

CH2M HILL
9193 South Jamaica Street
Englewood, CO 80112
Tel 720.286.2000



Via FedEx

December 17, 2010

Scott Hastey, Esq.
City Attorney's Office
City of Johns Creek
12000 Findley Road, Suite 400
Johns Creek, Georgia 30097

Received

DEC 20 2010

City of Johns Creek
City Clerks Office

Dear Scott:

Enclosed please find three (3) signed originals of the First Amendment to Agreement By and Between City of Johns Creek and CH2M HILL, Inc. After your client has signed, please send me one signed original for my files.

We are still awaring the building lease assignment documents for our files.

Thanks for all your assistance in getting these documents completed.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cynthia M. Beyer'.

Cynthia M. Beyer, Esq.
Contracts Manager

Enc.

**FIRST AMENDMENT TO AGREEMENT
BY AND BETWEEN CITY OF JOHNS CREEK
AND CH2M HILL, INC.
FOR PROVISION OF CITY OPERATIONS SERVICES ENTERED
ON NOVEMBER 29, 2006 TO
REDUCE THE PROFESSIONAL SERVICES PROVIDED BY
CH2M HILL, INC. TO PUBLIC WORKS, COMMUNITY DEVELOPMENT AND
CERTAIN OTHER SERVICES AND FOR OTHER PURPOSES**

THIS AGREEMENT is made and entered into this ____ day of _____, 2010, by and between the CITY OF JOHNS CREEK, a municipal corporation of the State of Georgia (the "City"), and CH2M HILL, Inc., a Florida corporation ("Contractor"), heretofore referred to jointly as the "Parties."

WHEREAS, the City is desirous of maintaining a level of competent professional and economically feasible public works and community development services in conjunction and harmony with its fiscal policies of sound, economical management; and

WHEREAS, the City intends to contract such services through the term of this Agreement upon the terms and conditions set forth; and

WHEREAS, Contractor has agreed to render to the City a continuing level of professional services; and

WHEREAS, Contractor is licensed to do business within the state of Georgia as a foreign Contractor; and

WHEREAS, the City is desirous of providing these daily services to its constituents at a level of service comparable to similar sized cities in the southeastern region of the United States and through a contractual relationship with Contractor;

WHEREAS, the Governors Commission for the City of Johns Creek, an entity created pursuant to O.C.G.A. § 36-31-8, followed a specific procedure, issued a request for qualifications – expression of interest ("RFQ-EI), and the RFQ-EI's were reviewed by representatives of the Governor's Commission and the members of the Governor's Commission and were made available to the members of the public at large;

WHEREAS, on November 29, 2006, following the approval by the Mayor and City Council of the City of Johns Creek (such governing authority referred to herein as the "Mayor and City Council"), the Parties entered an Agreement for Provision of City Operations Services (hereinafter referred to as the "Original Agreement");

WHEREAS, pursuant to Section 9.2 of the Original Agreement, the Parties entered into six (6) different change orders to add additional services to the Scope of Services set forth in the Original Agreement;

WHEREAS, Section 12.2 of the Original Agreement provides “If City decides it is in their best interest to reduce the Scope of Services under this Agreement, Contractor will negotiate in good faith any modifications to said Scope of Services and a commensurate reduction in the Compensation Amount hereunder”; and

WHEREAS, pursuant to Section 12.2 of the Original Agreement, on December 4, 2009, the parties modified the scope of the Original Agreement to exclude Human Resources and certain Administrative services therefrom; and

WHEREAS, pursuant to Section 12.2 of the Original Agreement, the Contractor and the City have been negotiating in good faith further modifications to the Scope of Services, including the exclusion of services provided within the scope of the Original Agreement; and

WHEREAS, pursuant to such good faith negotiations, the Contractor and City agreed to a Memorandum of Understanding, dated December 4, 2009 and adopted by the Mayor and City Council on December 14, 2009, which served to memorialize agreed upon changes to the Original Agreement. The purpose of said Memorandum of Understanding was to memorialize the modifications to the Original Agreement that had been finalized at such time until further modifications could be negotiated and memorialized by an Amendment to the Original Agreement; and

WHEREAS, pursuant to such further good faith negotiations, the City and the Contractor have agreed to reduce the services provided under the Original Agreement to public works and community development services, and call center; and

WHEREAS, to effect the orderly transition of services to the City, the Contractor will continue to provide certain additional services, which are generally limited to public works subcontracts administration and information technology services, on a month-to-month basis; and

WHEREAS, the City will have on-hand funds to pay for all the obligations incurred hereunder; and

WHEREAS, in order to effect such modifications, City and Contractor desire to execute this Amendment to the Original Agreement (hereinafter referred to as the “Agreement”); and

WHEREAS, due to the nature of the modifications made to the Scope of Services provided under the Original Agreement, it is necessary to amend, modify and revise other terms of the Original Agreement; and

WHEREAS, in order to effect such further modifications and revisions to the Original Agreement in a clear and certain manner, this Amendment shall serve to amend, modify, supersede and replace all terms provided for within the Original Agreement; and

NOW THEREFORE, in consideration of the foregoing recitals, the sums hereinafter set forth and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

SECTION 1. PRIOR AGREEMENTS

As of the effective date hereof, the terms of this Agreement shall supersede and replace all promises, obligations, conditions and/or terms provided for in prior agreements between the City and Contractor, including without limitation the Original Agreement, regardless of whether such promises, obligations, conditions and/or terms of prior agreements are expressly referred to herein or not. Further, all known claims that have accrued during prior terms of the Original Agreement have been settled between the parties prior to or contemporaneously with the execution of this Agreement; provided however, that any unknown claims, including any actions or liabilities arising from the claims of third parties related to services provided during any prior term of the Original Agreement (including known but unresolved or unliquidated claims of third parties), are not settled or waived by the execution of this Agreement.

SECTION 2. DEFINITIONS

2.1 “City Equipment” shall mean (i) equipment or property owned by the City, including equipment or property that was purchased by the Contractor on behalf of the City using City funds prior to the execution of this Agreement (during a previous term) or during the term of this Agreement and (ii) equipment or property leased by the City.

2.2 “City Subcontractor(s)” shall mean a subcontractor(s) hired, contracted with, or directly engaged by City to perform those services identified in Exhibit A as being performed by a subcontractor of the City.

2.3 “Contractor Employee(s)” shall mean all person(s) under the direct supervision and control of the Contractor who perform the Services provided for herein on behalf of the Contractor, whether employees or temporary employees. Such Contractor Employees shall be identified on the Contractor Employee Position Chart, as defined in Section 3.3, attached hereto as **Exhibit F**.

2.4 “Contractor Subcontractor(s)” shall mean a subcontractor(s) hired, contracted with, or directly engaged by Contractor to perform either Professional Services or IT Services as defined below.

2.5 “Designated Employee(s)” shall mean the Contractor Employees with the following titles: the Program Director, the Director of Public Works, and the Director of Community Development

2.6 “Full-Time Equivalent (FTE)”, which refers to the amount of time a Contractor Employee performs services required herein, shall mean that the Contractor Employee is estimated to provide 1,880 to 1,960 labor hours annually on behalf of Contractor in the delivery

of the services provided herein, exclusive of vacation, holiday, sick and other leave whether paid or unpaid.

2.7 “Part-Time Equivalent (PTE)”, which refers to the amount of time a Contractor Employee performs services required herein, shall mean that the Contractor Employee is estimated to provide less than 1,880 labor hours annually on behalf of Contractor in the delivery of the services provided herein.

2.8 “Professional Services” shall mean all of those services described in Exhibit A, “Scope of Services,” which is attached hereto and incorporated herein, the performance and delivery of which are further defined and governed by this Agreement. Professional Services generally includes, but is not limited to, public works and community development services and call center.

2.9 “IT Services” shall mean all of those services described in Exhibit “B,” which is attached hereto and incorporated herein, the performance and delivery of which are further defined and governed by this Agreement. IT Services generally includes, but is not limited to, information technology services and geographic information systems.

SECTION 3. SERVICES AND PERFORMANCE

3.1 Professional Services. Contractor shall provide Professional Services to the City for the term hereinafter set forth.

3.2 IT Services. Contractor shall provide IT Services to the City through November 30, 2010, as further set forth herein. Notwithstanding the foregoing, Contractor agrees to continue to provide telecommunications circuits as well as certain software requested by the City, which shall be billed in accordance with **Exhibit C**, Section A. 1, until City provides thirty (30) calendar days written notice to Contractor for termination of same. Contractor acknowledges and agrees that such services are being provided to effect the orderly transition of such services to the City.

3.3 Contractor Employee Position Chart. Contractor agrees to provide sufficient personnel necessary to fulfill the obligations of Contractor under this Agreement. In accordance therewith, Contractor has provided the City a position chart that provides the positions of the Contractor Employees performing the services provided hereunder and the amount of labor hours such individuals/positions provide annually (the designation shall be either “Full Time Equivalent (FTE)” or “Part Time Equivalent (PTE)”; if PTE, the minimum number of hours per year of labor provided by the individual/position in performance of the services required under this Agreement shall be stated, or the position shall be represented as a fraction of an FTE) (hereinafter referred to as “Contractor Employee Position Chart”). As of the effective date of this Agreement, Contractor represents that the positions and their associated hours of labor set forth in the Contractor Employee Position Chart are sufficient and are an estimate of the amount of time necessary to perform the services provided under this Agreement. Contractor further represents and warrants that the Contractor and the Contractor Employees performing services hereunder possess the skills, knowledge, and abilities to competently, timely, and professionally

perform the services in accordance with this Agreement. Contractor shall update the Contractor Employee Position Chart and provide same to the City on a semi-annual basis and prior to contract renewal.

3.4 Meetings Regarding Allocation of Staff. The Contractor agrees to regularly meet with the City Manager, no less than once per quarter or as requested by the City Manager, to discuss staff (i.e., Contractor Employees) allocations and recommend staff reallocations to better meet the needs of the City in performance of the services required hereunder. Staff additions, as agreed upon between the parties, resulting from the provision of additional labor in order to perform new services that are not already within the scope of Professional Services, will be considered a change to this Agreement and shall be handled per Section 9.8 (Scope Addition). However, any reduction, partial termination or full termination of IT Services shall be made in accordance with Exhibit B of this Agreement.

3.5 Degree of Care. Except as otherwise specifically set forth herein, services provided by Contractor: (a) which are required to be performed by licensed professionals pursuant to Georgia law, shall be performed using that degree of care, skill and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing in the State of Georgia; and (b) shall additionally be subject to the more specific standards of Contractor performance provided in **Exhibit A** and/or **Exhibit B** of this Agreement.

3.6 City Boundaries. As directed by and under the supervision of the City Manager, the Contractor shall provide the City with the services to be delivered within the boundaries of the City as of the date of this Agreement. In the event that a boundary change or change in the area upon which services are to be provided hereunder increases or decreases the service obligations of Contractor in regard to its provision of labor or materials, the Parties shall mutually handle such modification pursuant to either Section 9.8 (Scope Addition) or Section 9.9 (Scope Reduction) of this Agreement, as applicable. Notwithstanding the foregoing, Contractor acknowledges that in order to perform certain services set forth herein, such as meeting or coordinating with other governmental agencies, the performance of such services may be required to occur outside the actual boundaries of the City.

3.7 Relationships. Contractor shall, at all times, foster and maintain harmonious relationships with the members of the City Council, all employees of the City, all employees of the City's contract services providers, City Subcontractors (including their employees) and all City's residents, and shall represent the City in the best light possible. Likewise, the City shall at all times, foster and maintain harmonious relationships with representatives of Contractor, all employees of Contractor, all employees of Contractor's subcontractors, and City Subcontractors, including City Subcontractor employees.

3.8 Communications. All communications to the Mayor, City Council, and press, unless otherwise authorized, shall be through the City Manager or the City Manager's designee. All mass communications to residents shall be reviewed and approved by the City Manager prior to printing and dissemination.

3.9 Required Permits and Licenses. The Contractor shall be responsible for obtaining and maintaining in a valid status, all licenses, certifications and permits necessary to perform the Professional Services and IT Services as required by law and shall bill the City in accordance with **Exhibit C** for these expenses. Contractor represents to the City that the Contractor and Contractor Employees are properly licensed and/or registered within the State of Georgia for the performance of the services required herein, provided such licensure and/or registration is required by applicable law.

3.10 Obligation to Acquire Necessary Information. The Contractor shall become acquainted with the information, laws, and regulations related to the services required herein. Contractor is not responsible for the accuracy of the information obtained for which it has not previously assisted in preparing. City will use its best efforts to assist in obtaining from Fulton County, Georgia or other entities such information that, based on Contractor's experience, it reasonably expects is available and relevant to the performance of services, and which it is unable to obtain through its own efforts.

3.11 Ambiguity Concerning Services. The Contractor shall perform the services in accordance with this Agreement and shall promptly inform the City concerning ambiguities and uncertainties related to the Contractor's performance that are not addressed by the Agreement.

3.12 Contractor Compliance with Laws. The Contractor shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions. Without limiting the foregoing, Contractor shall comply with all wage and hour laws and OSHA and other applicable federal and state statutes, regulations and standards for work place safety. Contractor shall be responsible for any and all administrative, civil or other fines imposed by any agency against the City as a result of Contractor's or any of Contractor Subcontractors' failure to comply with the laws and regulations referenced in this Section.

3.13 City Compliance with Laws. The City shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions. Without limiting the foregoing, City shall comply with all wage and hour laws and OSHA and other applicable federal and state statutes, regulations and standards for work place safety.

SECTION 4. HOURS OF OPERATION

4.1 Hours and Holidays. For the purposes of delivering the services required herein, Contractor shall staff Contractor Employees at City Hall during, but not less than, the City's business hours of 8:00 a.m. to 5:00 p.m. and shall reasonably provide appropriate Contractor Employees to perform the after-hours requirements associated with City Council Meetings, Planning Commission Meetings, Board of Zoning Appeals Meetings, Recreation and Parks Advisory Meetings, other public meetings or meetings of City boards or committees, and as otherwise necessary to perform the services provided herein, including emergency services, Monday through Friday, with the exception of the following holidays, and which shall be billed in accordance with **Exhibit C**:

New Year's Day
Martin Luther King, Jr.'s Birthday
President's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving Day
December 24
December 25 (However, when December 25 falls on: a Saturday, the previous Thursday will be observed, or a Sunday or Monday, the following day will be observed as a holiday)

4.2 Use of City Hall Address. For all City related matters, including both incoming and outgoing mail, Contractor shall use the address of City Hall.

SECTION 5. LABOR AND EQUIPMENT

5.1 Furnished by Contractor. Contractor shall furnish to and maintain for the benefit of the City, in accordance with the compensation provisions specified in **Exhibit C**, all necessary labor, supervision (including supervision and management of City Subcontractors), equipment (including motor vehicles as set forth in Section 5.7), including but not limited to, office equipment, and such resources, materials (except as expressly provided herein), overhead, administrative and other support as necessary to provide the Professional Services and IT Services, duties and responsibilities set forth and contemplated herein and as necessary to maintain the level of service to be rendered hereunder, as provided in **Exhibit A** and/or **Exhibit B** of this Agreement, except as provided by City Subcontractors.

5.2 Identification of Equipment. The City logo shall be displayed in a format, size and color approved by the City on such equipment and vehicles regularly used in providing Services hereunder as would reasonably be expected to display a logo and which shall be provided by the City. All use of the City's logo shall be approved by the City Manager or his designee.

5.3 Compatibility and Requirements of Technology. All computers and software used in the performance of the services shall be compatible with and directly support software in use by the City at the time of this Agreement, whether such software is provided by Contractor for use by the City or independently provided by the City. Should the City require software to be provided by the Contractor, said software will be billed in accordance with **Exhibit C**.

5.4 Director of Public Works. As provided in Exhibit A and the Contractor Employee Position Chart, Contractor shall assign a Director of Public Works who shall be Contractor's primary day-to-day representative and point of contact for those services identified in Exhibit A as public works services and recreation and parks services (see Sections 3.0 and 4.0 of **Exhibit A**).

5.5 Director of Community Development. As provided in Exhibit A and the Contractor Employee Position Chart, Contractor shall assign a Director of Community Development who shall be Contractor's primary day-to-day representative and point of contact for those services identified in Exhibit A as community development services (see Section 2.0 of Exhibit A).

5.6 Program Director. As provided this Agreement and the Contractor Employee Position Chart, the Contractor shall assign a Program Director. Further, subject to the Director of Public Works and the Director of Community Development serving as the primary day-to-day points of contact for those services falling under their supervision as provided herein, the Program Director shall be the Contractor's primary representative for services provided in this Agreement.

5.7 Vehicles Provided by Contractor. Notwithstanding Section 5.12 hereof, Contractor shall provide the Director of Public Works, the Director of Community Development, and the Program Director each with a vehicle or a vehicle allowance. Pursuant to **Exhibit C** (Schedule of Fees), City shall reimburse Contractor for the monthly lease or allowance amounts for such vehicles; however, to the extent any such vehicles are provided to Contractor Employees who are not FTE's, City shall only be liable for the percentage of such cost equivalent to such Contractor Employee(s)' fractional FTE status. Contractor will provide City a list of vehicles leased and the cost reimbursed to Contractor for the monthly lease or allowance amounts as part of the reporting process and Reconciliation provided for in Sections 9.6 and 9.7.

5.8 Equipment Subject to City's Option to Purchase/Assume. Any equipment or property that Contractor is expressly required to furnish to the City pursuant to **Exhibit A** and **Exhibit B**, or which it is otherwise required to furnish in order to perform the services provided for herein, shall be subject to the City's option to purchase provided for in Section 10.4 hereof. Accordingly, any such equipment shall be maintained by Contractor in strict accordance with manufacturer's recommended maintenance and kept clean, free of damages and in safe operating condition by Contractor. Contractor shall be solely responsible on any lease agreement for any vehicle or other asset leased by Contractor and used in the performance of services hereunder and City shall not be included as a party on any such agreement. Contractor shall be solely responsible for maintaining any required insurance or meeting any other obligations under any such agreement for leased assets. The City will be billed for the lease obligations and any required insurance or for meeting any obligation for the leased asset in accordance with the Schedule of Fees as described in **Exhibit C**.

5.9 Emergencies. In the event of emergencies or natural disasters, Contractor shall immediately and for an on-going basis, supply its usual and customary personnel to ensure continuing operation of all services provided by Contractor and to satisfy all County, State and Federal administrative and emergency requirements which shall be reimbursed by the City in accordance with **Exhibit C**.

