



Hall County Government
FINANCIAL SERVICES

CONTRACT EXECUTION SIGNATURE REQUEST

POST OFFICE DRAWER 1435
GAINESVILLE, GA 30503

t: 770.535.8270

DIRECTOR
Taylor Samples, CPA, MBA

Date: 08/26/2024

To: Richard Higgins, Chairman, BOC

From: Andy Penick, Purchasing Manager

Your signature is requested to execute the attached Contract:

Bid/Contract No: IFB #026-45

Bid/Contract Name: Spout Springs Water Reclamation Facility Expansion to 1.6 Million-Gallon-Per-Day (MGD)

Department(s) Requesting Contract: Public Works & Utilities

Award Recipient Name: Lakeshore Engineering, LLC

Contract Description: This project is for the construction of the Spout Springs Water Reclamation Facility, Expansion from 0.75 MGD to 1.6 MGD.

Annual Contract New Renewal

Prior Year's Spend: N/A

Price Increase Requested Increase Percentage: N/A

Project/Service Contract Estimated Amount: \$20,972,000.00

Product Contract Awarded Amount:

Comments:

Civil Engineering Consultants of Marietta, GA, has served as our consultant on this project. They are recommending to award to Lakeshore Engineering per the attached Bid Tab. Lakeshore Engineering would be a new vendor for Hall County.

Civil Engineering Consultants has previously worked with Lakeshore Engineering over the past several years on various water and sewer projects including a new \$21,000,000 water reclamation facility in the City of Jefferson that is nearly complete with no change orders thus far.



Hall County Government
FINANCIAL SERVICES

STATE OF GEORGIA
COUNTY OF HALL

CONTRACT # 026-45

POST OFFICE DRAWER 1435
GAINESVILLE, GA 30503

1 770 535 8270

DIRECTOR
Taylor Samples, CPA

For the provision of
**SPOUT SPRINGS WATER RECLAMATION FACILITY
EXPANSION TO 1.6 MGD**

ARTICLE #101 – INTRODUCTION

This Contract for Spout Springs Water Reclamation Facility Expansion To 1.6 Million Gallons per Day (MGD) (hereinafter “Services” or “Project”) is made and as entered into as of _____ (execution date) and _____ (effective date) is by and between Hall County, Georgia, (hereinafter “County” or “Owner”) located at 2875 Browns Bridge Rd, Gainesville, Georgia 30504, and Lakeshore Engineering, LLC, located at 1259 Ellsworth Drive, Atlanta, Georgia 30318 (hereinafter “Contractor”). Contractor is an entity that is legally registered and qualified and holding any such licenses and certifications as may be required to render Services to do business in the State of Georgia. County and Contractor are known individually as a “Party” and collectively as the “Parties”.

Nothing contained in this Contract shall be construed to convert the Contractor or any of its employees, agents, subcontractors, or sub-subcontractors into a partner, employee, or agent of the County, nor shall either Party to this Contract have any authority to bind the other in any respect.

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

WHEREAS the Contractor represents that it complies with the State of Georgia requirements for corporations and has signified a willingness to provide Services to the County and the County has relied on such representation; and,

WHEREAS the Parties mutually desire to enter into this Contract to document the provision of Services by the Contractor to the County in exchange for payment as compensation; and,

WHEREAS this contract will become legally binding upon signature by both Parties; and,

WHEREAS any attached documents, plans, exhibits, attachments, or references are all incorporated herein by reference, and

NOW, THEREFORE and in consideration of the mutual promises, terms, conditions, covenants, and agreements made as expressed and contained herein, or attached, incorporated, and made a part hereof, and other good and valuable consideration expressed by a valid offer and acceptance, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereto agree as follows:

**HALL COUNTY – SPOUT SPRINGS WRF
EXPANSION TO 1.6 MGD**

**SECTION 00 52 13
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF STIPULATED PRICE**

ARTICLE 1 – WORK

- 1.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Hall County - Spout Springs Water Reclamation Facility Expansion to 1.6 MGD**
- 1.02 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The project shall include furnishing all materials, labor, equipment, and any appurtenances as necessary for completion of the work described within the plans and specifications.

