OR PROSECUTE ANY SUCH ACTION IN ANY OTHER COURT EXCEPT AS SPECIFIED HEREINABOVE, AND THAT THIS SECTION SHALL BAR AND SERVE AS A COMPLETE DEFENSE TO ANY ACTION BROUGHT OR PROSECUTED IN ANY OTHER COURT, PROVIDED, HOWEVER, THAT THIS SECTION MAY NOT SERVE TO FRUSTRATE ANY PROCEEDING BROUGHT IN ANY OTHER COURT OR OUTSIDE THE STATE OF GEORGIA TO ENFORCE A JUDGMENT ORIGINATING FROM THE AFORESAID COURTS.

(l) Survival. All terms, conditions, covenants, representations, and warranties contained in this Agreement or any certificate or other writing delivered pursuant hereto or in connection herewith, shall survive any investigation made by (or prior knowledge of) the Authority, and no part of this Agreement shall be deemed merged with any document or instrument executed in connection herewith.

(m) Successors Bound. Subject to the provisions of subparagraph (b) hereinabove, this Agreement, and each and every provision hereof, shall be binding upon and shall insure to the benefit of Engineer and Authority, their respective successors, successors-in-title, legal representatives and assigns.

(n) Attorney's Fees. In the event Engineer should default under any of the provisions of this Agreement and the Authority should employ attorneys, accountants, or other experts or incur other expenses for the collection of amounts due it hereunder or the enforcement of performance or observance of any obligation or agreement on the part of Engineer herein contained for its benefit, Engineer agrees that he shall on demand therefor pay to the Authority the reasonable fees of such attorneys, accountants, or other experts and such other expenses so incurred by the Authority. Any attorney's fees required to be paid by Engineer under this Agreement shall include attorney's and paralegal's fees through all proceedings and other efforts, including, but not limited to, demands, negotiations, administrative hearings, trials, and appeals, court costs and reimbursable expenses of such attorneys.

(o) Effective Date. This Agreement shall be effective and binding as of the date all of the parties hereto have approved and executed the same (as indicated on the signature page(s) to this Agreement), and any reference to the "date of this Agreement," the "date hereof," or any similar phrase shall refer to and mean the date of such approval and execution by all of the parties hereto. In this regard, the legal counsel for the Authority is authorized to insert such date (or dates which rely upon said effective date) into the body of this Agreement and any and all other certificates or other documents furnish in connection herewith.

[ Signatures Appear on Following Page ]

[ Agreement for Professional Engineering Services – Signature Page ]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement under seal as of the Effective Date, and same shall be considered binding upon both parties.

**LIBERTY COUNTY INDUSTRIAL  
AUTHORITY**

(OFFICIAL SEAL)

By: \_\_\_\_\_  
Allen Brown, Chairman

Date: \_\_\_\_\_, 2018

[ Signature of Engineer Appears on Following Page ]

[ Agreement for Professional Services – Signature Page ]

ENGINEER:

\_\_\_\_\_

(SEAL)

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

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

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

Attest: \_\_\_\_\_

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

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

[ Exhibit(s) Attached ]

**EXHIBIT "A"**

**SCOPE OF SERVICES**

This Exhibit sets forth the performance specifications and scope of Services to be provided by the Engineer to the Authority under the Agreement.

[ Balance of Page Left Blank Intentionally ]

**EXHIBIT "B"**  
**COMPENSATION**

This Exhibit sets forth the compensation to be paid to Engineer by the Authority for the satisfactory completion of the Services to be provided by the Engineer to the Authority under the Agreement.