5.10 Use of City Equipment. Contractor Employees may use City Equipment in the performance of the services required herein, which shall include office furniture, office supplies,

desktops and laptops, including associated hardware and installed software, desk phones and cell phones, printers, copiers and radios (provided however, such IT equipment will continue to be provided by Contractor until November 30, 2010). All City Equipment shall be used only for City purposes in performance of this Agreement and pursuant to City policies, and shall not be used for any purely corporate, non-governmental Contractor business or personal purpose. All City Equipment utilized by Contractor Employees shall be used in strict accordance with manufacturer's recommended guidelines. Any such City Equipment shall be kept clean, free of damages and in safe operating condition. Unless otherwise contemplated herein, the use of City Equipment by the Contractor shall be subject to the City Manager's prior approval. City shall maintain required insurance for City Equipment.

5.11 Contractor's Use of City's Vehicles. Contractor's employees may use certain motor vehicles owned by the City in performance of the services required herein in accordance with the motor vehicle use agreement, attached hereto and incorporated herein as **Exhibit I**.

5.12 Lease of Office Space. The City shall provide office space within the City Hall or such other City location as agreed upon by the Parties for the Contractor's use while performing services for the City. Should the City decide to move the office space to a different location, the City shall be responsible for its associated relocation expenses, including but not limited to transport, re-assembly of Contractor's furnishings and equipment, including City provided equipment and furnishings, in accordance with **Exhibit C**. This relocation also includes the associated infrastructure, network cabling, internet, telephones, and computer equipment supplied by the City for the Contractor.

SECTION 6. CONTRACTOR EMPLOYEES

6.1 Identification of Contractor Employees Positions. All Contractor Employee Positions shall be identified on the Contractor Employee Position Chart, which is attached hereto as **Exhibit F**.

6.2 Control of Contractor Employees. As provided in Section 17A, Contractor is an independent contractor of the City and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the City other than as a contracting party and independent contractor. In conformance with criteria provided herein (and as otherwise mutually agreed upon by the Parties) for achieving an acceptable level of customer service and delivery of services to the City residents and constituents, Contractor shall have and maintain the responsibility for and control of the rendition of the services, the discipline of the Contractor Employees and other matters incident to the performance of the services, duties and responsibilities as described and contemplated herein. Notwithstanding any other provision to the contrary, no Contractor Employee shall be considered an "employee" of the City during the term of this Agreement (as used in this Section 6.2, the term "employee" shall have the same meaning as provided in IRS Publication No. 15 (2009)(Circular E).

6.3 Liability for Employment Related Compensation. As between the Parties, Contractor shall be solely responsible for all compensation benefits, insurance and rights of the

Contractor Employees during the course of or arising or accruing as a result of any employment or contract, whether past or present, with Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or contract or related to the corporate amenities of such employment or contract. The City shall not be obligated to secure, and shall not provide, any employment related insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's Employees, sub-consultants, agents, volunteers or representatives, including coverage or benefits related but not limited to local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health insurance; professional liability insurance, errors and omissions insurance; or retirement account contributions in regards to Contractor provision of Services under this Agreement. Accordingly, City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds or retirement accounts, insurance premiums or payments, workers compensation benefits under O.C.G.A. §34-9-1 et seq., or any other amenities of employment to any of the Contractor Employees or other liabilities whatsoever. Pursuant to Section 24, in the event City is demanded or called upon to assume any such liabilities, Contractor shall indemnify the City for any and all damages and expenses, including legal fees, incurred as a result thereof. Nothing set forth in this section shall be used as an admission or as other evidence against Contractor that an individual performing services under this Agreement is an employee of Contractor and not an employee of a Contractor Subcontractor, and Contractor expressly reserves any such defenses against any other party, excepting City, related thereto.

6.4 Attire. Contractor Employees shall wear professional attire when performing services hereunder, and Contractor Employees, who normally wear a uniform, shall wear attire with the logo of the City in a design and format as reasonably required by the City when, and only when, they are performing services for the City, unless otherwise directed by the City Manager.

6.5 Drug Screening. Contractor shall have a for-cause drug screening program for specified incidents involving Contractor Employees. Further, for those types of services for which business necessity and the safety of the public demand, Contractor shall require Contractor Employees providing such services to be screened and to satisfactorily pass drug testing prior to assignment to perform any such services under this Agreement, and Contractor shall implement a random drug testing program applicable to such Contractor Employees.

6.6 Request to Transfer Designated Employees. The City Manager shall have the right utilizing an objective standard based on job performance to require Contractor to transfer any of the Designated Employees out of the City or to a different position. Corporation agrees to permanently transfer any of the Designated Employees as soon as reasonably possible upon notification by the City Manager. In the event of a vacancy in the position of any Designated Employee, whether such vacancy occurs pursuant to this Section 6.6 or Section 6.7 (pursuant to Contractor's transfer or reassignment or Contractor Employee's request), Contractor agrees to make selection of a replacement without undue delay, in good faith, and in the best interest of the City. The City shall have the opportunity to interview each of the candidates, and no person may be appointed as a Designated Employee without the written consent of the City Manager..

6.7 Transfer or Reassignment of Contractor Employees by Contractor. Contractor shall have the discretion to permanently transfer or reassign any personnel out of the City for the following reasons:

- a. Situations where an employee requests a transfer in order to accept a promotion or special assignment, which has been offered to him or her by Contractor upon his or her special education, qualifications or career path;
- b. Disciplinary reasons;
- c. Failure of an employee to meet Contractor performance standards; or
- d. At the request of the employee.

In the event Contractor permanently transfers or reassigns any employee for the above stated reasons, Contractor shall provide the City Manager with prompt written notice of such permanent transfer or reassignment and explain the basis of the reassignment. In the event of circumstances noted above in (a) and (d), Contractor shall work with the City Manager to provide a replacement or alternate solution that is acceptable to the City. As provided in Section 6.6, in the event Contractor transfers or reassigns a Designated Employee, the City shall have the opportunity to interview Contractor's candidates for replacement, and no person may be appointed as a Designated Employee without the written mutual agreement of both Parties. .

6.8 Solicitation of Contractor Employees. City shall have the right to hire Contractor Employees; provided however, with the exception of a termination for default by the Contractor, expiration of the term of this Agreement, or Contractor exercising its rights under Section 25.1, in any event that the City recruits and procures the services of a Contractor Employee(s) to provide a similar function for the City, the City shall pay to Contractor the sum of: (1) 33.33% of the Contractor Employee(s)'s salary for any Contractor Employee(s) with annual salaries above \$100,000 plus reimbursement of Contractor costs associated with training for such employees and the cost of replacing the position within Contractor's organizational structure if such Contractor Employee(s) is/are hired by the City during the initial term; or (2) 16.67% of the Contractor Employee(s)'s salary for any Contractor Employee(s) with annual salaries above \$100,000 plus reimbursement of Contractor costs associated with training for such employees and the cost of replacing the position within Contractor's organizational structure if such Contractor Employee(s) is/are hired during the 2011-2012 renewal term.

SECTION 7. SUBCONTRACTORS

7.1 Contractor Subcontractors. The Parties recognize and agree that subcontractors may be utilized by Contractor for the performance of certain services hereunder but the engagement or use of subcontractors will not relieve or excuse the Contractor from performance of any obligations imposed in accordance with this Agreement and Contractor shall remain solely responsible for ensuring that any subcontractors engaged to perform services hereunder by Contractor (including those engaged by Contractor to perform City Subcontractor Services

during the period of time provided for in **Exhibit A**) shall perform such services in accordance with all terms and conditions of this Agreement.

7.2 Assignment of Subcontractor Employees. Contractor shall require Contractor Subcontractors to have a for-cause drug screening program for specified incidents involving personnel of Contractor Subcontractors. Further, for those types of services for which business necessity and the safety of the public demand, Contractor shall require Contractor Subcontractors providing such services to subject their personnel to drug testing prior to assignment to perform any such services under this Agreement, and Contractor Subcontractors shall implement a random drug testing program applicable to such personnel.

7.3 Right to Request Substitution of Subcontractor. The City shall provide written notification to the Contractor should any personnel or performance problem arise with regard to any of Contractor Subcontractor's personnel performing services under this Agreement. The notification shall include the known facts which give rise to the problem, and may include a request by the City that the Contractor substitute another subcontractor when the current subcontractor's personnel are failing to effectively perform services hereunder, which may include, but is not limited to, behavior which brings discredit upon the City.

7.4 Responsibility for City Subcontractors. Other than Contractor Subcontractors, including those subcontractors contracted with by Contractor to perform City Subcontractor Services during the period provided for in Exhibit A, Contractor is neither responsible nor liable to the City for any damages arising out of the failure of other persons providing services, work or goods to the City to carry out the performance of their contracts with the City except to the extent such damages arise out of or are caused by Contractor's failure to oversee or manage City Subcontractors pursuant to **Exhibit A**.

SECTION 8. CITY AND CONTRACTOR COORDINATION

8.1 City Representatives. The City Manager shall be the City's primary representative and point of contact. The City Manager may appoint a designee as the City representative to whom all communications from the Contractor with respect to day-to-day operations regarding Professional Services may be addressed; provided however, that any written notice, demand or other communication with respect to matters other than day-to-day provision of Professional Services shall be addressed to the City Manager or as otherwise expressly provided within this Agreement.

8.2 Contractor Representatives.

8.2.1 Director of Public Works. The Contractor Employee serving as the Director of Public Works shall be the Contractor representative to whom all communications from the City with respect to day-to-day operations regarding public works and parks and recreation services may be addressed.

8.2.2 Director of Community Development. The Contractor Employee serving as the Director of Community Development shall be the Contractor representative to

whom all communications from the City with respect to day-to-day operations regarding community development services may be addressed.

8.2.3 Program Director. The Contractor Employee serving as the Program Director shall be Contractor's primary representative and the point of contact for all issues related to the performance or delivery of services. The Program Director shall have primary responsibility for supervising the Director of Public Works and the Director of Community Development and shall be the representative to whom all communications from the City with respect to day-to-day operations regarding all other non-public-works and non-community-development services may be addressed. The Program Director shall, among other obligations specified by the City Manager:

- a. Act as liaison between the City staff and Contractor;
- b. Attend staff meetings, City Council meetings and any agenda meetings, at which attendance by the Program Director is deemed necessary by the City Manager. Attend other County and State agency meetings and forums as required by the City Manager;
- c. Provide information to City Manager and the Mayor and City Council on all issues relevant and applicable to the City, its officials, its constituents or to the delivery of services provided for herein;
- d. When so directed by the City Manager, carry out such other duties and responsibilities as are necessary to fulfill services under Exhibit A, but which are neither unreasonably expansive nor inconsistent with Contractor's obligations under this Agreement.
- e. Shall be the Contractor's primary representative to whom all issues regarding scope modifications (additions and/or reductions), reconciliations, monthly review of delivered services, and other matters regarding compensation shall be addressed.

SECTION 9. COMPENSATION

9.1 Actual Fees Incurred for Contractor's Performance of Services. In consideration of the services performed hereunder, City shall compensate Contractor on a time and materials basis in accordance with the Schedule of Fees, which is attached hereto and incorporated herein as **Exhibit C**.

9.2 Payment of Annual Estimated Fee. For budgetary purposes, during the term of this Agreement, the City shall be billed an annual estimated fee in the amount(s) provided for in **Exhibit C** ("Annual Estimated Fee"). The Annual Estimated Fee shall be billed and payable in the monthly installments set forth in **Exhibit C**.

9.3 IT Services Monthly Estimated Fee. The Annual Estimated Fee does not include estimated fees related to the provision of IT Services. For the period of time IT Services are being performed by Contractor, the City shall be billed a monthly estimated fee in the amount

provided for in **Exhibit C** ("IT Services Monthly Estimated Fee"). The IT Services Monthly Estimated Fee shall be separately itemized on the Monthly Invoice.

9.4 Monthly Estimated Fee for Contractor's Provision of City Subcontractor Services. As contemplated and provided by **Exhibit A**, for the period beginning October 1, 2010 and ending November 30, 2010, Contractor shall continue providing those services identified and described in **Exhibit A** as services performed by City Subcontractors ("City Subcontractor Services"). The Annual Estimated Fee does not include estimated fees related to the Contractor's provision of City Subcontractor Services. For the aforementioned period of time during which City Subcontractor Services are performed by Contractor, the City shall be billed a monthly estimated fee in the amount provided for in **Exhibit C** ("Monthly Estimated Fee for Contractor's Provision of City Subcontractor Services").

9.5 Monthly Invoice. Contractor shall submit an invoice to the City for one-twelfth (1/12) of the Annual Estimated Fee on the fifteenth (15th) of the month prior to the delivery of services, which shall be due and payable by the City by the fifteenth (15th) of the following month (such invoice referred to herein as "Monthly Invoice"). However, the first Monthly Invoice for the services provided under this Agreement shall be submitted to the City within a reasonable time following the execution of this Agreement, and shall be due and payable within a reasonable time after such receipt. The Monthly Invoices shall be sent directly to the City Finance Director or his/her designee. During the relevant periods of time in which IT Services and/or City Subcontractor Services are provided by Contractor, the Monthly Invoice shall also include the IT Services Monthly Estimated Fee and the Monthly Estimated Fee for Contractor's Provision of City Subcontractor Services, which shall be separately itemized.

9.6 Reporting. In addition to any reporting requirements contained in **Exhibit A**, the Contractor will report regularly to and at the request of the City Manager on services rendered under this Agreement, as follows:

9.6.1 On a monthly basis, but no later than the fifteenth (15th) of each month, the Program Director shall provide the City Manager with a written report detailing the activities of the Contractor in providing services hereunder during the previous month, which shall be provided in a format subject to the reasonable approval of the City Manager. As part of such reporting, the Program Director shall meet with the City Manager in order to discuss (i) the actual fees incurred and the services delivered during the preceding month to ensure that such actual fees approximate the Annual Estimated Fee, (ii) the service goals of the City and (iii) whether such services are being delivered in accordance with this Agreement.

9.6.2 Oral reports to the City Manager, or his designee, may be made more frequently than the reports required in Section 9.6.1 as determined by the City Manager. In addition to the duties provided for in Section 8 (City and Contractor Coordination), the Contractor agrees to fulfill any additional reasonable reporting requests made by the City Manager through the Program Director.

9.6.3 Any changes to the format and method of delivery for any reports required hereunder shall be mutually agreed upon in writing upon sixty (60) calendar days in advance of the changes taking effect.

9.7 Reconciliation. The process detailed in this Section 9.7 shall be referred to as “Reconciliation.”

9.7.1 Reconciliation Report. Within fifteen (15) calendar days following the end of each month, Contractor shall submit to the City a reconciliation report that details the actual fees incurred by the City, pursuant to **Exhibit C**, for Contractor’s performance of Professional Services during the applicable month (“Reconciliation Report”). The Reconciliation Report shall include details providing the actual labor hours performed and the salary or hourly wage of each Contractor Employee, as well as itemize the other actual costs incurred during the subject month (for ODC’s a copy of the invoice or receipt shall be attached). The Reconciliation Report (See **Exhibit H** – Sample Reconciliation Report) shall include a certification that the costs set forth therein, including the amounts provided as the salary or hourly wage of each Contractor Employee, are true and correct. The Reconciliation Report will also state the estimated fees paid to Contractor during the applicable month, as previously billed on the subject Monthly Invoice. For the purposes of this Agreement, the following estimated schedule will reflect the reconciliation period which is attached hereto as **Exhibit D**.

9.7.2 Review by City. Within fifteen (15) calendar days following Contractor’s submittal of the Reconciliation Report, the City shall either approve or disapprove of the fees, amounts or other information set forth in the Reconciliation Report. If the City disapproves of the fees, amounts or other information set forth in the Reconciliation Report, the City Manager and Program Director shall meet within fifteen (15) days of the City’s notice of disapproval to resolve such dispute in good faith. Should the parties’ be unable to resolve such dispute within such time period, the dispute will be handled pursuant to Section 44 hereof.

9.7.3 Rebate/Payment. If the estimated fees paid by the City pursuant to the Monthly Invoices submitted during the applicable period exceeds the total amount of actual fees incurred, Contractor shall rebate to the City the amount of such differential within the next billing cycle following the agreement or resolution of the Reconciliation. If the estimated fees paid by the City pursuant to the Monthly Invoices submitted during the applicable period is less than the total amount of actual fees incurred, City shall be liable to the Contractor for the amount of such differential, which shall be billed in the next billing cycle following the agreement or resolution of the Reconciliation. The obligations provided in this Section 9.7 shall survive the termination of this Agreement.

9.8 Scope Addition. From time-to-time, the Parties may identify new services that were not included in Exhibit A, Scope of Services, and which require Contractor to provide additional labor or equipment in order to perform same (the additional service effected by mutual agreement shall be referred to as a “Scope Addition”). Within a reasonable period of time, the respective Party will notify the other Party of the Scope Addition proposal in writing. If agreed to by both Parties, the Contractor will, within a reasonable time period (generally within ten (10) business days) provide to the City a price and scope modification for the proposed Scope

Addition service(s) in writing in the form of a proposed change order. The proposed change order price shall be based on the Schedule of Fees (**Exhibit C**). Any changes that are mutually agreed upon between the City and the Contractor shall be made in writing in the form of a change order ("Change Order") and upon execution by both Parties shall become an amendment to the Professional Services described in this Agreement. To be effective, any Change Order must be signed by the Contractor and approved by the Mayor and City Council or executed by the City Manager, as appropriate. If approved by the City in writing, the Contractor will proceed with the Scope Addition services provided in the Change Order. Unless otherwise agreed, the Contractor will include the estimated fees related to the Change Order with the next Monthly Invoice, which shall include estimated fees accrued since the effective date of the Change Order (pro-rated based upon a 365-day year). If the Scope Addition service request generates an on-going new service or will result in an on-going new service under the Scope of Services in Exhibit A, the Contractor will include the associated adjustment for the Scope Addition to the Annual Estimated Fee. Any addition in Contractor Employees occasioned by an on-going new service shall be reflected in the Contractor Employee Position Chart.