ARTICLE 1A – NOTICES

To the extent that either Party to this Contract is required to provide notice(s) to the other Party in compliance herewith, then the Party shall direct notice(s) to the following persons:

COUNTY PROJECT MANAGER COUNTY ISSUING OFFICER

**William King, PE
Assistant County Engineer
Hall County Community Development
and Infrastructure
2875 Browns Bridge Rd
Gainesville, GA 30504
wking@hallcounty.org
Ph: (770) 531-6800 ext. 6799
Cell: (770) 329-0863**

**Cheryl Wright
Buyer
Hall County Purchasing Division
2875 Browns Bridge Rd
Gainesville, GA 30504
cwright@hallcounty.org
Ph: (770) 535-8263**

CONTRACTOR'S CONTACT INFORMATION

**Garland Long
President
Lakeshore Engineering, LLC
1259 Ellsworth Drive
Atlanta, GA 30318
glong@lakeshoreengineering.com
Ph: (404) 355-3976**

REMIT TO ADDRESS (if different): _____

**HALL COUNTY – SPOUT SPRINGS WRF
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ARTICLE 2 - ENGINEER

- 2.01 The Owner has retained **CIVIL ENGINEERING CONSULTANTS, INC.** (“Engineer”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 2.02 The part of the Project that pertains to the Work has been designed by Engineer, and that same entity prepared the design.

ARTICLE 3 - CONTRACT TIMES

- 3.01 *Time is of the Essence*
A. All time limits for Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 3.02 *Contract Times:*
A. Notice to Proceed Date shall be 12-2-2024.
B. The Work will be substantially completed on or before 4-26-2026.
- 3.03 *Contract Times: Days*
A. The Work will be substantially completed within **510 consecutive calendar days** from the date when the Contract Time commences to run as provided in paragraph 4.01 of the General Conditions or 30 days after delivery of all materials and major equipment. Work will be finally completed within 60 consecutive calendar days after substantial completion.
- 3.04 *Liquidated Damages*
A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 3.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. *Substantial Completion:* Contractor shall pay Owner Five Hundred Dollars \$500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.

**HALL COUNTY – SPOUT SPRINGS WRF
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2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion, and final completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

ARTICLE 4 - CONTRACT PRICE

4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

- B. Total of Unit Price Work (subject to final Unit Price adjustment) is \$20,972,000.00.

**HALL COUNTY – SPOUT SPRINGS WRF
EXPANSION TO 1.6 MGD**

**SPOUT SPRINGS WATER RECLAMATION FACILITY
EXPANSION TO 1.6 MGD**

PART 1 – BASE BID

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Approx. Qty.</u>	<u>Unit Price</u>	<u>Total Price</u>
1a.	General Construction of the Spouts Springs WRF Expansion to 1.6 MGD per Contract Documents including all work shown on the Drawings and as specified, exclusive of those items listed below in 1b and 1c, and Allowances	LS	1	<u>\$17,000,000.00</u>	<u>\$17,000,000.00</u>
1b.	For furnishing the SBR, filter, controls and equipment identified in Appendix A equipment. Installation included in item 1a.	LS	1	<u>\$ 2,560,000.00</u>	<u>\$ 2,560,000.00</u>
1c.	For furnishing the UV disinfection equipment identified in Appendix B. Installation included in 1a.	LS	1	<u>\$ 348,000.00</u>	<u>\$ 348,000.00</u>
Total Price Part 1 (Items 1a +1b + 1c)					<u>\$19,908,000.00</u>

PART 2 – ALLOWANCE COSTS

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Approx. Qty.</u>	<u>Unit Price</u>	<u>Total Price</u>
1.	Allowance for correction of unforeseen utility conflicts and utility relocation	LS	1	<u>\$ 50,000.00</u>	<u>\$ 50,000.00</u>
2.	Owner Contingency	LS	1	<u>\$ 300,000.00</u>	<u>\$ 300,000.00</u>
3.	Landscape Allowance	LS	1	<u>\$ 40,000.00</u>	<u>\$ 40,000.00</u>
4.	Pista Grit Equipment Inspection	LS	1	<u>\$ 15,000.00</u>	<u>\$ 15,000.00</u>
5.	Electrical Service	LS	1	<u>\$ 100,000.00</u>	<u>\$ 100,000.00</u>