9.9 Scope Reduction. From time-to-time the City may identify Professional Services provided in **Exhibit A** or otherwise under this Agreement that the City desires to remove from the scope of this Agreement, temporarily or permanently ("Scope Reduction"). The City will notify the Contractor of the Scope Reduction in writing by the provision of at least sixty (60) calendar days notice prior to the effective date of such Scope Reduction, and the Contractor will, within a reasonable time period after receiving such written notice (which shall be no later than thirty (30) calendar days prior to the effective date of such Scope Reduction) provide to the City an estimate of the price modification due to the Scope Reduction in writing. When the Scope Reduction will result in a permanent reduction of services, the City Manager and Contractor shall also negotiate in good faith the amount by which the Annual Estimated Fee will be reduced due to such Scope Reduction, which in no event shall be less than the applicable fees provided for in the Schedule of Fees (**Exhibit C**). A Scope Reduction shall not become effective until the Mayor and City Council approves same. Following the effective date of the Scope Reduction, the Contractor shall reduce the amount provided in the next Monthly Invoice to compensate the City for the estimated fees paid in the prior Monthly Invoice for the services that were not provided due to the Scope Reduction, which shall include all amounts accrued as a refund since the effective date of the Scope Reduction; accordingly, the refund due to a Scope Reduction shall be effected prior to the monthly Reconciliation. If the Scope Reduction request results in a permanent reduction of Professional Services, the Contractor will deduct the associated adjustment for the Scope Reduction from the Annual Estimated Fee, and the next Monthly Invoice following the effective date of the Scope Reduction shall reflect the reduction in the Annual Estimate Fee. No later than thirty (30) calendar days prior to the effective date of a permanent Scope Reduction, Contractor will provide a schedule of the transition, which shall detail the functions and records to be transferred to the City. Contractor and City shall cooperate in good faith in order to effectuate a smooth and harmonious transition from Contractor to City, or to any other person or entity City may designate, and to maintain during such period of transition the same quality of services otherwise afforded to the residents of the City pursuant to the terms hereof. Any reduction in Contractor Employees occasioned by the Scope Reduction shall be reflected in the Contractor Employee Position Chart. The provisions of this Section 9.9 shall not apply to IT Services; rather, the transfer, reduction or partial termination of IT Services

are handled pursuant to **Exhibit B** of this Agreement and as otherwise expressly provided for herein.

9.10 Interest. Interest shall be due and owing on any payments not made within the timeframes provided for in this Agreement, as follows:

9.10.1 City shall pay interest at an annual rate equal to Wells Fargo Bank, N.A.'s prime rate plus one and one-half percent (1-1/2%) (said amount of interest not to exceed any limitation provided by law) on payments not paid and received within thirty (30) calendar days from date of receipt by the City of the Monthly Invoice, such interest being calculated from the due date of the payment, as long as Contractor submits such invoice in accordance with the provisions of this Agreement or such delay is not otherwise caused by Contractor. City shall pay all undisputed amounts according to the terms of this Agreement. If City disputes any Monthly Invoices issued, City shall notify Contractor in writing within ten (10) business days of receipt of the invoice detailing the charge disputed and the basis for same. Contractor shall respond within five (5) business days following receipt of such notification. If such issue is not resolved within ten (10) business days after the City's notification, such issue shall be handled as per Section 44 (Disputes). Such good faith disputes on invoices shall not accrue interest until the date of resolution, and applicable interest, if any, shall be calculated from the date of resolution of the dispute. Nothing set forth in this Section 9.10 shall either modify or constitute a waiver of City's rights in regard to Reconciliation.

9.10.2 Contractor shall pay interest at an annual rate equal to Wells Fargo Bank, N.A.'s prime rate plus one and one-half percent (1-1/2%) (said amount of interest not to exceed any limitation provided by law) on payments not paid and received within the timeframes required by this Agreement.

9.11 Fees. Any and all fees collected by the Contractor as part of the provision of services, including, but not limited to permit fees, shall be funds of the City and shall be accounted for and delivered to the City Manager or Finance Director, or their designees, in accordance with City policies.

9.12 Annual Estimated Fee for Renewal Terms. The parties may agree to modify the Annual Estimated Fee for the renewal term beginning October 1, 2011, and any subsequent renewal term provided, however, should Contractor seek to modify such amount, the Parties agree to negotiate in good faith and mutually agree to an annual increase in the Annual Estimated Fee for next agreement year by May 1. Any modification of the Annual Estimated Fee shall be subject to approval of the Mayor and City Council.

SECTION 10. TERM

10.1 Initial Term. This Agreement shall be for a term of five (5) years, as further provided for herein and in accordance with O.C.G.A. § 36-60-13. Pursuant to O.C.G.A. § 36-60-13, this Agreement is effective October 1, 2010, and terminates September 30, 2011 (the "initial term") without further obligation on the part of either party other than outstanding obligations incurred prior to the expiration of such term. Thereafter, this Agreement shall be automatically renewed as provided in Section 10.2 (Option to Renew).

10.2 Option to Renew. In accordance with O.C.G.A. § 36-60-13 and subject to the further conditions provided in this Section, this Agreement shall be automatically renewed for up to four (4) successive one (1) year terms at the expiration of the initial term (each one (1) year term following the initial term referred to as a “renewal term”), unless either party furnishes the other party written notice of its intent not to renew this Agreement not less than one hundred twenty (120) calendar days prior to the expiration of the initial term. At the termination of each renewal term, this Agreement shall be automatically renewed for an additional one (1) year term, unless either party furnishes the other party written notice of its intent not to renew this Agreement not less than one hundred twenty (120) calendar days prior to the expiration of such renewal term. In furtherance of this paragraph and as a condition precedent to automatic renewal, the parties agree that Contractor shall annually provide written notice to City of the notice for option to renew date set forth above no less than one hundred and twenty (120) calendar days prior to the expiration of this Agreement.

10.3 Continuing Services Required. The Contractor shall perform services in accordance with this Agreement commencing on the initial term and until such services are terminated in accordance with this Agreement. The Contractor shall not temporarily delay, postpone, or suspend the performance of services without the written consent of the Mayor and City Council, City Manager, or a person expressly authorized in writing to direct the Contractor’s services, unless otherwise allowed by this Agreement.

10.4 Equipment Transfer. In the event of termination of the Agreement prior to the end of the initial term or any renewal term, or if the City elects not to renew after the initial term or any renewal term, the Parties agree to enter into good faith negotiations which would allow City to buy out any lease/purchase agreement the Contractor may have on vehicles, equipment or facilities utilized for providing Professional Services under this Agreement. Upon termination of the Agreement, the City may elect to purchase vehicles, equipment, tools or surplus inventory of the Contractor used in the provision of services at the then effective fair market value unless this item has been previously billed to the City. Upon the exercise by the City of its option to possess the subject equipment and upon payment by City, Contractor shall use its best efforts to convey within ten (10) days or upon such other mutually agreed time, all of its rights, title and interest, thereto, to the City by Bill of Sale Absolute or Certificate of Title, as applicable.

10.5 Annual Appropriation. This Agreement is contingent upon sufficient appropriation and authorization being made annually by the Mayor and City Council, prior to the renewal term, for the performance of the services provided in this Agreement. If sufficient appropriations and authorizations are not so made, this Agreement shall terminate upon expiration of the then current term. This provision shall supersede and control over any other provisions to the contrary.

SECTION 11. TRANSITION AND TERMINATION

11.1 Transition upon Termination. Upon termination, as either provided for in Section 25 or due to non-renewal of this Agreement, or the occurrence of a Scope Reduction, the City shall begin transition efforts and Contractor shall assist in such transition. Contractor and City shall cooperate in good faith in order to effectuate a smooth and harmonious transition from

Contractor to City, or to any other person or entity City may designate, and to maintain during such period of transition the same quality of services otherwise afforded to the residents of the City pursuant to the terms hereof.

11.2 Extension of Services. In the event of the full termination, or expiration of this Agreement, and in the further event that the City is not in breach of this contract and is unable to provide the same level of services at the time of such termination or expiration, the then pending term of this Agreement may be extended by the City for a period of up to ninety (90) calendar days, provided the City has provided Contractor thirty (30) calendar days written notice of such need for contract extension. The remuneration to be paid to Contractor during the transition period shall be based upon the terms set forth in **Exhibit C**. The provisions of this Section 11 shall not apply to a termination or partial termination of IT Services, as such termination is provided for in **Exhibit B**.

SECTION 12. INTENTIONALLY DELETED

SECTION 13. INSURANCE

13.1 Insurance Generally. The Contractor shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the minimum amounts specified as follows:

- 13.1.1 Statutory Worker's Compensation and Employers Liability Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by Georgia law.
- 13.1.2 Comprehensive General Liability insurance with minimum combined single limits of Three Million Dollars (\$3,000,000) per occurrence and in the aggregate. The policy shall be applicable to all premises and all operations of the Contractor. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision. Coverage shall be provided on an "occurrence" basis as opposed to a "claims made" basis. Such insurance shall be endorsed to name the City, and its elected officials, officers, employees and agents as additional insured parties.
- 13.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than of One Million Dollars (\$1,000,000) per occurrence and in the aggregate with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of services. The policy shall contain a

severability of interests provision. Such insurance coverage must extend to all Contractor Subcontractors. Such coverage must include all automotive equipment used in the performance of the Agreement, both on and off any work site, and such coverage shall include non-ownership and hired cars (vehicles and equipment) coverage. Such insurance shall be endorsed to name the City, and its elected officials, officers, employees and agents as additional insured parties.

13.1.4 Professional Liability (errors and omissions) Insurance with a limit of coverage of Five Million Dollars (\$5,000,000) per claim and in the aggregate.

13.1.5 Excess Liability Insurance with limits of Forty-Five Million Dollars (\$45,000,000).

13.1.6 Contractor's Pollution Liability with limits of One Million Dollars (\$1,000,000) per claim and in the aggregate.

13.2 Requirements of Insurance.

13.2.1 Insurance shall be procured and maintained with insurers with an A- or better rating as determined by Best's Key Rating Guide. All insurance shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor.

13.2.2 By naming the City as an additional insured on Contractor's insurance policy, the City is only securing protection from liabilities arising out of Contractor's negligence as per the applicable policy. The only insurance policy whereby the City will be listed as an additional insured shall be the Comprehensive General Liability and Comprehensive Automobile policies.

13.2.3 No policy of insurance shall contain any exclusion for bodily injury or property damage arising from completed operations.

13.2.4 Every policy of insurance shall provide that the City will receive notice no less than thirty (30) calendar days prior to any cancellation, termination, or a material change in such policy.

13.2.5 Proof of required insurance shall be maintained in all equipment and motor vehicles insured in accordance with the provisions of this Agreement.

13.2.6 Contractor shall be responsible for maintaining professional liability insurance for a minimum of four (4) years from the date of expiration of this Agreement. Upon request of City, Contractor shall make available for

inspection copies of any claims, filed or made against any policy during the policy term. Contractor shall additionally notify City, in writing within thirty (30) calendar days, of any claims filed or made as it related to the scope of services provided under this Agreement against any policy in excess of Twenty Five Thousand Dollars (\$25,000) during the policy term.

13.3 Failure to Obtain or Maintain Insurance. The Contractor's failure to obtain and continuously maintain policies of insurance in accordance with this Section and its subsections shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and to continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this Agreement upon which the City may immediately terminate this Agreement.

13.4 Insurance Certificates. Prior to commencement of the Services, the Contractor shall submit to the City certificates of insurance for all required insurance. Insurance limits, term of insurance, insured parties, and other information sufficient to demonstrate conformance with this Section and its subsections shall be indicated on each certificate of insurance.

13.5 City Provided Insurance. The City shall obtain and shall continuously maintain during the term of this Agreement insurance of the kind and in the minimum amounts specified as follows:

13.5.1 Comprehensive General Liability insurance with minimum combined single limits of Three Million Dollars (\$3,000,000) per occurrence and in the aggregate.

13.5.2 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than of One Million Dollars (\$1,000,000) per occurrence with respect to each of the City's owned vehicles assigned to or used in performance of the Services. Such coverage must include all automotive equipment used in the performance of the Agreement, both on and off any work site.

13.5.3 Property Insurance for all City property, including City supplied vehicles and equipment for the full market value for such property.

13.5.4 City shall supply certificate of insurance to Contractor on an annual basis within thirty (30) calendar days of agreement signing.

13.6 Additional Insurance Provisions.

13.6.1 City and Contractor will ensure that any and all policies of insurance procured hereunder shall provide for a waiver of subrogation against the

other, and each party waives any claim against the other arising in contract or tort which is covered by their respective insurance hereunder.

13.6.2 The City shall require any City Subcontractors list Contractor as an additional insured on any subcontractor insurance policies and/or certificates of insurance for Comprehensive General Liability and Comprehensive Automobile Liability.

13.6.3 The City shall require any City Subcontractor have the same insurance requirements as City listed in this Agreement for Comprehensive General Liability and Comprehensive Automobile Liability. Should the City decide to require the subcontractor to have lesser insurance requirements, the City shall immediately notify Contractor prior to any agreements be signed and Contractor shall have the right to review any insurance policy limits and provide additional terms and conditions that must be included in the City Subcontractor's agreement.

13.7 City to Reimburse Costs of Insurance Premiums. The City will reimburse Contractor for the allocated cost of insurance premiums incurred by Contractor to provide the insurance coverage required by this Agreement. The cost of insurance premiums will be billed as an Other Direct Cost (ODC) as provided in **Exhibit C**.

The insurance cost is shared between the cities and/or governmental entities that have a municipal type services contract with the Contractor. The cost allocation is based upon the percentage of total revenues of each city as of January 1. The allocated insurance cost will be adjusted on January 1 of each calendar year, accounting for the addition or removal of cities and/or governmental entities that have a municipal type services contract with the Contractor. No readjustments for the addition or removal of cities and/or governmental entities shall be conducted at any other time of the year.

SECTION 14. CONFLICTS OF INTEREST/COLLUSION/CONTINGENT FEES

14.1 Contractor shall not review or perform any services regarding any application made to the City by any client of Contractor, unless the services Contractor performs for such client are unrelated to the City. In such instance, Contractor shall disclose the relationship immediately to the City Manager, who may retain an alternate contractor or service provider to Contractor for those services the performance of which by the Contractor would create a perceived or real conflict of interest.

14.2 Neither Contractor nor any of its officers, employees, agents or representatives shall have or hold any employment or contractual relationship that is antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement.

14.3 Neither Contractor nor any of its directors, officers, employees, agents or representatives shall obtain any kickbacks or benefits for itself, themselves or other clients as a result of any City purchases or transactions.

14.4 Contractor shall not collude with other City contract providers regarding City business or matters. Contractor shall not enter into any business relationships with other City contract providers regarding City business or matters, without the approval of the City Manager, which approval may be withheld at the City Manager's sole discretion.

14.5 Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, Contractor, individual or firm, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. Provided however, this provision does not encompass Contractor's ability to have hired or engaged consultants to assist in preparation of the proposal and delivery of the services hereunder. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

SECTION 15. POLICY OF NON-DISCRIMINATION

Contractor shall not discriminate against any person in its operations, activities or delivery of services under this Agreement and shall further ensure that Contractor's agents and/or subcontractors comply with same. Contractor, its agents and subcontractors shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for the provision or denial of service delivery.

SECTION 16. DRUG FREE WORKPLACE

Contractor shall maintain a Drug Free Workplace pursuant to the federal Drug Free Workplace Act, as amended from time to time, and shall further ensure that its agents and subcontractors maintain a Drug Free Workplace pursuant to other applicable state laws and regulations. By execution of this Agreement, Contractor certifies that:

(1) a drug-free workplace will be provided for the Contractor's employees during the performance of this Agreement;

(2) each subcontractor hired by Contractor shall be required to ensure that the subcontractor's employees are provided a drug-free workplace; and

(3) Contractor, including its employees, agents and subcontractors, will not engage in any unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this Agreement.

SECTION 17. GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT

Contractor agrees to comply with all applicable requirements of the Georgia Security and Immigration Compliance Act of 2006 as codified in O.C.G.A. §§ 13-10-90 and 13-10-91 and regulated in Chapter 300-10-1 of the Rules and Regulations of the State of Georgia, "Public Employers, Their Contractors and Subcontractors Required to Verify New Employee Work Eligibility Through a Federal Work Authorization Program," accessed at <http://www.dol.state.ga.us>, as further set forth in the certification attached as **Exhibit E**. Additionally, Contractor represents that it has complied with any and all requirements of § 50-36-1 prior to execution of this Agreement.

SECTION 17A. INDEPENDENT CONTRACTOR

Contractor, for the purposes of this Agreement, is and shall remain an independent contractor; not an employee, agent (except as provided by Section 19.2), or servant of the City. Services provided by Contractor shall be by employees, agents or subcontractors of Contractor and subject to supervision by Contractor, and not as officers or employees of City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, and other similar administrative procedures applicable to services rendered under this Agreement shall be the obligation of Contractor. Nothing set forth herein, however, shall preclude the existence of a limited agency relationship between Contractor and the City when any services provided hereunder are performed in anticipation of litigation or in consult with the City Attorney pursuant to Section 19.2, and any such communications shall be subject to the attorney-client privilege held by City.

SECTION 18. RIGHTS IN DATA; COPYRIGHTS; INTELLECTUAL PROPERTY; DISCLOSURE; CONFIDENTIALITY

18.1 Definition. The term "Data" as used in this Agreement includes commercial proprietary written reports, studies, drawings, trademarks, specifications, designs, models, processes, systems, photographs, computer CADD discs, reports, surveys, software, or other

graphic, electronic, chemical or mechanical representations of the Contractor. Data does not include public records information compiled on the City's behalf for the purpose of service delivery under this Agreement, including, without limitation, any written reports, studies, drawings, specifications, photographs, reports, surveys or other representations prepared by Contractor for the City in performance of the services provided pursuant to this Agreement.

18.2 Rights in Data, Drawing. All Data shall be the property of the Contractor. The licensed software code copyrights and licensed software documentation are licensed to the Contractor for use by the City for the term of this Agreement. No title or ownership or any intellectual property or proprietary rights of Contractor are transferred to the City under this Agreement. City shall have the full right to use such Data for any official purpose required under Georgia statutes. Such use shall be without any additional payment to or approval by the Contractor, and the purpose of the use of the Data under this Agreement shall be limited to provision of services. The Contractor shall not be responsible for the use of the Data for any other purpose and the City or any third party users do so at their own risk.

18.3 Copyrights. No Data developed or prepared in whole or in part under this Agreement shall be subject to copyright protection owned by a third party in the United States of America or other country, except to the extent such copyright protection is available for the City. Contractor shall not include in the Data any copyrighted matter owned by a third party unless Contractor obtains the written approval of the City Manager or designee and provides said City Manager or designee with written permission of the copyright owner for Contractor to use such copyrighted matter in the manner provided herein.

18.4 Right to Data Upon Early Termination. Upon the termination or expiration of this Agreement, the Contractor shall provide for a fee to the City the right of use for any Data, prepared hereunder which are reasonably required for the City to sustain operation. However, such right shall not be transferable to third parties without Contractor's written approval.