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6.	Spare Parts	LS	1	\$ <u>20,000.00</u>	\$ <u>20,000.00</u>
7.	Metal Canopy Allowance	LS	1	\$ <u>400,000.00</u>	\$ <u>400,000.00</u>
8.	Plant Reuse System Upgrade	LS	1	\$ <u>75,000.00</u>	\$ <u>75,000.00</u>
Total Price Part 2 (Items 1 through 8)					\$ <u>1,000,000.00</u>

PART 3 – UNIT PRICE BIDS

<u>Item</u>	<u>Description</u>	<u>Unit</u>	<u>Approx. Qty.</u>	<u>Unit Price</u>	<u>Total Price</u>
1.	DIP Pipe	TN	1	\$ <u>6,000.00</u>	\$ <u>6,000.00</u>
2.	DIP Fittings	TN	1	\$ <u>6,000.00</u>	\$ <u>6,000.00</u>
3.	Stone Stabilization	TN	10	\$ <u>100.00</u>	\$ <u>100.00</u>
4.	Silt Fence Type Sd-1	LF	500	\$ <u>5.00</u>	\$ <u>2,500.00</u>
5.	Silt Fence Type Sd-1 Removal	LS	500	\$ <u>3.00</u>	\$ <u>1,500.00</u>
6.	Construction Exit	EA	1	\$ <u>2,500.00</u>	\$ <u>2,500.00</u>
7.	Permanent Grassing	AC	1	\$ <u>4,000.00</u>	\$ <u>4,000.00</u>
8.	Riprap	SY	500	\$ <u>60.00</u>	\$ <u>30,000.00</u>
9.	Erosion Control Monitoring	LS	1	\$ <u>9,000.00</u>	\$ <u>9,000.00</u>
10.	Concrete Wash Out	LS	1	\$ <u>1,500.00</u>	\$ <u>1,500.00</u>
Total Price Part 3 (Items 1 through 10)					\$ <u>64,000.00</u>

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- C. According to paragraph 13.02 of the General Conditions, all allowances are included in the abovementioned Lump Sum price.
1. Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances.
 2. The Contractor shall cause work covered by these allowances to be performed for such amounts and by such persons as the Owner/Engineer may direct, but he will not be required to employ persons against whom he makes a reasonable objection. If the cost, when determined and approved by the Owner/Engineer, exceeds, or falls below the allowance, the Contract Sum shall be adjusted accordingly through a Change Order. The contractor is not entitled to overhead, profit, or mark-up on unutilized allowance funds. The amount of the Change Order shall reflect the difference between actual costs and the allowances.

ARTICLE 5—PAYMENT PROCEDURES

5.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

5.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 5.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. 95% of the value of the Work completed (with the balance being retainage); and
 - b. 100% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

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- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 98% of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less such amounts as Engineer shall determine as the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

5.03 Final Payment

Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

ARTICLE 6—CONTRACT DOCUMENTS

6.01 Contents

A. The Contract Documents consist of all of the following:

1. This Agreement.
2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
3. General Conditions.
4. Supplementary Conditions.
5. Specifications (not attached but incorporated by reference) consisting of 130 sections with each sheet bearing the following general title: HALL COUNTY-SPOUT SPRINGS WATER RECLAMATION FACILITY EXPANSION TO 1.6 MGD.
6. Drawings (not attached but incorporated by reference) consisting of 210 sheets with each sheet bearing the following general title: HALL COUNTY-SPOUT SPRINGS WATER RECLAMATION FACILITY EXPANSION TO 1.6 MGD.
7. Addenda: Addendum No. 1 dated August 13, 2024
Addendum No. 2 dated August 26, 2024
8. Appendices to this Agreement (enumerated as follows): Appendix A, Appendix B, Appendix C.
9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed
 - b. Work Change Directives

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- c. Change Orders
 - d. Field Orders
- B. The Contract Documents listed in Paragraph 6.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 6.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 7—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

7.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
 5. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 6. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

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7. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
8. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
9. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

7.02 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 7.02:
1. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Proposal process or in the Contract execution.
 2. "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the Proposal process or the execution of the Contract to the detriment of Owner, (b) to establish Proposal or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
 3. "Collusive practice" means a scheme or arrangement between two or more Proposers, with or without the knowledge of Owner, a purpose of which is to establish Proposal prices at artificial, non-competitive levels.
 4. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Proposal process or affect the execution of the Contract.

ARTICLE 8 – CONTRACT AMENDMENTS AND MODIFICATION

This Contract may only be modified, amended, or changed in writing and fully executed by both Parties hereto. This Contract constitutes the sole and entire Contract and understanding between the Parties as to the subject matter hereof, and no verbal promises have been made by either Party in relation hereto.

ARTICLE 9 – REMEDIES AND CONTRACT PERFORMANCE

In the event that either Party to this Contract breaches this Contract, including failure to meet the timetables set forth herein, the non-breaching Party shall provide a written Notice-to-Cure to the

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breaching Party which describes the breach of this Contract. The breaching Party shall have thirty (30) days from the date of receipt of the written Notice-to-Cure the breach or to otherwise negotiate a resolution of the breach.

If the breach has not been cured and the Parties hereto have not resolved the issue described in the Notice-to-Cure by thirty (30) days after receipt of the letter, the Party authoring the letter shall be entitled to seek any and all remedies allowed by Georgia law, including damages, equitable relief, declaratory relief, specific performance, and/or relief as to any bonds issued hereon. Additional provisions are:

- A. **Delay or Impossibility of Performance.** Any failure or delay must be beyond the reasonable control of and without the fault or negligence of the Contractor. If the Services to be provided to the County are interrupted by a force majeure event, as defined below, the County will be entitled to an equitable adjustment to the fees and other payments due to the Contractor under this Contract. If delay results from a subcontractor's negligent conduct or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract.

Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Contract for failure or delay in fulfilling or performing any obligation under this Contract when such failure or delay is caused by or results from causes beyond the reasonable control of the affected Party including, but not limited to, fire, floods, embargoes, acts of war, civil unrest, insurrections, riots, strikes, lockouts or other labor disturbances, or acts of God; provided, however, that the Party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure.

Definition: The term "force majeure" as defined in Black's Law Dictionary is "an event or effect that can be neither anticipated nor controlled. It is a contractual provision allocating the risk of loss if performance becomes impossible or impracticable, especially as a result of an event that the Parties could not have anticipated or controlled."

- B. **Obligations Beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to *ARTICLE #108 – TERMINATION PROVISIONS*.

- C. **Transition Cooperation with the County and Cooperation with Other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide

**STANDARD FORM OF AGREEMENT
SECTION 00 52 13**

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sufficient efforts and reasonable cooperation and assistance to the County to ensure an orderly and efficient transition to the County or an alternative Contractor. Further, if the County has entered into or enters into contracts with other Contractors related to the Services, Contractor agrees to cooperate fully with other such Contractors. Contractor shall not engage in any act that will interfere with the performance of work by any other Contractor(s).

ARTICLE 10 – TERMINATION PROVISIONS

The County may terminate this Contract by providing sixty (60) days written notice to the Contractor at any time. Should the County terminate this Contract prior to the date of automatic termination, Contractor shall provide the County with all deliverables up to the date of termination thirty (30) days after the Notice to Terminate is issued. The County shall pay the Contractor for all work properly performed in compliance with the terms of this Contract up to the date of termination.