18.5 Confidentiality. City will treat any information received under or through this Agreement regarding Contractor's Intellectual Property, which Contractor has marked and identified as "Confidential Intellectual Property," in strictest confidence and will not disclose such information to third parties except where such information: (a) was part of the public domain when received, or becomes a part of the domain through no action or lack of action by City, or (b) prior to disclosure was already in City's possession and not subject to an obligation of confidence imposed in another relationship, or (c) subsequent to disclosure is obtained from a third party whom is lawfully in possession of such information and not subject to a contractual relationship to Contractor with respect to such information, (d) is in the form of a record which is otherwise subject to required disclosure as an open record under applicable Federal and state laws, or (e) is ordered to be disclosed by a court of competent jurisdiction. In regard to other proprietary information received under of through this Agreement, City will work with the Contractor to develop and implement within six (6) months from the execution of this Agreement a policy and procedure designed to protect proprietary and confidential information, and will keep any employee receiving such information from unauthorized publication and disclosure of such information. City agrees that access to and dissemination of such information shall be limited to its employees having a need to know. City shall continue to maintain

appropriate internal policies and procedures which in its judgment are reasonably sufficient to protect the confidential nature of such information. City will provide to Contractor copies of those internal policies and procedures when implemented.

18.6 Limitation. Except as otherwise provided for herein, nothing in this Agreement shall be interpreted as granting any rights to the City under any pre-existing patent, copyright, know-how, or any other intellectual or proprietary rights of the Contractor.

SECTION 19. COMPLIANCE WITH LAWS; ADVICE OF OTHER PROFESSIONALS

19.1 Compliance with Laws. Contractor shall fully obey and comply with all laws, ordinances and administrative regulations duly made in accordance therewith, which are or shall become applicable to the services performed under the terms of this Agreement.

19.2 Advice by City Attorney. Contractor acknowledges that the City is advised by its City Attorney and that, on all legal matters, Contractor shall abide by the advice and direction of the City Attorney in the performance of its duties as they relate to matters of the City. In no case shall the Contractor be required to abide by the advice of the City Attorney in the event that the Contractor makes a written determination that such advice would cause the Contractor to violate any of its obligations under this Agreement, including its obligation to obey and comply with all applicable laws, ordinances and regulations, and such written determination is tendered to the City Manager within a reasonable time (i) after the City Attorney renders such advice and (ii) prior to the time necessary to perform the service. Upon receipt of such written notice, the City Manager shall negotiate in good faith with the Contractor in regard to the service(s) subject to the dispute. If such service(s) is not delivered by Contractor due to the Contractor's determination that performance of same would violate its obligations under this Agreement, the non-delivery of the service, whether temporary or permanent, shall be treated as a Scope Reduction subject to the refund provisions of Section 9.9. Accordingly, nothing stated herein shall relieve the Contractor of its obligation to provide and deliver the services performed under this Agreement in compliance with all applicable laws, ordinances, and regulations. Contractor further acknowledges and agrees that any and all communications between the City Attorney and Contractor regarding the affairs of the City shall remain confidential, as such communications are subject to the attorney-client privilege existing between the City and the City Attorney. Contractor's disclosure of any such communications to a third party, unless authorized by City or compelled by order of a court of competent jurisdiction, shall constitute a material breach of this Agreement.

19.3 Advice by Other Professionals. Contractor acknowledges that the City is also advised by various other professionals (which may include, but not be limited to, engineers, traffic engineers, planners, building officials, police officers and firefighters), and that, on all matters within their respective expertise, subject to the approval of the City Manager, Contractor shall abide by their advice and direction in the performance of its duties as they relate to matters of the City, as long as such advice doesn't increase the scope of services or cost under Agreement. If such direction will increase the scope of services pursuant to this Agreement due to the additional provision of labor or incurrence of additional Other Direct Costs, it shall be handled as per Section 9.8 (Scope Addition).

SECTION 20. OWNERSHIP OF WORK PRODUCT DOCUMENTS

20.1 All work product prepared by Contractor exclusively for the City in performance of this Agreement shall immediately become the property of the City, excluding other company proprietary documents and Data as disclosed pursuant to Section 18.

20.2 Contractor understands and agrees that any information, document, report or any other material whatsoever which is given by the City to Contractor or which is otherwise obtained or prepared by Contractor exclusively for City under the terms of this Agreement is and shall at all times remain the property of the City.

SECTION 21. AUDIT AND INSPECTION RIGHTS

21.1 The City may, at reasonable times, and for a period of up to three (3) years following the date of final performance of services by Contractor under this Agreement, audit, or cause to be audited, those books and records of Contractor that are related to Contractor's performance under this Agreement, including all financial records related to (i) direct cost reimbursable expenses, (ii) refunds related to Reconciliations, (iii) Contractor's contracts with subcontractors, (iv) and any other matters contemplated herein which require or could require the City to pay a fee, expense or cost to the Contractor or a third party, including assumption of leases, licenses, or agreements, and buy-out, termination, or option to purchase provisions, except for all records reasonably deemed proprietary by the Contractor unless a court of competent jurisdiction orders disclosure of such information. Contractor agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement. Contractor shall make all necessary books and records available for audit in Fulton County, Georgia. City shall be billed for any time and materials expended by Contractor to assist with any audit.

21.2 The City may, at reasonable times during the term hereof, inspect Contractor's facilities and perform such inspections and process reviews, as the City deems reasonably necessary, to determine whether the services required to be provided by Contractor under this Agreement conform to the terms of this Agreement. Contractor shall make available to the City all reasonable facilities and assistance to facilitate the performance of inspections by the City's representatives.

SECTION 22. WARRANTIES AND REPRESENTATIONS OF CONTRACTOR

Contractor hereby warrants and represents that:

22.1 At all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications, and permits required under federal, state and local laws necessary to perform the services;

SECTION 23. PUBLIC RECORDS

Contractor understands that the public shall have access, at all reasonable times, to all documents and information pertaining to the City, subject to the provision of O.C.G.A. §50-14-1 *et seq.*, and agrees to allow access by the City and the public to all documents subject to disclosure under applicable law. Contractor's willful failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the City. Contractor agrees to retain all public records in accordance with the City's records retention and disposal policies, O.C.G.A. 50-18-92 *et seq.* and the Georgia Administrative Code. Nothing contained herein shall limit the Contractors right to defend against disclosure of records alleged to be public.

SECTION 24. INDEMNIFICATION

24.1 Contractor Indemnification. Contractor shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from and against any and all liability, suits, actions, damages, costs, losses and expenses, including attorneys' fees, demands and claims for personal injury, bodily injury, sickness, diseases or death or damage or destruction of tangible property, to the proportionate extent arising out of any errors, omissions, willful misconduct or negligent acts of Contractor, its officials, agents, employees or subcontractors in the performance of the services of Contractor under this Agreement, from and against any orders, judgments, or decrees which may be entered thereon and from and against all costs, damages of every kind and nature, attorneys' fees, expenses and liabilities incurred in and about the defense of any such claim and investigation thereof. Further, pursuant to Section 6.3, Contractor shall indemnify, defend and hold harmless the City, its officers, agents, servants and employees from and against any and all liability, demands, claims, suits, actions, damages, costs, losses and expenses, including attorneys' fees, arising out of or related to any claims of Contractor Employees or its independent contractors regarding employment benefits, insurance, compensation or otherwise arising out of an alleged employment or contractual relationship. Contractor's indemnification, however, shall be limited to the actual amount of any liability of City, but shall also include attorney's fees, and does not encompass any sums for which City is exempt based upon Georgia municipal immunity statutes.

24.2 City Indemnification. To the extent authorized by law, and without waiving the City's sovereign immunity, the City shall defend, indemnify and hold harmless the Contractor and affiliates from any and all liability, claims, and demands (including attorneys' fees and expenses) to the proportionate extent arising out of an invalid or unconstitutional ordinance or resolution or alleged to be or resulting from the negligent acts or willful misconduct of the City and its affiliates relating to the services contemplated by this Agreement or the ownership of any City asset upon which services are provided under the Agreement if the liability, claim, judgment or demand relates to such ownership and not to the provision of services hereunder. The City shall cause the Contractor to be included as an Additional Insured on the City's liability insurance coverages for the purposes of the City's obligations hereunder.

24.3 Consideration for Indemnification. Contractor acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity as set forth in Section 13 (Insurance).

24.4 Limitation of Damages. In disputes between City and Contractor, in no event shall either party, its subcontractors or their officers or employees be liable to the other party for any special, indirect or consequential damages, whether such liability arises in breach of contract or warranty, tort including negligence, strict or statutory liability, or any other cause of action, provided, however, such limitation does not include any liability for which Contractor is obligated to indemnify City based upon special, indirect or consequential damages suffered by any third-parties.

24.5 Liability for Fines/Civil Penalties. In compensation for benefits conveyed hereunder, the parties agrees that Contractor shall be liable for fines or civil penalties, imposed against the City by any federal or state department or regulatory or administrative agency that are a result of Contractor's negligent operation, acts or omissions to the proportionate extent of Contractor's negligence. To the extent that any such fines or civil penalties are contestable in good faith, City will assist Contractor to contest any such fines in administrative proceedings and/or in court prior to any payment by Contractor. Contractor shall pay the costs of contesting any such fines. Contractor shall not be liable for fines or civil penalties that result from violations that occurred prior to December 1, 2006, or for the effects of prior violations by the City to the extent that such prior offense resulted in an escalated assessment of a fine or civil penalty as a repeat or additional offense.

SECTION 25. TERMINATION

25.1 Termination by Contractor. Contractor may terminate this Agreement at its discretion either with or without cause, by giving written notice thereof to City; provided, however, that such termination shall not be effective until the one hundred and eightieth (180th) day after receipt thereof by City.

25.2 Termination by City. City may terminate this Agreement in its entirety at its discretion either with or without cause, by giving written notice thereof to Contractor; provided, however, that such termination shall not be effective until the one hundred and eightieth (180th) day after receipt thereof by Contractor. City may also terminate this Agreement in its entirety, at its discretion with no advance notice, in the event of an insolvency or bankruptcy filing by Contractor or an effective vote by the Board of Directors, officers, employees or shareholders of Contractor to transfer of a controlling interest in Contractor (which shall be defined to mean more than fifty percent (50%) of the ownership interest) to a non-related entity. Contractor shall notify the City Manager immediately in the event of such a vote to so transfer of a controlling interest in Contractor. Notwithstanding the foregoing, if the City decides it is in its best interest to reduce the Scope of Services under this Agreement, any such Scope Reduction shall be performed in accordance with Section 9.9.

25.3 Coordination for Transfer of Services. In the event of termination by either party, the other party shall render such aid, coordination and cooperation as might be required for an expeditious and efficient termination and transfer of service.

25.4 Costs Incurred Due to Early Termination. In the event of termination by the City pursuant to this Section 25, City shall compensate Contractor for services rendered up to the date of termination in the amount required pursuant to the Schedule of Fees (**Exhibit C**). In the event the City chooses to terminate this Agreement pursuant to this Section 25, City will compensate the Contractor in accordance with **Exhibit C** for costs associated with transition of services to the City. Additionally, the City shall compensate the Contractor for any reasonable project close-out costs incurred by the Contractor as a result of such early termination; provided however, Contractor shall be required to obtain the City's prior written approval before entering into any contractual obligation that would impose any such potential project close-out costs.

25.5 Not Applicable to IT Services. The terms of this Section 25 shall not apply to the termination of IT Services, which shall be handled pursuant to the provisions provided for in **Exhibit B**.

SECTION 26. DEFAULT

26.1 Event of Default. An event of default shall mean a material breach of this Agreement. If situations arise which are not considered a material breach, such issues shall be resolved as per Section 44 (Disputes). Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:

- a. Contractor has been adjudged as bankrupt, or Contractor at its own instance or at the instance of a third party or creditor makes a general assignment for the benefit of their creditors, appoints a receiver on account of their insolvency, or files a petition to take advantage of any debtor's act;
- b. Contractor has not performed services in accordance with the terms of this Agreement;
- c. Contractor has refused or failed, except in the case for which an extension of time is provided, to supply properly skilled Contractor Employees;
- d. Contractor has failed to obtain the approval of the City where required by this Agreement, except where this Agreement requires the City to reasonably provide such approval and Contractor had made good faith efforts to obtain but the City has failed to reasonably provide timely approval;
- e. The failure, refusal or other default by the City in its duty: (1) to pay the amount required to be paid to the Contractor under this Agreement within 30 days following the due date for such payment; or (2) to perform any other material obligation under

this Agreement (unless such default is excused by the act of Contractor or a Force Majeure and to the extent provided herein).

g. Any representation or warranty of either party hereunder that was false or inaccurate in any material respect when made, and which materially and adversely affects the legality of this Agreement or the ability of either party to carry out its obligations hereunder.

26.2 Procedure. In the event either Party fails to comply with the provisions of this Agreement, the other Party may: (1) declare the Party in default, notify defaulting party in writing, and give defaulting party fifteen (15) calendar days from receipt of notice to make substantial efforts towards curing the default; provided however, when the failure to perform the services provided for herein affects the public health, safety or welfare, the time for curing such default may be limited to a shorter period of time as reasonable. If defaulting party fails to make substantial efforts towards curing such default within fifteen (15) calendar days or, if the event of default the public health, safety or welfare, such applicable period of time, such Agreement shall be terminated accordingly, and any compensation due and owing to Contractor or the City shall be paid by the appropriate party; or (2) such party may exercise such provisions under Section 44 (Disputes), if applicable, regarding the alleged breach without waiving or being estopped from subsequently pursuing the breach as a matter of law. If Contractor is the defaulting party, City shall compensate Contractor for services rendered up to the date of termination in the amount required pursuant to Schedule of Fees (**Exhibit C**) minus any damages assessed pursuant to Section 26.4 (Default Liability). Upon termination, City shall begin transition efforts and Contractor shall assist such transition, provided, however, City shall be liable to the Contractor for the services provided under this Agreement that are actually performed during the transition period in aid of the City, which in no event shall exceed the actual fees for such services provided pursuant to the Schedule of Fees. Nothing in this Section 26 shall limit either Party's right to terminate this Agreement, at any time, pursuant to Sections 10.2 (Option to Renew) and 25 (Termination), right to pursue damages under Section 26.4 (Default Liability), or right to assign this Agreement pursuant to Section 40 (Assignability).

26.3 Final Invoice. In the event of a failure to timely cure a Default and upon the date of the resulting termination for Default, the Contractor shall prepare a final accounting and final invoice of charges for all performed but unpaid Professional Services and/or IT Services, and allowable charges under this Agreement and authorized reimbursable expenses. Such final accounting and final invoice shall be delivered to the City within ninety (90) calendar days of the date of termination. The final invoice shall be paid in conformity with the times allowed for paying monthly invoices under this Agreement minus any damages assessed pursuant to Section 26.4 (Default Liability). In the event payment has been made to the Contractor for services not completed, City shall notify Contractor in writing within sixty (60) calendar days of such event. City shall provide written notice detailing the services which were not completed by the Contractor. Contractor shall determine appropriate value for such services and return these sums to the City within sixty (60) calendar days after receipt of written notice.

26.4 Default Liability. Any Party in Default shall be liable for all damages resulting from the default, subject to the results of the dispute resolution provisions of Section 44 of this Agreement, if such proceedings are undertaken, and the limitation of damages provided for in

Section 24.4. The Party assessing such damages shall itemize them on the final invoice or with the final payment.

26.5 No Limitation on Actions. Provided that notice of Default is provided in accordance with this Section and its subsections, nothing contained herein shall prevent, preclude, or limit any claim or action for Default or breach of contract resulting from non-performance by a Party. Either Party may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by the Party. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The Parties' rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to either Party in law or in equity.

SECTION 27. REMEDIES FOR NON-PERFORMANCE

27.1 Remedies. In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the performing party may terminate this Agreement as per Section 26 if the other party substantially fails to perform the duties and obligations of this Agreement.

27.2 Interest on Amounts of Disputed Payments. In the event that any controversy or dispute involving payment to the Contractor arises, the disputed payment amount will be placed in an interest bearing account until the controversy or dispute is resolved in accordance with Section 44. In the event the Contractor prevails at the resolution of the controversy or dispute, the Contractor shall receive the interest earned on the disputed payment amount.

27.3 Remedies Are Cumulative. The foregoing remedies provided for under this Agreement are cumulative and the party, in its sole discretion, may exercise the remedies individually or simultaneously.

SECTION 28. EMERGENCIES

Contractor shall provide emergency services as set forth in **Exhibit A** and **Exhibit B**. During the period in which Contractor provides City Subcontractor Services, Contractor shall be responsible for emergency repair of City assets and infrastructure as set forth in Scope of Services; such term "emergency repair" meaning any non-routine or non-repetitive activities required for operational continuity, safety, and performance generally resulting from the failure of or the need to avert failure of City assets, infrastructure or some component thereof. Thereafter, Contractor shall be responsible for managing and supervising emergency repairs by City Subcontractors, as further provided in **Exhibit A** or otherwise required by the City Manager. The Parties agree that all emergency repairs will be billed to the City in accordance with **Exhibit C**, unless otherwise agreed to by Parties or due to intentional acts of the Contractor. Parties further agree that Contractor is authorized pursuant to this Agreement to immediately perform emergency repairs or secure emergency site for subsequent repairs, taking appropriate steps to ensure public safety under the circumstances. Contractor agrees to provide notice to

City of emergency repairs in no event later than twenty-four (24) hours after emergency repairs are necessary. Contractor will reconcile the emergency expenses in the next monthly reconciliation as specified in Section 9.7.

SECTION 29. COSTS AND ATTORNEY'S FEES

If either party is required to enforce the terms of this Agreement by court proceedings or otherwise due to breach of contract, whether or not formal legal action is required, the prevailing party shall recover its attorney's fees and costs incurred due to such.

SECTION 30. GOVERNING LAW; CONSENT TO JURISDICTION

This Agreement shall be construed in accordance with and governed by the laws of the State of Georgia. Subject to the meditation requirements of Section 44 (Disputes), and when federal jurisdiction is permitted, the parties submit to the jurisdiction of federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any federal action to enforce this Agreement shall be in the United States District Court Northern District of Georgia. Otherwise venue for any action brought hereunder shall be brought in the Superior Court of Fulton County, Georgia. To reduce the cost of dispute resolution and to expedite the resolution of disputes under this Agreement, the Parties hereby waive any and all right either may have to request a jury trial in any civil action relating primarily to the enforcement of this Agreement. The Parties agree that the rule of ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

SECTION 31. HEADINGS

Headings are for the convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 32. SEVERABILITY

If any provision or subsection of any provision of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement including the general provision of any invalid or unenforceable subsection of a provision, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 33. CONFLICT

In the event of a conflict between the terms of this Agreement and any terms or conditions contained in any attached documents, the terms in this Agreement shall prevail.