- A. **Termination for Convenience.** Following sixty (60) days' written notice, the County may terminate the Contract in whole or in part for any reason without the payment of any penalty or incurring any further obligation to the Contractor.
- B. **Termination for Cause.** The occurrence of any of the following events shall constitute cause for the County to declare the Contractor in default of its obligations under the Contract:
1. The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to the County's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract including, but without limitation, the expressed warranties made by the Contractor.
 2. The County determines that Contractor's unsatisfactory performance substantially endangers completion or that default is likely to occur.
 3. The Contractor fails to make substantial and timely progress toward performance of the Contract.
 4. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the County reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law.
 5. The Contractor has failed to comply with applicable federal, state, and local laws, rules, County ordinances, regulations, and orders when performing within the scope of the Contract.

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6. The Contractor has engaged in conduct that has or may expose the County or the State to liability, as determined in the County's sole discretion; or a material breach of the terms of the Contract by County upon County's failure to cure such material breach after written notice thereof has been delivered in accordance with *ARTICLE #108.C* below constitutes cause for the Contractor to declare that the County is in default of its obligations under the Contract.
- C. Notice of Default.** If either Party causes any of the default events set out in *ARTICLE #108 – TERMINATION PROVISIONS*, then either Party shall issue a written Notice of Default to the Party that causes one (1) or more of the default events requesting that the breach or noncompliance be remedied within the period of time specified in the Notice of Default. If the breach or noncompliance is not remedied within the period of time specified in the written notice, the non-breaching Party may:
1. Immediately terminate the Contract for default without additional written notice; and/or,
 2. In the event of a breach by the Contractor, the County may procure substitute Services from another source and charge the difference between the Contract and the substitute Contract to the defaulting Contractor; and/or,
 3. Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
- D. Termination Due to Non-Availability of Funds.** This Contract will terminate immediately and absolutely if the County determines that adequate funds are de-appropriated such that the County cannot fulfill its obligations under the Contract, such determination being at the County's sole discretion and conclusive. County agrees to provide prompt written notice to Contractor in the event of any de-appropriation.
- E. Termination due to Failure of Contractor to Act.** The County may terminate the Contract for any of the following reasons effective immediately without advance notice:
1. If the Contractor must be certified or licensed as a condition precedent to providing the Services, the revocation, suspension, or other loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect.
 2. The County determines that the actions, or failure to act, of the Contractor, its agents, employees, or subcontractors have caused, or reasonably could cause, life, health, or safety to be jeopardized.

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3. The Contractor furnished any statement, representation, or certification in connection with the Contract or the bidding process, which is materially false, deceptive, criminal, or maliciously incorrect.
4. Failure of the Contractor to obtain, provide, maintain, and deliver the performance and payment bonds when required under this Contract, or failure to comply with any requirement pertaining to the appropriate amounts thereof as set forth in ARTICLE #123 – PERFORMANCE AND PAYMENT BONDS.

F. Payment Limitation in Event of Termination. In the event of termination of the Contract for any reason by County, the County shall pay only those amounts, if any, due and owing to the Contractor for Services actually received and accepted by the County up to and including the date of termination of the Contract and for which the County is obligated to pay pursuant to the Contract.

G. Contractor's Termination Duties. Upon receipt of a Notice of Termination, the Contractor shall:

1. Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs and furnish a report within thirty (30) days of the date of Notice of Termination describing the status of all work under the Contract including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the County may require.
2. Immediately cease use and return to the County any personal property or materials, whether tangible or intangible, provided by the County to the Contractor.
3. Comply with the County's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract.
4. Cooperate in good faith with the County, its employees, agents, and Contractors during the transition period between the Notification of Termination and the substitution of any replacement Contractor.
5. Contractor is to immediately return any payments made by the County for goods and services that were not delivered by the Contractor.

ARTICLE 11 – NO DEFENSE OR INDEMNIFICATION BY COUNTY

The Parties agree that the County shall not be responsible for defending or indemnifying any Contractor from any claim brought by any third party against the Contractor.

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ARTICLE 12 – ASSIGNMENT AND DELEGATION BY CONTRACTOR

The Contractor shall not assign or delegate this Contract, or any performance required by it, in whole or in part, without the prior expressed written consent of the County.