SECTION 34. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

SECTION 35. ENTIRE AGREEMENT

35.1 Entire Agreement. Except as otherwise provided herein, this Agreement and its attachments constitute the entire agreement between Contractor and City, and all negotiations and oral understandings between the parties are merged herein.

35.2 Amendments. No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement, or unless otherwise expressly allowed pursuant to the provisions of this Agreement.

SECTION 36. WAIVER

The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure.

SECTION 37. AUTHORITY TO EXECUTE: NO CONFLICT CREATED

37.1 Contractor by execution hereof does hereby represent to City that Contractor has full power and authority to make and execute this Agreement, to the effect that:

- a. The making and execution hereof shall create a legal obligation upon Contractor, which shall be legally binding upon Contractor.
- b. The same shall be enforceable by the City according and to the extent of the provisions hereof.

37.2 Nothing contained or any obligation on the part of Contractor to be performed hereunder shall in any way be contrary to or in contravention of any policy of insurance or surety bond required of Contractor pursuant to the laws of the State of Georgia.

37.3 Contractor shall perform this Agreement under the name of CH2M HILL, Inc., provided, however that CH2M HILL, Inc. may perform services under this Agreement through any wholly owned affiliates of CH2M HILL Limited and if so, such affiliates shall be bound by the terms and conditions of this Agreement to the same extent as if they had been a signatory hereof. As a condition precedent to Contractor's exercise of the rights afforded by this Section 35.3, and prior to the performance of services under this Agreement through any wholly owned affiliates of CH2M HILL Limited, Contractor shall insure that any such affiliates conducting

business for the City pursuant to this Agreement have executed all documents necessary to be legally bound to the City regarding said business, including documents necessary to meet its insurance obligations. Contractor shall further insure that any affiliates who conduct business for the City pursuant to this Agreement are in full compliance with the terms hereof.

37.4 The City Manager, Mayor and City Clerk, by their respective executions hereof, do each represent to Contractor that they, collectively, have full power and authority to make and execute this Agreement on behalf of the City, pursuant to the Resolution of the Mayor and City Council of the City.

37.5 Nothing herein contained is intended in any way to be contrary to or in contravention of the Charter of the City and the Laws of the State of Georgia, and to the extent such conflict exists; the City and Contractor shall be mutually relieved of any obligations of such conflict.

SECTION 38. NO THIRD PARTY BENEFICIARIES

Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or sub-contractor of Contractor. Absolutely no third party beneficiaries are intended by this Agreement. Any third-party receiving a benefit from this Agreement is an incidental and unintended beneficiary only. Nothing set forth in this Section 38, however, shall limit the rights provided for in Section 37.3 as long as Contractor has met all the conditions made a part thereof.

SECTION 39. NOTICES

Unless otherwise specifically required by a provision of this Agreement any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes at the time: (1) it is hand delivered to the Program Director with a copy mailed to the copied recipient set forth below by delivering the copy into first class U.S. mail, or (2) it is sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth below or at such other address as has been previously furnished in writing, to the other Party.

If to the City:

If to Contractor:

City Manager City of Johns Creek 12000 Findley Road Suite 400 Johns Creek, GA 30097 FAX:678-512-3199	CH2M HILL INC. 9193 S. Jamaica Street, Suite 400 Englewood, CO 80112 ATTN: Director of Contracts FAX: 720-286-8209
With Copy to: City Attorney	With Copy to: CH2M HILL INC.

William F. Riley, Jr. Riley McLendon, LLC 315 Washington Avenue Marietta, GA 30060 FAX: 770-590-0400	OMI Corporate Counsel 9193 S. Jamaica Street, Suite 400 Englewood, CO 80112 FAX: 720-286-8209
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SECTION 40. ASSIGNABILITY

Neither Party shall assign any of the obligations or benefits imposed hereby or contained herein, without the written consent of the other Party. Such consent on behalf of the Mayor and City Council of the City must be evidenced by a duly passed Resolution. Notice of Assignment shall be mailed via U.S. Mail, return receipt requested and any notice required hereunder shall be addressed to the party intended to receive the same at the addresses noted in Section 39 (Notices). In the event that the City exercises its option to assign this agreement pursuant to this section, the City is not obligated to provide the notice of Termination identified in Section 25 (Termination) of this Agreement. However, Contractor shall coordinate and cooperate with the City as may be required for expeditious and efficient assignment of service pursuant to this section. In addition, Contractor shall transition this Agreement pursuant to this section in accordance with Section 11 (Transition) of this Agreement.

SECTION 41. FORCE MAJEURE

Neither party shall be liable for damages, delays, or failure to perform its obligations under this Agreement if performance is made impractical, abnormally difficult, or abnormally costly, as a result of any unforeseen occurrence, including but not limited to fire, flood, strike, acts of God, failure of a third party to cooperate in providing services other than Contractor's Subcontractors, or other occurrences, beyond its reasonable control. The party invoking this Force Majeure clause shall notify the other party immediately by verbal communication and in writing of the nature and extent of the contingency within ten (10) working days after its occurrence, and shall take reasonable measures to mitigate any impact of Force Majeure. If the Force Majeure event shall impact schedule or increases the costs incurred by Contractor (excluding those scope of services already anticipated and detailed out in Exhibit A), such items shall be handled as per Section 9.8 (Scope Addition).

SECTION 42. NEGOTIATION

The parties acknowledge that the terms of this Agreement were jointly negotiated between the parties, that both parties were represented by attorneys and that, in the case of any dispute regarding the terms of this Agreement, the terms should not be construed in favor of or against either party.

SECTION 43. BINDING EFFECT

This Agreement shall inure to the benefit of and be binding upon the respective parties' successors.

SECTION 44. DISPUTES

44.1 Key Personnel Resolution Meeting. In the event that a Party believes there is a controversy or dispute regarding this Agreement or any of its terms, conditions or obligations, the Program Director and the City Manager shall meet and attempt to reach resolution on such dispute within the timeframe for such meeting requested by the aggrieved Party or as otherwise provided within this Agreement.

44.2 Upper Management Resolution Meeting. To facilitate the timely and effective resolution of any claim, controversy or dispute for breach of contract that may arise under this Agreement or out of the performance of this Agreement; each party shall appoint one representative to serve on a Management Board. The Management Board will resolve any such issues that arise from the Agreement that cannot be resolved from the project management level. The party believing there is such a controversy or dispute shall put such notice in writing and deliver to the other party. Such demand shall be filed within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitations for a legal or equitable proceeding would have run. The Management Board shall convene to discuss such notice and shall make a good faith effort to resolve any issues within a period of thirty (30) days of its receipt.

44.3 Mediation. If a compromise is not negotiated within thirty (30) calendar days as provided in Section 44.2, the parties shall refer the matter to non-binding mediation. The mediator shall be selected by joint agreement of the Parties within thirty (30) calendar days of the date of the Upper Management Resolution Meeting and such mediation shall be scheduled to occur as soon as is reasonably possible, depending on the nature of the dispute. Each party shall pay fifty percent (50%) of the third party costs of mediation.

44.4 Litigation. In the event that the mediator is not able to resolve the dispute, either Party may file for litigation as set forth herein.

44.5 Continuation of Services. Unless otherwise agreed in writing, Contractor shall continue to provide services during any dispute resolution proceedings. If Contractor continues to perform, City shall continue to make payments in accordance with this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused their respective agents to execute this instrument on their behalf, at the times set forth below.

CH2M HILL, INC.



Stephen O. Manning

By:

12/16/2010

DATE

ATTEST

Sally A. Hill

DATE

12-16-2010

CITY OF JOHNS CREEK

McBeth

By:

DATE

1/4/2011

Mayer

By:

DATE

12-22-2010

City Manager

Joan C. Jones

By:

DATE

1/5/2011

City Clerk

Approved as to form and legal
Sufficiency subject to execution
by the parties

Will F. P.

By:

DATE

1-3-11

City Attorney



EXHIBIT A

Scope of Services

City of Johns Creek, Georgia

Organization. The Scope of Services is organized by major areas as follows:

- 1.0 General Services
- 2.0 Community Development Services
- 3.0 Public Works Services
- 4.0 Recreation and Parks Services
- 5.0 Call Center

Scope Format. This scope of services is presented in a standardized fashion, with a set of elements defining a particular area of scope, the associated anticipated work volume, objective measures of performance, specific items which are not included in the Scope of Services, and clarification whether the work performed under the scope is performed by Contractor or by a Subcontractor contracted with directly by the City (identified herein as "City Subcontractor"); provided however, the area of scope identified as being performed by a subcontractor contracted with directly by the City (or City Subcontractor) shall continue to be provided by Contractor through its subcontractor until and through November 30, 2010. City shall assume the delivery of such subcontractor services effective December 1, 2010. Each area of Scope is presented as follows:

- Scope
- Workload Indicator
- Key Performance Indicator
- Exclusion
- City Subcontractor

Scope: A brief description of the services to be performed as part of the Agreement.

Workload Indicator: One or more metrics used to identify the normal, routine volume of work expected for the specific Scope item under the Agreement. This may not be applicable in all instances. The Workload Indicator or anticipated workload volume associated with the scope is only intended as an estimate of the amount of work to be performed by Contractor, and its purpose is to provide the anticipated workload upon which the Annual Estimated Fee and Contractor Employee Position Chart are based. In the event Contractor either fails to meet or exceeds the estimate provided as the anticipated workload volume, such event alone shall not constitute a basis for a Refund to City, Scope Addition, or the accrual of additional compensation to Contractor, since compensation as provided for in the Agreement is based on a time and materials basis.

Key Performance Indicator: One or more metrics used to evaluate performance of the work against an objective measurement of volume, rate, or quality under the Agreement. This may not be applicable in all instances. The Parties agree that during the performance of services additional Key Performance Indicators may be identified or current Key Performance Indicators

may require modification. Accordingly, the Parties agree that the City Manager and the Program Manager or other designee of Contractor shall be authorized to mutually agree to modify or revise the Key Performance Indicators set forth herein, and such mutually agreed upon modifications or revisions shall be binding on the Parties.

Exclusion: A brief description of work that may be implied in the Scope description, but which is specifically excluded as such.

City Subcontractor: Denotes scope that is performed by a subcontractor contracted with directly by the City; provided however, the area of scope identified as being performed by a subcontractor contracted with directly by the City (City Subcontractor) shall continue to be provided by Contractor through its subcontractor until and through November 30, 2010. City shall assume the delivery of such subcontractor services effective December 1, 2010. It is the intent of the parties that the scope of such subcontractor services shall be the same scope of services delivered by subcontractors contracted with by the Contractor during the December 1, 2009 and September 30, 2010 term of the Original Agreement; provided however, in the event the scope of services performed by a City Subcontractor exceeds the foregoing scope, such event alone shall not constitute a basis for a Scope Addition or the accrual of additional compensation, since compensation to the Contractor, as provided in the Agreement, is based on a time and materials basis.

For such scope, Contractor agrees to provide oversight and management of subcontractor activities with the expectation the City's subcontractor will meet the performance criteria set forth in this Scope; however, effective December 1, 2010, Contractor shall not be liable for the quality, quantity, or performance of the City Subcontractor's work, as referenced in Section 7.4 of the Agreement, that is not caused or related to Contractor's failure to properly oversee or manage same.

Adjustments to Scope of Work. The City and the Contractor understand that weather and other conditions beyond the control of either party may and will justify changes in the basic scope of work specified herein. It is the responsibility of the Contractor to make the City aware of any adjustments that may be necessary and obtain the concurrence of the City in writing when such conditions arise. All adjustments made in the quantities of work provided will be documented in periodic progress meetings and included in a quarterly Performance Measurement report presented to the Mayor and City Council.

Assumptions. This Scope is also based on the City's current budget for services and projected workload indicators. For instance, should the City decide to increase the budget for construction projects, Contractor and City may need to discuss the need for additional personnel to provide services for those construction projects. Further, this Scope provides general descriptions regarding the duties, services and the manner of performance of same required by the Agreement. Accordingly, Contractor agrees that Scope descriptions are further defined and identified by the City Manager.

1.0 General Services

1.1 Annual Council Retreat

Scope: Participate in an annual, facilitated retreat(s) with Mayor and City Council and City Manager.

Workload Indicator: Participate in one (1) meeting(s) per year as scheduled.

Key Performance Indicator: Program Director and/or department heads will attend meeting(s) as scheduled by Mayor and City Council.

Exclusion: None.

City Subcontractor: None.

1.2 Annual Capital Improvement Plan

Scope: Assist in the development of the City's five (5)-year capital improvement plan that outlines the major projects in excess of twenty-five thousand dollars (\$25,000). This plan also identifies potential sources of revenue for consideration.

Workload Indicator: Participate in meetings and update plan annually to the Mayor and City Council and City Manager.

Key Performance Indicator: Provide information annually to meet budget deadlines as established by the Mayor and City Council and City Manager.

Exclusion: None.

City Subcontractor: None.

1.3 Policy Implementation

Scope: *Research and analysis:* Research current and likely future trends impacting the City as identified and agreed upon with the City Manager; prepare administrative and financial analyses related to policy decisions being considered by the City; and provide recommendations of available options.

Policies and Procedures: Assist the City Manager with the identification of significant policies and analyze their administrative and financial impacts; assist the City in the preparation of plans and procedures to implement City Council policies and directives successfully, as directed by the City Manager.

Council Meetings: Attend City Council meetings, hearings, and agenda meetings as directed by the City Manager to make presentations and answer questions.

Workload Indicator: Attend all regularly scheduled or special called City Council meetings.

Key Performance Indicator: None.

Exclusion: Support associated with litigation activity unrelated to services performed by Contractor that is outside of work performance parameters for the respective employee and for which additional labor is required to be provided, including, but not limited to, performance as expert witnesses. City Council is responsible for final decision on policies.

City Subcontractor: None.

1.4 Grant Applications

Scope: Assist the City Manager, or his designee, to identify opportunities for grant funding.

Provide requested technical information to the City Manager, or his designee, to meet submittal deadlines and other reporting requirements related to the grants.

Workload Indicator: None.

Key Performance Indicator: None.

Exclusion: The City is responsible for ensuring compliance with applicable local, state, and federal grant requirements not performed by Contractor.

City Subcontractor: None.

1.5 Fuel for Contractor Vehicles

City will provide fuel for Contractor provided vehicles at no cost to Contractor. Contractor will conform to City's policies on fuel usage, including properly documenting consumption, adherence to safety practices, limits on consumption, and other practices deemed necessary by the City to properly administer and manage fueling activities.

Key Performance Indicator: Fuel Usage Amounts

Exclusion: None.

City Subcontractor: None.

2.0 Community Development Services

CH2M HILL (Contractor) will provide Community Development services including General Services, Planning and Zoning Services, Development Services and Code Enforcement Services as described on the following pages. Permit Processing, Building Plan Review and Building Inspection Services to be provided by City Subcontractor.

Services include the tasks described in this Section 2.0 and the required staffing to complete these tasks.

2.1 General Community Development Services

2.1.1 Public Meetings/Hearings

Scope: Facilitate the following public meetings on a monthly basis: Zoning Board of Appeals and Planning Commission. Construction Board of Appeals will be managed by City Subcontractor.

Attend public hearings to include City Council Meetings, City Council Work Sessions, and Fulton County Soil and Water Conservation Commission and other applicable hearings involving outside local, state and federal agencies.

Workload Indicator: Attend City's scheduled public meetings regarding this scope.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: The Construction Board of Appeals shall be managed by a City Subcontractor. Contractor is responsible for City Subcontractor oversight for this scope of work.

2.1.2 Workshops/Civic Events

Scope: At the direction of the City Manager, Community Development staff will attend or assist in workshops, forums and public symposiums, leadership classes and/or attend civic functions and events to discuss the processes, results and discipline of Community Development.

Workload Indicator: Contractor will provide a minimum of two (2) Community Development personnel and one (1) code enforcement officer per event as appropriate.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: City Subcontractor may participate as necessary. Contractor remains responsible for attending and assisting in workshops and civic events as well.

2.1.3 Municipal Court Proceedings

Scope: Present evidence to City Solicitor for municipal court hearings involving cases where violations to the International Property Maintenance Code, Development Regulations, Code of Ordinances and Zoning Ordinance have been documented by staff.

Coordinate with the City Solicitor to bring code violation cases into compliance through voluntary compliance and/or court imposed sanctions.

Workload Indicator: Attend two (2) Municipal Court Sessions and two (2) case preparation meetings per month.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: Provide testimony as necessary.

2.1.4 Legal/Expert Testimony

Scope: Support City Attorney's Office in cases resulting in litigation, to include:

Document preparation, consultation time with city attorney's office, deposition time and review of depositions given by Contractor or other expert witnesses;

Court appearances and expert witness testimony given.

Workload Indicator: Support City Attorney in all legal cases involving projects/determinations/permits reviewed by Community Development Department staff for a period of eighty (80) hours annually.

Key Performance Indicator: None.

Exclusion: Legal determinations/expert testimony not involving Community Development Department staff.

City Subcontractor: City Subcontractor may provide testimony as appropriate. Contractor remains responsible for providing testimony as appropriate as well.

2.1.5 CDBG Applications

Scope: Work with City staff to identify opportunities and assist with submissions for Community Development Block Grant (CDBG) programs.

Assist and coordinate necessary grant applications and submissions as directed by the City Manager.

Provide requested technical information to the City Manager, or his designee, to meet submittal deadlines and other reporting requirements related to CDBG.

Workload Indicator: None.

Key Performance Indicator: None.

Exclusion: The City is responsible for ensuring fund oversight and compliance with local, state and federal grant requirements not being performed by Contractor.

City Subcontractor: None.

2.2 Planning and Zoning Services

The Planning and Zoning Division is responsible for long range planning through the management of the Comprehensive Plan, review of zoning applications and procedures, and

implementing policy by ensuring compliance with the Zoning Ordinance and Comprehensive Plan. The division is also responsible for the day-to-day current planning operations of the Community Development Department, including processing of zoning applications and documents, administrative permits, event permits, and fence and sign permits. City Subcontractor may participate in processing some permits/applications. Major tasks are outlined in the following paragraphs.

2.2.1 Coordination with Other Agencies

Scope: Coordinate with Counties, Department of Community Affairs (DCA), Atlanta Regional Commission (ARC), and other municipalities, state, federal or other agencies regarding current and future projects, project funding, and planning issues. Attend related meetings as necessary.

Workload Indicator: Process two (2) letters for comments per month from County Governments, municipal governments, Atlanta Regional Commission or other state agencies.

Key Performance Indicator: None.

Exclusion: Major update of Comprehensive Plan.

City Subcontractor: None.

2.2.2 Zoning Plan Review

Scope: Review plans and permit applications for compliance with Zoning Ordinance.

Prepare comments and redline plans for use by applicant.

Plan reviews to include Building Permits, Administrative Permits, Sign Permits, Fence/Wall Permits, Special Event Permits and Land Development Permits.

Attend necessary meetings as required to provide input relating to Planning and Zoning impacts of existing or proposed developments.

Review and administer addressing requirements for permit plans reviewed.

Workload Indicator: Contractor will review up to nine hundred (900) permit plans per year.

Key Performance Indicator: Complete review of new residential building permits (includes additions, basements, etc.) within ten (10) business days.

Complete review of new residential building permits, including swimming pools within thirty (30) business days.

Complete review of new commercial construction building permits within thirty (30) business days.

Exclusion: Trade Permits, Water Heaters, HVAC, Roofing and Re-siding.

City Subcontractor: Building Plan Review is performed by a City Subcontractor. City Subcontractor is responsible for the issuance of permits mentioned in the Key Performance Indicators. Contractor is responsible for oversight of City Subcontractor for this scope of work.

2.2.3 Rezoning – Preparation of Documents and Recommendations

Scope: The Department will accept and review applications, including Rezoning, Use Permits and concurrent variances for compliance with all requirements of the Zoning Ordinance.

Workload Indicator: Contractor will process up to twenty (20) rezoning and use permits per year (to include cases deferred by and heard at another scheduled meeting of the Planning Commission or City Council).

Key Performance Indicator: Complete Rezoning Reviews according to Zoning schedule.

Exclusion: None.

City Subcontractor: None.

2.2.4 Variances

Scope: Accept applications and provide reviews for the following variance types: Major Variances, Minor Variances, Administrative Variances and Minor Administrative Variances, to be completed in accordance with the applicable Zoning Schedule.

Workload Indicator: Contractor will process up to 15 variance applications per year (to include cases deferred by and heard at another scheduled meeting of the Board of Appeals).

Key Performance Indicator: Complete all variance applications within Zoning Schedule.

Exclusion: None.

City Subcontractor: None.

2.2.5 Zoning Certifications

Scope: Provide zoning certifications for properties located within the jurisdictional boundary of the City by the end of the seventh (7th) business day of receipt of written request.

Workload Indicator: Contractor will perform up to fifteen (15) zoning certifications per year.

Key Performance Indicator: Issue Zoning Certifications within seven (7) business days.

Exclusion: None.

City Subcontractor: None.

2.2.6 Review of Revenue Department Permits

Scope: Review of permits issued by Administrative Division, including Business Licenses and Liquor Licenses.

Workload Indicator: Contractor will review up to three hundred seventy-five (375) Revenue Department permits per year.

Key Performance Indicator: Complete the review of the Licenses within 7 calendar days.

Exclusion: None.

City Subcontractor: None.

2.2.7 Capital Improvement Plan Update

Scope: Prepare annual Capital Improvement Element (CIE) update and submit to Atlanta Regional Commission (ARC) as approved by the City.

Workload Indicator: Completion of annual Capital Improvement Element (CIE) update.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: None.

2.2.8 Amendments to Zoning Ordinance – Preparation Time

Scope: Process all amendments to the Zoning Ordinance.

Workload Indicator: Contractor will process up to four (4) amendments to the Zoning Ordinance per year.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: None.

2.3 Land Development Services

The Land Development Division is responsible for the review of permit applications, and administration of the Land Development and site inspections program for the City. The Division also provides oversight and enforcement of the Development Regulations, as well as the Natural Resources portion of the City Code of Ordinances, including the Tree Preservation Ordinance, Soil Erosion and Sedimentation Ordinance, Floodplain Management/Flood Damage Prevention Ordinance, Stream Buffer Protection Ordinance, Post Development Stormwater Ordinance, and Illicit Discharge Detection and Elimination ordinance on all permitted sites.

2.3.1 Plan Review

Scope: Review plans, plats and permit applications for compliance with the Development Regulations and other adopted codes and ordinances within eight (8) calendar days of submittal (or per submittal for multiple versions of the same plan). City acknowledges that River Corridor properties, regionally significant, unusual or large developments may require more than eight (8) calendar days for processing. Plan reviews to include, land development applications, final plats, stormwater as-built drawings, site review for associated building permits, demolition permits, retaining wall permits, and swimming pool permits.

Workload Indicator: Contractor will review up to one thousand eight hundred (1,800) development plans, final plats, stormwater as-builts, and site review for associated building permits, demolition permits, and swimming pool permits per year.

Key Performance Indicators: None.

Exclusion: None.

City Subcontractor: Building Plan Review services and permit intake are performed by a City Subcontractor. Building Plan Review services consist of the following types of reviews:

- Single-family residence construction
- Basement finish projects
- New commercial buildings
- Tenant improvements in existing commercial buildings
- Decks
- Porches
- Carports
- Garages
- Pole barns and agriculture buildings
- Existing home upgrades and remodels
- Swimming pools

The City Subcontractor shall only perform intake services for the following types of permits:

- Walls & Fences
- Signs
- Land Disturbance

Contractor is responsible for oversight of City Subcontractor for this scope of work.

2.3.2 Inspections

Scope: Conduct land development related inspections for compliance with natural resource and environmental protection ordinances and development regulations throughout project development.

Conduct site final inspections for associated building permits, demolition permits, retaining wall permits, and swimming pool permits.

Workload Indicator: Contractor will perform up to four thousand (4,000) land development inspections per year.

Key Performance Indicators: None.

Exclusions: None.

City Subcontractor: Building Inspection services shall be performed by a City Subcontractor. Building Inspection Services consist of the following types of inspections including but not limited to:

- Setbacks
- Footings
- Wall steel (rebar)
- Underground plumbing
- Underground electric
- Rough electric
- Rough plumbing
- Rough heating (flues and vents)
- Rough framing
- Insulation
- Nail pattern
- Exterior moisture barrier
- Final electric
- Final plumbing
- Final heating
- Final building

Contractor is responsible for oversight of City Subcontractor for this scope of work.

2.3.3 Application Intake

Scope: All building, wall and fence, and sign permits, including land disturbance applications will be processed and entered by the next business day by City Subcontractor.

2.3.4 Certificate of Occupancy/Completion Requests

Scope: Perform any inspections required to approve or assist in the approval of Certificates of Occupancy (CO), Temporary Certificates of Occupancy (TCO) and Certificates of Completion.

Workload Indicator: None.

Key Performance Indicators: None.

Exclusion: None.

City Subcontractor: Certificates of Occupancy and Completion for building construction are processed and issued by a City Subcontractor. Contractor is responsible for oversight of City Subcontractor for this scope of work.

2.3.5 Development Sureties

Scope: Collect, review, and track development maintenance and performance sureties for developments as prescribed in the Development Regulations. Tracking of sureties consists of inspecting developments, mailing notification letters to property owners, coordinating with banks and insurance companies, and coordinating with City Accounting Division.

Workload Indicator: Contractor will collect and track required sureties for twelve (12) projects per year.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: None.

2.3.6 Stormwater Facilities Maintenance Agreements

Scope: Collect, review and retain recorded Stormwater Facilities Maintenance Agreements for developments as prescribed in the Development Regulations.

Workload Indicator: Contractor will collect, review, and retain maintenance agreements for eight (8) projects per year.

Key Performance Indicator: None.

Exclusion: None.

2.3.7 Storm Drain Markers

Scope: Coordinate installation of storm drain markers on the City's storm drains. Markers shall indicate that the drain flows to the river.

Workload Indicator: Install up to one hundred (100) markers annually through the efforts of citizen volunteers.

Key Performance Indicator: Results will be included in NPDES report.

Exclusion: None.

City Subcontractor: None.

2.4 Code Enforcement Services

The Code Enforcement Division administers and enforces aspects of the International Property Maintenance Code (IPMC), Building Code, Waste Ordinance, Adult Entertainment Ordinance, Business Licenses, General Nuisances and Zoning Ordinance as detailed within this section. Staff responds to and investigates complaints regarding violations of City ordinances; issues Notices of Violation stipulating necessary changes for ordinance compliance; takes appropriate action to ensure compliance, including up to the issuance of municipal court citations.

2.4.1 Investigation of Code Violations

Scope: Track citizen generated and staff generated cases involving potential violations of International Property Maintenance Code (IPMC), Building Code, Solid Waste Ordinance and Zoning Ordinance.

Ascertain and gather facts related to applicable ordinances and determine and institute proper action to be taken to ensure compliance.

Coordinate actions with other departments, jurisdictions and regulatory agencies.

Workload Indicator: Contractor will investigate up to one thousand (1,000) code enforcement violations per year.

Key Performance Indicator: Response time for initial inspection of code violation-within two (2) business days.

Exclusion: None.

City Subcontractor: None.

2.4.2 Sweeps

Scope: Conduct sweeps of commercial or residential areas within the City to effectuate compliance with the International Property Maintenance Code (IPMC), Building Code, Solid Waste Ordinance, Zoning Ordinance, and City Code.

Conduct five (5) sweeps per calendar year, with comprehensive reports and re-inspections to monitor compliance and repair schedules reported quarterly to City Manager. Re-inspections may be included in the five (5) sweeps depending on severity of conditions observed during initial inspection.

Workload Indicator: Contractor will conduct up to five (5) sweeps per year.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: None.

2.4.3 Emergency Inspections

Scope: Emergency inspections that occur after hours, on weekends or during holidays. These inspections include emergency assessment of damaged structures (due to fire or natural disaster) and potential environmental emergencies such as soil erosion and sedimentation control, stream buffer violations and illicit discharge reports.

Workload Indicator: Contractor will provide twelve (12) emergency inspections per year.

Key Performance Indicator: None.

Exclusion: None.

City Subcontractor: Emergency Inspections related to building damage or construction are performed by a City Subcontractor. Emergency inspections for environmental emergencies such as soil erosion and sedimentation control, stream buffer violations and illicit discharge reports are performed by Contractor.

2.4.4 Weekend/Off-Peak Inspection Coverage

Scope: At the direction of the City Manager, provide code enforcement and land development inspections during times of increased activity, after regular working hours, during summer hours or on the weekend in order to provide coverage for citizen complaints and/or time sensitive inspections.

Workload Indicator: Contractor will provide up to eight (8) hours of coverage for weekend/off-peak inspections per week.

Key Performance Indicator: Provide weekend/off-peak coverage during designated days/times.

Exclusion: None.

City Subcontractor: Weekend/Off Peak Building and Construction Inspections are performed by a City Subcontractor. City Subcontractor is responsible for the issuance of permits mentioned in the Key Performance Indicators. Contractor will perform code enforcement and land development inspection services.

2.5 Optional Community Development Services

The following services may be provided by the Contractor upon direction of the City Manager up to the funding limits established in the Agreement. Items not included in this section that require additional labor to be provided by Contractor, or which cause the Contractor to incur additional ODC's may be added to the Agreement pursuant to the provisions set forth in Section 9.8 of the Agreement.

2.5.1 Special Projects

Scope: It is anticipated that during the term of the Agreement that the City will require the services of the Department to perform special projects related to Planning and Zoning. On a case by case basis, Department will access special projects and to the greatest extent possible absorb the additional demand for service utilizing Contractor Employees.

Workload Indicator: Contractor will perform special projects related to Planning and Zoning per agreement.

Key Performance Indicator: Complete projects according to agreed upon schedule.

Exclusion: None.

City Subcontractor: None.

2.5.2 Design Services

Scope: It is anticipated that during the term of the Agreement that the City will require design services of Professional Engineers, Registered Landscape Architects and Registered Architects within the Department. On a case by case basis, Department will assess design service requests and to the greatest extent possible absorb the additional demand for service utilizing Contractor Employees. Should time allocations be exceeded as a result of the additional demand for design services, Contractor will propose staff augmentation pursuant to Section 9.8 (Scope Addition) of the Agreement.

Workload Indicator: Contractor will provide design services of Professional Engineers, Registered Landscape Architects and Registered Architects within the Department per Additional Services Agreement.

Key Performance Indicator: Produce design specifications according to agreed-upon project and schedule.

Exclusion: None.

City Subcontractor: None.

3.0 Public Works Services

Contractor will provide Public Works services, including:

- Transportation Planning Services,

- Traffic Engineering Services,
- Field Services,
- Solid Waste Coordination,
- Stormwater Services, and
- Limited Construction Management/Project Management Services of Capital Improvements or repairs as described on the following pages.

Capital improvements or repairs are defined as: items that have been identified in the City's Capital Improvement Plan that cost more than One Hundred Thousand Dollars (\$100,000).

3.1 After Hours Response

Scope: Provide after hours oversight of City Subcontractors or other emergency crews. Response shall include, but not be limited to, traffic signal outages or malfunctions, snow or ice events, trees or dead animals blocking travel lanes, road repairs creating a traffic hazard, and natural disasters. Contractor shall invoice the City monthly utilizing the established billing rates.

Workload Indicator: None.

Key Performance Indicator: None.

Exclusion: Contractor is not obligated for payment of City Subcontractor invoices.

City Subcontractor: None.

3.2 Public Works Services

Public Works Services include the tasks described in the following Sections and the required staffing to complete these tasks.

3.2.1 Transportation Planning Services

The Transportation Planning Division staff manages the design of the City's capital transportation projects and coordinates with federal, state, and other city and county agencies regarding capital transportation projects. The division is also responsible for providing technical reviews for transportation and traffic aspects of development plans submitted to the City. Major tasks are outlined in the following paragraphs.

3.2.1.1 Coordination with Other Agencies

Scope: Coordinate with Fulton County, Georgia Department of Transportation (GDOT), Atlanta Regional Commission (ARC), other municipalities, state, federal and other agencies regarding future and existing capital projects, project funding, and transportation planning issues.

Attend related meetings as necessary.

Workload Indicator: Attend up to twenty (20) meetings annually.

Key Performance Indicator: Attend required meetings.

Exclusion: None.

City Subcontractor: None.

3.2.1.2 Public Information Meetings

Scope: Conduct public information meetings for each transportation project in the Capital Improvement Program for Transportation (CIP-T) program.

Workload Indicator: Coordinate and staff ten (10) transportation-related project meetings (for example, intersection improvements, sidewalk construction, etc.) annually.

Key Performance Indicator: Report to City regarding the meetings attended.

Exclusion: Contractor will not be required to fund any project improvements.

City Subcontractor: None.

3.2.1.3 Plan Review for Development Plans and Zoning Plans

Scope: Review plans for compliance with local regulations as well as state-of-the-practice engineering standards related to transportation and traffic standards.

Provide comments on proposed developments including drainage, transportation, and traffic including access points, required right-of-way, and sight distance. Plan review will be coordinated with the Community Development Department.

Attend necessary meetings as required to provide input relating to Public Works impacts of existing or proposed developments.

Workload Indicator: Contractor will review up to one hundred twenty (120) building and development plans per year.

Key Performance Indicator: Complete Public Works Development Plan review within ten (10) business days.

Exclusion: City acknowledges that unusual, regionally significant or large developments may require more than ten (10) business days for processing.

City Subcontractor: None.

3.2.1.4 Update to Comprehensive Plan (Capital Improvement Element)

Scope: Provide an update to the Capital Improvement Element (CIE) of the Comprehensive Plan annually to meet the Department of Community Affairs (DCA) requirements.

Workload Indicator: Provide one (1) annual CIE update.

Key Performance Indicator: Provide as part of Comprehensive Plan update and provide update to City Manager and the Mayor and City Council.

Exclusion: Management and preparation of a new Comprehensive Plan.

City Subcontractor: None.

3.2.1.5 Management of the Design for Capital Improvement Projects

Scope: Provide recommendations to City Manager and the Mayor and City Council regarding proposed capital improvement projects.

Monitor the status of existing capital improvement projects. Work with Fulton and Forsyth Counties, GDOT, ARC, other municipalities, state, and other agencies to seek funding and to coordinate scope and timing for these projects.

Prepare scopes for procurement documents, evaluate proposals, and make recommendations for award.

Manage concept and preliminary design contract, coordination, and related consultant meetings.

Workload Indicator: Supervise completion of concept design for ten (10) projects, preliminary design for five (5) projects, and final design for five (5) projects as listed in the CIP projects for Public Works and executed in City contracts.

Key Performance Indicator: Report to City Manager and the Mayor and City Council.

Exclusion: Actual design of CIP Projects or Engineering inspection of capital projects is not included in this scope.

City Subcontractor: None.

3.2.1.6 Minor Right-of-Way Acquisition

Scope: Perform negotiations with citizens, within the established guidelines for the City, for the acquisition of temporary easements, permanent easements, right-of-way and property for minor capital improvement projects. For the purpose of this section a minor capital improvement project is defined as a project requiring the acquisition of no more than ten (10) properties.

Workload Indicator: Make recommendations to the City Manager on all potential acquisitions.

Key Performance Indicator: Report to City Manager, City Attorney and the Mayor and City Council.

Exclusion: Acquisition of properties for larger scale capital projects in excess of ten (10) parcels will require the impact to be calculated.

City Subcontractor: None.

3.2.2 Traffic Services

The Traffic Services Division manages and maintains traffic signals and traffic signs within the City. The division is also responsible for emergency response regarding traffic control devices and for managing work requests related to traffic services.

3.2.2.1 Citizen Response

Scope: Enter and track citizen requests, received through CH2M HILL Call Center, in an electronic asset management/work order system provided by the Contractor. This system will incorporate problem codes for various public works functions based on the urgency of the request.

Contact the caller who initiated the request to provide progress updates and to verify that services were performed in an acceptable and timely manner.

Assign a priority code to each work order based on the urgency of the request.

Workload Indicator: Projected requests at five hundred twenty-four (524) annually.

Key Performance Indicator: Work Order Priority:

- Priority 1: Urgent: complete within twenty-four (24) hours one hundred (100) percent of the time
- Priority 2: Important: complete within seventy-two (72) hours ninety-five (95) percent of the time
- Priority 3: Standard: complete within seven (7) to ten (10) business days ninety-five (95) percent of the time
- Priority 4: Scheduled Maintenance: complete within scheduled maintenance period
- Priority 5: Pending Budget
- Priority 6: After Hours Call In
- Priority 7: Fill In Work
- Priority 10: Extensive thirty (30) Days

Exclusion: Capital projects are not included. These responses are for maintenance requests only.

City Subcontractor: Subcontractors employed directly by the City are responsible for meeting the performance criteria identified in the Key Performance Indicator for their respective scope of work.

3.2.2.2 Traffic Signal Operation and Maintenance

Scope: Provide operational oversight of maintenance of the City's traffic signals, flashing school beacons, and intersection beacons, as noted on Appendix A.

Maintenance supervision will include traffic signal operation; traffic signal timing; replacement of bulbs, loops, controllers, signal heads, audible signals, crosswalk signals, and battery backups which require replacement due to routine wear and tear.