ARTICLE 13 – USE OF THIRD PARTIES (SUBCONTRACTORS)

This Contract is for the benefit of the Parties hereto only and is not intended to benefit any third party or give rise to any duty or causes of action for any third party. All restrictions, obligations, and responsibilities of the Contractor under the Contract shall also apply to third parties such as subcontractors, if allowed in writing by the County. Any Contract with a subcontractor must also preserve the rights of the County.

ARTICLE 14 – ENTIRE CONTRACT

This Contract, as executed and approved, shall constitute the entire agreement between the Parties and supersedes all other prior and contemporaneous statements, agreements, and understandings between the Parties. No written or oral statements, agreements, or understandings that are not set out, referenced, or specifically incorporated in this Contract shall in any way be binding or of effect between the Parties.

ARTICLE 15 – SEVERABILITY

If any paragraph, sub-paragraph, sentence, clause, phrase, or portion of this Contract is declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Contract as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Contract not so held to be invalid or the application of this Contract to other circumstances not so held to be invalid.

ARTICLE 16 – RECORDS

- A. Public Records Request. The Georgia Open Records Act, as provided in O.C.G.A. § 50-18-70 et seq, requires procurement records and all other records received by or prepared or maintained on behalf of the County shall be made open to public inspection unless otherwise provided by law.
- B. Record Retention and Access. The Contractor shall maintain books, records, and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the County throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records.

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ARTICLE 17 – ADDITIONAL TERMS

The County shall not be bound by any terms and conditions included in any Contractor's sales-orders, literature, packaging, invoice, catalog, brochure, technical data sheet, on-line representation, warranties or service level agreement, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

ARTICLE 18– WAIVER

The failure of any Party hereto to seek a remedy for any alleged breach of this Contract shall not constitute a waiver of any claim, cause of action, or remedy allowed by Georgia law for breach thereof.

ARTICLE 19 – CONTRACTOR AND COUNTY RIGHTS AND OBLIGATIONS

- A. The County has the right at any time to require the Contractor to put an immediate stop to any procedure, or the use of any equipment, chemical, material, personnel, etc. considered by the County to be hazardous or toxic to persons, buildings, or surfaces. The Contractor will utilize acceptable substitutes approved by the County as quickly as possible. In the event of such replacement, Contractor shall (i) notify County of any resulting replacement, (ii) introduce the individual serving as the replacement to County, and/or (iii) provide County with a résumé and any other information regarding the individual that may be reasonably requested by County.
- B. The County has the right to require the Contractor to reassign or remove any employee or subcontractor's employee from the premises temporarily or permanently when, in the County's sole opinion, the employee is not suitable. The County's decision shall be final, and Contractor will remove the employee immediately and replace with a person of at least equivalent training, experience, and requisite qualifications as quickly as possible, subject to the County's approval.
- C. Contractor agrees to obtain prior written approval from the County for the use of subcontractors to provide the Services described in Scope of Work prior to subcontractor's performance of work.

ARTICLE 20– INSURANCE REQUIREMENTS

The Contractor must procure and maintain insurance policies at the Contractor's own expense and must furnish the County with a certificate of insurance (COI) providing evidence of proof of coverage at least in the amounts indicated in this subsection. The COI must list "Hall County, Georgia" as the certificate holder and as an additional insured under the commercial general, automobile, and umbrella liability policies as follows: "County of Hall, its Board of Commissioners, officers, employees, servants, and agents, 2875 Browns Bridge Rd, Gainesville, GA, 30504". The policy must protect the Contractor and the County (as an additional insured) from any claims for bodily injury, property damage, or personal injury covered by the

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indemnification obligations set forth herein throughout the duration of the Contract. The Contractor must maintain the following insurance coverage during the term of the Contract, in at least the minimum amounts set forth below, to cover all loss and liability for damages or destruction of property caused by or arising from any and all services carried on and any and all work performed by the Contractor pursuant to this Contract:

Workers Compensation Insurance: Required for all contracts.