Workload Indicator: The current system includes fifty-eight (58) traffic signals, twenty-four (24) school flashing beacons, and two (2) intersection beacons. Replace up to two hundred (200) signal bulbs, thirty (30) loops, five (5) controllers and five (5) repairs on video detection equipment.

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders ninety-five (95) percent of the time.

Exclusion: Cabinets replacements, fiber optic repairs, and camera repairs are not included and can be provided. Damage due to significant weather events or vehicle accidents is excluded.

City Subcontractor: Traffic Signals are currently maintained, repaired, and replaced by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.2.3 Traffic Signs

Scope: Provide operational oversight of the repair or replacement of new and/or damaged signs in accordance with the work order priority system established in Section 3.2.2.1.

Provide operational oversight of the Trimming/removal of brush in public right-of-way in order to provide clear visibility for traffic signs and for sight triangles at intersections.

Workload Indicator: Repair or replace up to five hundred (500) signs and one hundred fifty (150) posts per year.

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders ninety-five (95) percent of the time.

Exclusion: Sign replacement on any state routes or private streets.

City Subcontractor: Traffic Signs are currently maintained, repaired, and replaced by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.2.4 Pavement Markings

Scope: Provide operational oversight of the installation of pavement markings based on a priority basis as needed.

Workload Indicator:

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders.

Exclusion: State routes and private streets.

City Subcontractor: Pavement Markings are currently installed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.2.5 Minor Traffic Studies

Scope: Conduct minor traffic studies including traffic calming requests and intersection sight distance studies.

Conduct traffic signal warrant studies as specified.

Workload Indicator: Evaluate up to ten (10) neighborhood traffic requests annually for traffic calming requests and intersection sight distance studies, conduct up to three (3) traffic signal warrant studies annually for requested or recommended traffic signal installations, and conduct traffic signal timing studies for up to ten (10) intersections.

Key Performance Indicator: Periodic reports to be submitted to City Manager.

Exclusion: Requests exceeding a total of twenty-three (23) traffic studies as described above will require the impact to be calculated.

City Subcontractor: None.

3.2.2.6 Special Event Permit Requests

Scope: Review Special Event Permit requests in coordination with the Community Development Department and other departments as applicable. Special events include festivals, races, neighborhood parties, parades, etc.

Review requests for lane closures, street closures, and associated traffic requirements and determine requirements for traffic control and other coordination to maintain orderly traffic flow during events.

Workload Indicator: Review permit requests for up to ten (10) events per year.

Key Performance Indicator: Process up to ten (10) requests annually.

Exclusion: None.

City Subcontractor: None.

3.2.2.7 Support for Special Events

Scope: Provide operational oversight of the set up of traffic control devices and provide post-event cleanup services for events as defined at the annual retreat or otherwise defined by the Mayor and City Council.

Workload Indicator: None.

Key Performance Indicator: Report to City Manager and the Mayor and City Council.

Exclusion: Contractor's involvement is limited to operational oversight of the setup of provided traffic control devices and for after event cleanup. Any financial impacts incurred as a result of the event (for example, disposal fees) is the responsibility of the City.

City Subcontractor: None.

3.2.2.8 Street Light Requests

Scope: Review and process applications for new street lights.

Recommend new street light installations and type of street light based on citizen requests, developer requests, and safety issues.

Submit request to City Manager for approval. Notify utility contractor regarding street light issues.

Facilitate citizen requests for street light issues.

Workload Indicator: Process up to twenty-five (25) requests annually.

Key Performance Indicator: Report to be submitted to City Manager.

Exclusion: The Contractor is not responsible for payment for utilities of street lights. Street lights are maintained by the applicable public utility. Maintenance and scheduling are controlled by the public utility and not by the Contractor.

City Subcontractor: None.

3.2.3 Field Services (Street and Right-of-Way Maintenance)

The Field Services Division staff develops and implements the City's pavement management program which includes roadway resurfacing and reconstruction. The Division is also responsible for oversight of roadway maintenance, mowing and trimming within the right-of-way, utility coordination and permitting, recommendations for bridge maintenance, and emergency response related to Field Services. The City is to provide sufficient area for the storage of materials and equipment necessary to provide the services defined in this scope.

3.2.3.1 Citizen Response

Scope: For citizen contacts received through the CH2M HILL Call Center, enter and track citizen requests in an electronic asset management/work order system provided by the Contractor. This system will incorporate problem codes for various public works functions based on the urgency of the request.

Contact the caller who initiated the request to provide progress updates and to verify that services were performed in an acceptable and timely manner.

Assign a priority code to each work order based on the urgency of the request.

Workload Indicator: Projected requests at eight hundred fifty (850) annually.

Key Performance Indicator: Work Order Priority:

- Priority 1: Urgent: complete within twenty-four (24) hours one hundred (100) percent of the time
- Priority 2: Important: complete within seventy-two (72) hours ninety-five (95) percent of the time
- Priority 3: Standard: complete within seven (7) to ten (10) business days ninety-five (95) percent of the time
- Priority 4: Scheduled Maintenance: complete within scheduled maintenance period
- Priority 5: Pending Budget
- Priority 6: After Hours Call In

- Priority 7: Fill In Work
- Priority 10: Extensive thirty (30) Days

Exclusion: Capital projects are not included. These responses are for maintenance requests only.

City Subcontractor: City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator for their respective scope of work.

3.2.3.2 Pothole Repair

Scope: Assign work orders to complete repairs efficiently according to the priority ranking assigned.

Address pothole repair proactively. Potholes are defined as an area less than or equal to twenty-five (25) square feet.

Survey roadways by area to determine minor roadway repairs needed.

Workload Indicator: Repair up to two hundred (200) potholes per year.

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders.

Exclusion: Cost of materials for Pothole Repair is the responsibility of the City.

City Subcontractor: Pothole Repair is currently performed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.3.3 Resurfacing and Reconstruction Program

Scope: Make recommendations for resurfacing and reconstruction in accordance with available funding in the City's capital improvement budget and with the Pavement Management System.

Assist City staff in preparing bids and contracts for resurfacing and reconstruction projects included in the City's annual budget.

Prepare scopes for procurement documents, evaluate proposals, and make recommendations for award.

Workload Indicator: Prepare scopes for procurement documents, evaluate proposals, and make recommendations for award for projects as listed in the CIP projects for Public Works and executed in City contracts in the estimated amount of three million dollars (\$3 million).

Key Performance Indicator: Provide report to City Manager and the Mayor and City Council.

Exclusion: Material testing and inspection services are not included in the scope of this contract.

City Subcontractor: None.

3.2.3.4 Bridge Maintenance Management

Scope: Make recommendations for capital projects for repair or replacement as provided in the bi-annual GDOT inspection report or in other reports and studies performed on behalf of the City.

Coordinate with state agencies to maximize cost sharing opportunities for bridge maintenance and repairs.

Provide oversight of minor repairs including only minor guardrail repair and minor bridge deck repairs (minor is defined as routine, non-structural, cosmetic repairs) as necessary.

Workload Indicator: Prepare scopes for procurement documents, evaluate proposals, and make recommendations for award for projects as listed in the CIP projects for Public Works and executed in City contracts in the estimated amount of two hundred thousand dollars (\$200,000).

Key Performance Indicator: Provide report to City Manager and the Mayor and City Council.

Exclusion: Costs for repair or replacement are not included. Material testing and inspection services are not included in the scope of this contract.

City Subcontractor: None.

3.2.3.5 Mowing

Scope: Provide oversight of Mowing of right of way

Provide oversight of trash pick-up along the designated routes before mowing.

Workload Indicator: 600 number of R-O-W miles mowed

Key Performance Indicator: None.

Exclusion: Private streets are not included.

City Subcontractor: Mowing is currently performed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.3.6 Other Right-of-Way Maintenance

Scope: Provide oversight of vegetation trimming within the right-of-way of City streets as needed to provide adequate sight distance (vegetation trimming includes trimming as necessary to provide a clear view of traffic control devices within the City, including removal up to four [4]-inch diameter trees and vegetation less than twenty [20] feet above ground).

Provide oversight of litter pick up, graffiti removal, pickup and disposal of illegally dumped material and dead animals.

Workload Indicator:

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders.

Exclusion: There will be no collection or contact with any hazardous or potentially dangerous material.

City Subcontractor: Other Right of Way Maintenance is currently performed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.3.7 Utility and Right-of-Way Permits

Scope: Issue permits for street cuts, right-of-way use, street lights, and other utility work in accordance with City ordinances.

Create and track permit requests in an electronic database provided by the City.

Monitor field activity to confirm that traffic control, field work, and restoration are performed in accordance with City standards.

Coordinate with local utilities regarding the installation of new facilities and the maintenance of existing facilities within the right-of-way.

Work with developers and utility representatives as appropriate to determine the best solutions for issues within the right-of-way.

Workload Indicator: Process up to ten (10) permits per month.

Key Performance Indicator: Approve or deny permit within ten (10) business days of receipt by Public Works for initial review.

Exclusion: Repair and restoration work schedules are controlled by the utility companies and cannot be controlled by the Contractor.

City Subcontractor: None.

3.2.3.8 Concrete Maintenance

Scope: Provide oversight of concrete maintenance on the City's sidewalks, curbs and gutters to ensure they are properly maintained. These activities may include, but are not limited to: concrete finishing, trip hazard grinding, quick patching, handicap ramp repair, sidewalk repair, and other minor miscellaneous maintenance.

Assign work orders to complete repairs efficiently according to the priority ranking assigned.

Workload Indicator:

Key Performance Indicator: Complete maintenance or repairs within priority schedule for work orders ninety-five (95) percent of the time.

Exclusion:

City Subcontractor: Concrete Maintenance is currently performed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

3.2.4 Solid Waste Management Coordination

3.2.4.1 Waste Management Coordination

Scope: Update the Solid Waste Master Plan as required by the Georgia Department of Community Affairs

Perform oversight of the City's Solid Waste Program to include the following:

- Work with the solid waste hauler to maximize the efficiency of their routes
- Work with the hauler to improve customer relations
- Work with the Webmaster to create a solid waste site on the City website
- Develop educational or informational materials for the hauler to be distributed in the citizen's billings
- Meet with local schools and community groups to educate them on waste reduction programs
- Work closely with local businesses on waste reduction programs
- Collect data from the hauler identifying amount of waste and recycling, and subsequently monitor the amount of waste reduction

- Write grants for waste reduction programs
- Work with local churches, libraries, parks and schools to establish recycling drop off sites
- Institute waste reduction programs at City facilities
- Work with apartment complexes and shopping centers in implementing recycling programs
- Coordinates the activities of volunteer organizations such as Keep North Fulton Beautiful and the Johns Creek Beautification Committee
- Oversee the activities of Keep North Fulton Beautiful
- Coordinate the development and implementation of median and right-of-way beautification projects

Workload Indicator: None.

Key Performance Indicator: None.

Exclusion: Does not include the collection of solid waste or recycling, or the billing of these services.

City Subcontractor: None.

3.2.5 Stormwater Services

The Stormwater Services Division administers the City's National Pollutant Discharge Elimination System (NPDES) permit program and supervises activities related to this permit. The Stormwater Services Division is also responsible for reviewing and evaluating drainage requests, making recommendations for projects, managing stormwater maintenance activities and overseeing stormwater capital improvement projects.

3.2.5.1 Recommendations for Stormwater Requirements

Scope: Recommend methods to implement the City's stormwater requirements under applicable federal, state, and local laws including, but not limited to, federal clean water requirements.

Prepare annual reports to be submitted to the Georgia Department of Environmental Protection Division

Workload Indicator: Provide recommendations for the annual MS4 NPDES report and complete recommendation prior to submitting the MS4 NPDES report.

Key Performance Indicator: Provide up to twelve (12) updates of annual report status to the City Manager.

Exclusion: None.

City Subcontractor: None.

3.2.5.2 Consultant Contracts

Scope: Manage contracts for stormwater inventory, floodplain mapping, watershed improvement plan and water quality monitoring.

Manage consultants, set requirements for data collection, and review submitted products for quality and accuracy.

Workload Indicator: Manage existing contracts.

Key Performance Indicator: Provide up to twelve (12) updates of annual report status to the City Manager.

Exclusion: Requests to manage additional consultant contracts will require the impact to be calculated.

City Subcontractor: None.

3.2.5.3 Meetings Regarding Stormwater Activities

Scope: Coordinate with Fulton County and adjacent municipalities regarding water quality monitoring, implementation of the Metropolitan North Georgia Water Planning District's Water Supply and Water Conservation Management program, and implementation of the Total Maximum Daily Load Plan strategies

Workload Indicator: Attend coordination meetings as required.

Key Performance Indicator: Results will be reported in NPDES report as required.

Exclusion: None.

City Subcontractor: None.

3.2.5.4 Stormwater Ponds Inspection

Scope: Visually inspect stormwater management ponds in accordance with NPDES permit requirements.

Workload Indicator: Visually inspect up to ten (10) percent of the inventory of stormwater management ponds. In 2011, visually inspect up to fifteen (15) percent of the inventory of stormwater management ponds. In 2012, visually inspect up to twenty (20) percent of the inventory of stormwater management ponds.

Key Performance Indicator: Results will be reported to City Manager and included in NPDES report.

Exclusion: Stormwater Pond Maintenance.

City Subcontractor: None.

3.2.5.5 Dry Weather Screening

Scope: Perform dry weather screenings in accordance with NPDES permit requirements.

Workload Indicator: Perform dry weather screenings at ten (10) percent of the outfalls. In 2011, perform dry weather screenings at fifteen (15) percent of the outfalls. In 2012 and thereafter, perform dry weather screenings at twenty (20) percent of the outfalls.

Key Performance Indicator: Results will be reported to City Manager and included in NPDES report.

Exclusion: None.

City Subcontractor: None.

3.2.5.6 Minor Stormwater Maintenance

Scope: Provide oversight to minor maintenance activities including catch basin cleaning, grouting, minor pipe repair or replacement, headwall or manhole repair, and removing debris to maintain proper operability.

Workload Indicator:

Key Performance Indicator: Results will be reported to City Manager and included in NPDES report.

Exclusion: This task may be superseded by other stormwater-related activities due to major storm events or other emergencies. No hydrologic design or the installation of pipe.

City Subcontractor: None.

3.2.5.7 Pollution Prevention Training

Scope: Conduct pollution prevention training in accordance with NPDES permit requirements.

Workload Indicator: Conduct one (1) training sessions per year. Training will be done on the City's behalf for field personnel including City employees, Contractor employees, and City contractors. Estimated number of attendees approximately twenty (20).

Key Performance Indicator: Results will be reported to City Manager and included in NPDES report.

Exclusion: None.

City Subcontractor: None.

3.2.5.8 Citizen Requests and Follow-up Actions

Scope: Respond to citizen requests regarding stormwater issues.

In accordance with the City's Stormwater Policy, research background information and prepare case studies for the City Attorney's review, prepare recommendations for capital projects, and assist with the preparation of procurement documents for projects approved by the City Manager.

Workload Indicator: Prepare information for up to ten (10) case studies per month.

Key Performance Indicator: Report to City Attorney.

Exclusion: This task may be superseded by other stormwater-related activities due to major storm events or other emergencies.

City Subcontractor: None.

3.2.6 Document Precedence for Public Works Services

The scope of services outlined shall be performed in accordance with manuals, standards and guidelines which shall have the following order of precedence:

1. City of Johns Creek Ordinances, Resolution, or Other Council-Adopted Items
2. Manual on Uniform Traffic Control Devices (MUTCD), Current Edition
3. Georgia Department of Transportation Specifications and Standards
4. American Association of State Highway and Transportation Officials (AASHTO), Federal Highway Administration, and Institute of Transportation Engineers Specifications, Procedures, and Guidelines as Applicable

4.0 Recreation and Parks Services

The Recreation and Parks Department manages park maintenance and park programs at Autry Mill, Newtown Park, Ocee Park, and Shakerag Park as described in the following Sections.

4.1 Recreation and Parks Services

4.1.2 Park Maintenance and Parks Management Coordination

Scope: Provide oversight of maintenance services including mowing, minor fence repair, minor playground equipment repair, mulching, trash pickup, cleaning restrooms and picnic shelters, ballpark lining, and minor irrigation repairs.

Provide oversight of minor turf repairs and infield maintenance; maintain outfield grass including aeration, fertilization, seeding, and top dressing as necessary.

Provide park management coordination of various City activities at the City's parks.

Workload Indicator: Maintain current facilities at Autry Mill Nature Preserve, Newtown Park, Ocee Park, and Shakerag Park.

Key Performance Indicator: Provide periodic reports to City Manager.

Exclusion: Costs associated with vandalism repair, building repairs, fence replacement, replacement of playground equipment, and replacement of irrigation systems. Power costs for park and ballpark lighting and water and sewer costs will be paid directly by the City.

City Subcontractor: Park Maintenance is currently performed by a subcontractor employed directly by the City. City Subcontractor is responsible for meeting the performance criteria identified in the Key Performance Indicator. Contractor is responsible for oversight of City Subcontractor for this scope of work.

5.0 Call Center

Scope: Hours of Operation: All incoming calls answered with a live voice on a twenty-four (24)-hour basis. The call center is staffed Monday through Friday from seven (7) AM to seven (7) PM and Saturday from eight (8) AM to five (5) PM. Outside regular business hours, calls are handled by a third-party answering service. Afterhours Work Order Priority 1 service requests are handled by "on call" call center personnel.

Call Center Functions: Call center staff answers frequently asked questions, and opens service requests as needed. In addition the call center also provides the following services:

- Receptionist Service – Transfer calls to requested city staff.
- Urgent Request Service – Provide dispatch for Work Order Priority 1 requests to Public Works and Code Enforcement.
- Inclement Weather Operations – Provide call center and dispatch services during inclement weather and other emergency situations.
- Protocols are in place and used for handling routine service requests as well as for Work Order Priority 1 service requests.

Work Order Management: gbaMS is used to document and track service requests. Protocols have been established to manage work flow between the call center and city staff. Escalation procedures are in place to ensure that service levels are met.

Reports: The call center provides monthly performance reports to the City. Reports contain information on total call volume, the percentage of call volume handled off site, historical call volume, hourly call volume and departmental call distributions. Reports also include an analysis of the data referenced in the report.

Quality Assurance Program: Provide a Quality Assurance program to monitor and score calls against established quality objectives. Performance evaluations, (Agent Scorecards) are used to train and coach Customer Service Representatives as well as to continuously improve service delivery.

Workload Indicator: Two thousand two hundred (2,200) calls per month.