- \$500,000 Bodily Injury by Accident – Each Accident
- \$500,000 Bodily Injury by Disease – Each Disease
- \$500,000 Bodily Injury by Disease – Each Employee

Additional Provisions: Waiver of Subrogation. The insurer agrees to waive all rights of subrogation against Hall County Board of Commissioners (BOC), its elected or appointed officers, officials, agents, authorized volunteers, and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for Hall County BOC. This provision applies regardless of whether or not Hall County BOC has received a waiver of subrogation from the insurer.

General Liability Insurance: Required for all contracts.

- \$2,000,000 General Aggregate
- \$2,000,000 Products & Completed Operations Aggregate
- \$1,000,000 Each Occurrence
- \$1,000,000 Personal & Advertising Injury
- \$500,000 Damages to Premises/Fire/Legal
- \$5,000 Medical Payments

Commercial Auto Liability Insurance: Required for all contracts, except for goods and/or services that are remote in nature and/or are delivered by a professional delivery service:

- \$1,000,000 Combined Single Limit Or \$500,000 per Person/\$1,000,000 per Occurrence
- \$100,000 Property Damage
- \$1,000 for Medical Payments (no fault coverage)

Additional Provisions:

- Uninsured motorist's coverage should be equal to the per occurrence limit except for contracts with other governmental entities.
- Coverage shall be included for any owned, leased, hired, or non-owned autos.
- For any contracts involving the transportation of hazardous materials, limited pollution endorsement ISO form CA9948 or its equivalent shall be on the policy.

Umbrella Liability Insurance: Required for all contracts.

\$1,000,000 per Occurrence

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Additional Provisions: Required for all contracts.

- Underlying coverage shall be General Liability, Automobile Liability, and Employers Liability (Workers Compensation).
- Minimum limit of \$5,000,000 per occurrence for all contracts over \$1,000,000 or involving any special risks or high hazard activities.
- Minimum limit of \$5,000,000 for automobile coverage for any transportation contracts involving seniors, special education, transit services, students, or youths.
- Concurrent policy dates with primary liability policies except for workers compensation.

Pollution Liability. Required for all road construction projects, work near wastewater, solid waste lines, or any work that involves handling, transporting, disposing, or working with hazardous materials, pollutants, water reclamation facilities, waste management, or other potentially toxic chemicals.

- \$1,000,000 per Occurrence
- \$1,000,000 Aggregate

Additional Provisions:

- Minimum limit of \$5,000,000 per occurrence for all contracts over \$50,000,000 or involving any special risks or high hazard activities

Professional Liability Insurance (Errors & Omissions): Required for all professional service contracts. This shall include any consultants, medical, legal, technical, insurance agents, or other professions that require proper licenses.

- \$1,000,000 Each Claim/Wrongful Act
- \$2,000,000 General Aggregate
- If written on a claim's made policy, the policy must be maintained for at least two (2) years after the completion of the work and/or contract.

ARTICLE 21– PERFORMANCE AND PAYMENT BONDS

(Required for construction, renovation, and repair projects)

The Contractor must furnish to the County both a performance and payment bond, both equal to one hundred percent (100%) of the Contract's total award dollar amount. The County will only issue a Notice to Proceed after the bonds are received. Only surety companies licensed to do business in the State of Georgia are acceptable. The Contractor is required to provide new bonds at the issuance of each renewal option term(s) or extension(s) that follow.

The Contractor must provide all required bonding instruments to the County prior to the commencement of any work. The County will consider any work done prior to the receipt of bonding instruments as null and void and thus not eligible for compensation.

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ARTICLE 22 – RETAINAGE (Required for construction, renovation, and repair projects)

The County will retain and withhold funds from compensation in compliance with Georgia law. The County shall hold five percent (5%) retainage, in accordance to Article 5.02. Progress Payments; Retainage, throughout the entire project and will release said retainage at the point of completion and final acceptance by the County.

ARTICLE 23 – VENUE AND GOVERNING LAW

The Parties agree that this Contract shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia. Should either party bring a legal suit to enforce the terms of this Contract, including suit in equity, the Parties agree and consent to file any such suit in the Superior Court of Hall County, Georgia.

ARTICLE 24– NOTICE OF INTENT TO LITIGATE

Contractor hereby agrees not to file any civil action of disputes or claims relating to the Contract except after first giving thirty (30) days written notice to the County of the claim and the intent to initiate a civil action.

ARTICLE 25 – GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

- A. By signing this Contract, the Contractor certifies that prior to and throughout the performance of all applicable work under this Contract it will remain in full compliance with all federal and state immigration laws including, but not limited to, 8 U.S.C. § 1324a and the Georgia Security and Immigration Compliance Act (O.C.G.A. §13-10-90 et seq.), as amended by the Illegal Immigration Reform and Enforcement Act of 2011 regarding the verification of employment eligibility of employees under the Immigration Reform and Control Act of 1986. Contractor will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this Contract or any subcontract or sub-subcontract hereunder.
- B. Contractor further certifies its compliance with the aforementioned federal and state immigration laws set forth by signing a sworn affidavit, the Georgia Security and Immigration Compliance Act Affidavit (herein known as Exhibit E – E-Verify Affidavit), notarized by an Official Notary Public and incorporated herein by reference, and obtaining the same affidavit(s) from any subcontractor providing services pursuant to this Contract.

ARTICLE 26 – ORDER OF PRECEDENCE

In the event of any inconsistency, ambiguity, or conflict among the specific provisions of the Contract and the Contractor's response, the order of precedence shall be as follows:

1. Any amendments to the Contract, including all exhibits thereto.
2. The Contract itself, including all exhibits thereto.
3. Attachments appended to the Contract.
4. All other Contract attachments appended to the Contract.

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ARTICLE 27 – CONTRACT EXHIBITS AND ATTACHMENTS

The Parties mutually acknowledge that all exhibits and attachments listed below made a part of this Contract, as though expressly written in the solicitation documents and the Bidder's response, are herein incorporated into this Contract by reference.

ARTICLE 28 – SALES TAX EXEMPTION STATUS

The County is exempt from Federal Excise Taxes and from Georgia State and Local Sales and Use Taxes on the Services. The Contractor may request a copy of the County's Georgia Sales and Use Tax Exemption Certificate.

ARTICLE 29 – HOLD HARMLESS AGREEMENT

The successful respondent hereby agrees to indemnify, hold free and harmless Hall County Government, County Commissioners, its agents, servants, employees, officers, directors, elected officials, or any other person(s) against any loss or expense to the maximum extent allowable by law. This includes attorney fees because of any liability imposed by law upon the County, except in cases of the County's sole negligence, sustained by any person(s) on account of bodily injury or property damage arising out of or in the consequence of this Contract.

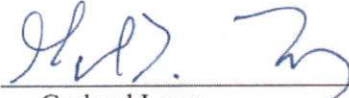
ARTICLE 30 – NOT A JOINT VENTURE

The County shall not be bound by any terms and conditions included in any Contractor packaging, invoice, catalog, brochure, technical data sheet, on-line representation, warranties or service level agreement, or other document which attempts to impose any condition in variance with or in the addition to the terms and conditions contained herein.

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IN WITNESS WHEREOF, said Parties have hereunto affixed their signatures and seals on the day, month, and year below. Bidder must print their company's full legal company name as it appears on their W-9 form below:

LAKESHORE ENGINEERING, LLC

By: 
Garland Long
President


HALL COUNTY, GEORGIA

By: _____
Richard Higgins, Chairman
Hall County Board of Commissioners

Date: _____

Sworn to and subscribed before me this

25TH Day of SEPTEMBER, 2024.

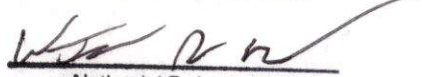
Notary Public: 

Notary commission expires:
2/8/27

Jeffrey A Laurion
Notary Public
State of Georgia
Cherokee County

Attestation: _____
Board of Commissioners Clerk

APPROVED AS TO FORM


Nathaniel R. Anderson,
Senior Assistant County Attorney