Key Performance Indicator: Ninety-five (95) percent incoming calls handled within the Johns Creek Call Center during business hours, Quality Assurance Program, (including monthly citizen quality control surveys) and Monthly Summary Reports of call activity

Exclusion: The call center does not support emergency (911) services.

City Subcontractor: None.

5.1 Customer Service

Scope: Surveys: The call center conducts telephone surveys monthly as a percentage of total call volume to get feedback from citizens. The surveys are conducted and the results are used to provide continuous improvement to the City.

Customer Service Training: All city staff have completed the CREST Customer Service Training Program. The CREST customer service model demonstrates guidelines for providing excellent customer service in all interactions with citizens. Call center staff also attend semi-annual customer service and refresher training as component of Quality Assurance Program.

Workload Indicator: Monthly QA surveys from customers, semi-annual training for call center staff and QA Program for Customer Service Representatives.

Key Performance Indicator: Survey Results

Exclusion: None.

City Subcontractor: None.

APPENDIX A
Johns Creek Signalized Intersections

1. Abbotts Bridge Road @ Boles Road
2. Abbotts Bridge Road @ Sweet Creek Road
3. Abbotts Bridge Road @ Northview High School
4. Abbotts Bridge Road @ Parsons Road
5. Abbotts Bridge Road @ Addison Way
6. Abbotts Bridge Road @ Jones Bridge Road
7. Bell Road @ Rogers Circle
8. Haynes Bridge Road @ Alvin Road
9. Haynes Bridge Road @ Publix
10. Jones Bridge Road @ Promenade
11. Jones Bridge Road @ Waters Road
12. Jones Bridge Road @ Buice Road
13. Jones Bridge Road @ Taylor Road
14. Jones Bridge Road @ East Fox Court
15. Jones Bridge Road @ Sargent Road
16. Jones Bridge Road @ Douglas Road
17. Jones Bridge Road @ Barnwell Road
18. Kimball Bridge Road @ Ocee Elementary School
19. McGinnis Ferry Road @ Douglas Road
20. McGinnis Ferry Road @ Jones Bridge Road
21. McGinnis Ferry Road @ Seven Oaks
22. McGinnis Ferry Road @ Hospital Parkway
23. Medlock Bridge Road @ Hospital Parkway
24. Medlock Bridge Road @ Johns Creek Parkway
25. Medlock Bridge Road @ Bell Road
26. Medlock Bridge Road @ Abbotts Bridge Road
27. Medlock Bridge Road @ Skyway Drive
28. Medlock Bridge Road @ Parsons Road
29. Medlock Bridge Road @ Wilson Road
30. Medlock Bridge Road @ Medlock Bridge Parkway
31. Medlock Bridge Road @ St. Ives Country Club
32. Medlock Bridge Road @ State Bridge Road
33. Medlock Bridge Road @ Medlock Crossing Parkway
34. Medlock Bridge Road @ Old Alabama Road
35. Medlock Bridge Road @ Bobby Jones Drive
36. Old Alabama Road @ Buice Road
37. Old Alabama Road @ Country Club of the South/Hunts Pointe Drive
38. Old Alabama Road @ Autrey Mill Middle School/Cherbury Lane
39. Old Alabama Road @ Jones Bridge Road
40. Old Alabama Road @ Preston Oaks Drive/Breckenridge Close
41. Old Alabama Road @ Timberstone Road/Holy Redeemer
41. Old Alabama Road @ Brumbelow Road/Feather Sound Court
42. Old Alabama Road @ Newtown Park/Fire Station
43. Old Alabama Road @ Haynes Bridge Road/Rod Road
44. Old Alabama Road @ Kroger/Old Alabama Crossing Shopping Center
45. Old Alabama Road @ Nesbit Ferry Road/Mt. Pisgah School

46. Old Alabama Road @ Mt. Pisgah Church West
47. Sargent Road @ Findley Road
48. State Bridge Road @ St. Georgian Place
49. State Bridge Road @ Parkway Baptist Church
50. State Bridge Road @ Home Depot
51. State Bridge Road @ Medlock Crossing Parkway
52. State Bridge Road @ State Bridge Elementary School
53. State Bridge Road @ Twingate Drive
54. State Bridge Road @ Morton Road
55. State Bridge Road @ Abberley Township
56. State Bridge Road @ Jones Bridge Road
57. State Bridge Road @ Kroger/Saddle Brook Shopping Center
58. State Bridge Road @ Ocee Elementary School
59. State Bridge Road @ Kimball Bridge Road

Johns Creek School Zone Flashers

1. Abbotts Hill Elementary School
2. Barnwell Elementary School
3. Dolvin Elementary School
4. Findley Oaks Elementary School
5. Ocee Elementary School
6. Shakerag Elementary School/River Trail Middle School
7. State Bridge Crossing Elementary/Johns Creek High School
8. Wilson Creek Elementary School
9. Autry Mill Middle School
10. Northview High School
11. Woodward Academy

EXHIBIT B

INFORMATION TECHNOLOGY SERVICES Scope of Services and Terms Providing for Termination and Transition

1. SCOPE OF SERVICES – INFORMATION TECHNOLOGY

Organization. The Scope of Services is organized by major areas as follows:

Scope Format. This scope of services is presented in a standardized fashion, with a set of elements defining a particular area of scope, the associated anticipated work volume, objective measures of performance, specific items which are not included in the Scope of Services, and clarification whether the work performed under the scope is performed by Contractor or by a Subcontractor employed directly by the City.

Each area of Scope is presented as follows:

- Scope
- Workload Indicator
- Key Performance Indicator
- Exclusion
- City Subcontractor

Scope: A brief description of the services to be performed as part of the Agreement.

Workload Indicator: One or more metrics used to identify the normal, routine volume of work expected for the specific Scope item under the Agreement. This may not be applicable in all instances.

Key Performance Indicator: One or more metrics used to evaluate performance of the work against an objective measurement of volume, rate, or quality under the Agreement. This may not be applicable in all instances.

Exclusion: A brief description of work that may be implied in the Scope description, but which is specifically excluded as such.

City Subcontractor: Denotes scope that is performed by a subcontractor employed directly by the City. For such scope, Contractor agrees to provide oversight and management of subcontractor activities with the expectation the City's subcontractor will meet the performance criteria set forth in this scope, but Contractor shall not be liable for the quality, quantity, or performance of the City's subcontractor work.

Adjustments to Scope of Work. The City and the Contractor understand that weather and other conditions beyond the control of either party may and will justify changes in the basic scope of work specified herein. It is the responsibility of the Contractor to make the City aware of any adjustments that may be necessary and obtain the concurrence of the City in writing when such conditions arise. All adjustments made in the quantities of work provided will be documented in periodic progress meetings and included in a quarterly Performance Measurement report presented to the Mayor and City Council.

Assumptions. This Scope is also based on the City's current budget for services and projected workload indicators. For instance, should the City decide to increase the budget for construction projects, Contractor and City will need to discuss the need for additional personnel to provide services for those construction projects.

1.1 Information Technology

Scope: Network Infrastructure: Provide and support a flexible, adaptive core networking infrastructure to serve as the transport for the city's data and voice communications and additional resources provided to support change or additional facilities will result a revision of services and accompanying price. Facilities to be supported are:

- City Hall, located at 12000 Findley Road, Johns Creek, GA;
- Public Safety building, located at 11445 Johns Creek Parkway, Johns Creek, GA;
- Fire Station 61, located at 10205 Medlock Bridge Parkway, Johns Creek, GA;
- Fire Station 62, located at 10925 Rogers Circle, Johns Creek, GA; and
- Fire Station 63, located at 3165 Old Alabama Road, Johns Creek, GA.

Connectivity: Internet service to be provided at City Hall and the Public Safety building, including connectivity between City Hall and Public Safety building, as well as between the Public Safety building and Fire Stations 61, 62 and 63. High Speed connectivity will also be provided between City Hall/Public Safety and the Call Center/Datacenter. A digital phone circuit is to be provided and maintained for all the City's inbound and outbound calls, with twelve (12) analog lines in place for redundancy between the five (5) city locations.

Wireless: Provide secure wireless connectivity throughout City Hall and Council Chambers, as well as the Public Safety Building.

Phone System: The City will utilize a shared, redundant phone system with other municipal clients. Part of this shared system includes voicemail and a Call Center Management System, to include 170 handsets.

Desktops/Laptops: The following will be provided to support end users and their computing needs:

- Desktops and monitors– 66
- Standard Laptops – 78
- Rugged Laptops (Public Safety) – 51

Copiers/Printers: The following copiers and printers will be provided as part of the contract:

- High volume copiers – 7
- High volume multifunction devices – 4
- High volume color printers – 4
- Medium volume printers - 4
- Wide format scanner/plotter – 1
- Desk printers (30)

Hardware Refresh: If a computer is not purchased but is leased, it will be refreshed every four (4) years to ensure productivity and the use of current generation systems.

Software Licensing: All desktop/laptop software is licensed to CH2M HILL, and those software licenses are not transferrable to the city. All software not purchased by the Contractor on behalf of City shall be licensed appropriately under Contractor.

Email Services: Provide system and support for an email system to be used for internal and external correspondence. All emails sent and received will be retained per the city's *Open Records Policy*. Portions of this email service may reside on shared systems to reduce costs and provide redundancy. Contractor will provide two hundred and fifty (250) email mailboxes. Each mailbox shall not exceed eighty (80) gigabytes of online storage.

Data Servers: Provide hardware and support for the city's data servers associated with performing services under this scope. Contractor will provide ten (10) data servers for the City. Depending on the application requirements, some of these servers may securely reside on shared hardware to take advantage of economies of scale. Examples of this include SQL databases and web services. All servers are managed 24 hours a day and are proactively patched and maintained using system monitoring tools. Full backups are conducted nightly to ensure availability of core systems.

Mobile Devices: Provide twenty-four (24) blackberries and nine (9) cell phones for staff to use for mobile communications. Additionally, provide total of nine (9) blackberry devices to Mayor and City Council, City Manager and Executive Aide.

Applications to be Hosted: Public Works maintenance management, Finance, Document Management, GIS Services, City Website, Email Services, Court Systems, Police and Fire Records Management, File/Print, and Active Directory services.

End User Support: End user support will be provided by onsite technicians, with reach back support available for complex or enterprise issues. The level of local support provided will be sufficient to support one hundred (100) City Hall employees and one hundred fifty (150) Public Safety employees.

Local IT Management: An IT Manager will be provided to oversee the entire Information Technology operation. Responsibilities of this employee include IT project management, departmental budgeting, staff management, IT policy management and representing the city in regional Information Technology initiatives.

Network and System Security Audit: An internal and external intrusion audit will be conducted annually to validate network and system controls. A report will be provided to the city manager outlining the results of this test.

Key Performance Indicator: Server Availability: All systems will be available ninety-nine and nine-tenths percent (99.9%) of the time. A quarterly report will be provided outlining each system and the system's availability during that timeframe.

Bandwidth Utilization: Bandwidth utilization on all circuits not to exceed seventy (70) percent. A quarterly report will be provided outlining each data circuit for the city, and the performance of each circuit. This report is intended to provide guidance on the utilization of each circuit, and address bandwidth limitations as they arise.

End User Support: Response and resolution times to be met eighty (80) percent of the time are as follows:

Priority Level	Response Time	Resolution Time
Priority 1	15 Minutes	2 Hours
Priority 2	1 Hour	8 Hours

Workload Indicator:

Server Availability: Server Availability is based on connectivity provided by third-party providers. Any outages by third-party communications providers are not intended to count against the availability of servers and applications.

Bandwidth Utilization: Bandwidth Utilization based on current voice, application and data usage. An increased need for remote access from Public Safety and/or City Hall may constitute a need for additional bandwidth. The quarterly bandwidth utilization report is intended to provide the supporting documentation for additional bandwidth needs.

End User Support: KPI based on an average workload of ten (10) support tickets a day, two (2) of which are deemed Priority 1. IT projects that require extensive use of local staff time can impact the response and resolution times for local support.

Exclusion: *Supported Locations:* Telecommunications, staff and equipment levels contained in this scope of work are set to support the City Hall and Public Safety building, as well as between the Public Safety building and Fire Stations 61, 62 and 63. Additional facilities will require an increased level of resources and are not part of the project scope.

Additional Technologies: Additions to systems or technologies not included in this scope would require additional resources to implement and maintain.

Increase to Current System/Staffing Level: This project is staffed based on the computer and user level defined above. Additional systems or staff may result in a lower level of support, or require additional resources.

Technology Enhancements: Contractor will strive to enhance current systems within the budget provided. In the event an enhancement is requested that cannot be done within budget, the City will be notified.

City Contractor: None.

1.2 Geographic Information Systems (GIS)

Scope: GIS subcontractor will be responsible for updating and maintaining geospatial information for the City. GIS staff will maintain and support planning level data for the major departments within each respective project such as Planning & Zoning, Public Works, Parks & Recreation and Public Safety. Each GIS data layer represented in the City base map will be maintained using best practices and standard procedures. GIS Staff will coordinate the collection of other Agency available datasets on an annual basis for the benefit of the City.

Functions: GIS data development, GIS data maintenance, GIS application development, GIS analysis, mapping, geodatabase design, GIS database integration, GIS systems integration, web GIS development.

Base Map Information: The City base map information includes official city limits, parcels, streets, land use, zoning, aerial photography, lakes and streams, and public safety data (crime statistics).

Workload Indicator: Updating of Map Databases, Printing of Maps.

Key Performance Indicator: Requests for update of map databases and printing of maps will be acknowledged within one (1) business day.

Exclusion: GIS and supporting database work for functions other than daily operation of the Public Works, Community Development, Administrative Services and Public Safety Departments is not included.

Any data associated with asset condition assessment.

City Contractor: None.

1.3 Databases – Municipal Software Management

Scope: *Application Systems Management*

Operate software applications programmed to manage City operations in support of the following business functions:

- Financial Management
- Field and Transportation Services
- Building and Development / Planning and Zoning Services
- Records Retention Management
- City Website
- Asset Management

Application Systems Installation: Conduct the installation of software applications programmed to manage City operations by providing the following services:

- Software Evaluation – Identify and select software packages to support designated City operations.
- Procurement – Purchase selected software including appropriate number of user licenses and annual vendor software maintenance services.
- Installation – Install software package on designated servers.
- Configuration – Program software per vendor instructions/recommendation.
- Distribution – Distribute software applications to designated staff.

Application Systems Maintenance: Maintain software applications programmed to manage City operations by providing the following services:

- Patches – Install software patches.
- Security Reviews – conduct regular reviews of end user software access levels and make adjustment per business need.
- Configuration Changes – Adjust application software settings per vendor specifications for optimal usage.
- Notifications – Notify all designated staff of planned/unplanned software system outages.

Application Systems Support: Provide end-user of support of software applications programmed to manage City operations including the following services:

- User Setup – Add, modify, and delete user profiles.

- Training – Coordinate and/or conduct end-user training of application systems.
- Issue Management – Address and resolve issues reported by end-users.
- Vendor Management – Serve as primary contact to vendor.
- New Feature Implementation – Coordinate implementation of new software features based on business need.

Workload Indicator: Software upgrades and end-user security reviews and application software notifications.

Key Performance Indicator: Software upgrades are limited to application of software patches and will take place within six (6) months of notification from vendor of availability.

Conduct review of user access level on a quarterly basis.

Notifications of planned outages distributed at least seventy-two (72) hours prior to outage activity.

Exclusion: Upgrades will not take place in cases where other known bugs exist in software or where a new version will adversely impact current operations or City request. Only applies to major software patches, interim releases will be installed on an as-needed basis. Notifications do not apply to unplanned outages.

City Contractor: None.

2. TERMS PROVIDING FOR TERMINATION AND TRANSITION

2.1 Term and Termination - Since IT Services are being provided to effect the orderly transition of information technology services to the City, Contractor shall provide IT Services to the City until and through November 30, 2010; provided however, Contractor agrees to continue to provide telecommunications circuits as well as certain software requested by the City, which shall be billed in accordance with **Exhibit C**, Section A. 1, until City provides thirty (30) calendar days written notice to Contractor for termination of same, which may be terminated at different times.

2.2 Transition - Contractor agrees to render such aid, coordination and cooperation as might be required for an expeditious and efficient termination, transition and transfer of service. In order to provide the transition of IT Services, Contractor has agreed to sell certain IT equipment to the City. Additionally, Contractor agrees to provide assistance in transferring or assigning certain maintenance agreements to the City. It is anticipated that, at most, only minor efforts would need to be provided by Contractor following the termination of IT Services and City's assumption of same, which Contractor agrees to provide in consideration of the Agreement.

EXHIBIT C

Schedule of Fees

Contractor shall be compensated for actual services delivered/performed according to the following:

A. Actual Fees Incurred For Delivery/Performance of Services

1. **General Provisions.** Compensation is to be on a Time and Materials basis, with billing based on the following categories of services:

- a. **Labor:** Labor is defined as work/labor hours actually performed by Contractor Employees to deliver the services provided for in the Agreement, which shall be billed as set forth below.
- b. **Subcontracted Services:** Subcontracted Services are those services delivered by a subcontractor directly or indirectly employed by CH2M HILL. Such Services shall be billed as set forth below.
- c. **Other Direct Costs (ODC's):** Other Direct Costs consist of goods or services which do not fall into one of the other categories above. Examples of such costs would include, but are not limited to:
 - Operating and maintenance supplies, but only to the extent such supplies are not already made available to the Contractor by City.
 - Printing and Postage, but only to the extent the use of City's equipment and accounts for printing and postage are not already made available to Contractor by City.
 - Stormwater sampling equipment, supplies and analytical expenses
 - Safety equipment and person protective equipment needed to perform scope, specifically excluded are major subcontractor materials such as asphalt, concrete, signs.
 - Other equipment necessary to perform the scope of services provided for in Exhibit A, but only to the extent any such equipment is not already made available to the Contractor by the City.
 - Vehicles (including all vehicle maintenance, repairs, expenses, gas) and/or vehicle allowance for the Program Director, Director of Public Works and Director of Community Development
 - Three (3) cellular phones with Blackberry or similar type service for the Program Director, Director of Public Works and Director of Community Development
 - Three (3) laptops and employee computer expenses (including wireless internet access) for the Program Director, Director of Public Works, and Director of Community Development
 - Call Center – off-hour answering service
 - Call Center – telecommunication charges allocated to City based upon call volume
 - Call Center – allocated equipment lease, allocated software charges and allocated office space lease charges, where applicable, based upon call volume.

- Insurance – (includes all insurances for project and Contractor vehicles for the City and/or the State of Georgia, including applicable deductibles)
- Business licenses.
- Training and tuition costs (including travel expenses) for City -dedicated employees.
- Meeting/convention costs (including travel expenses) for City-dedicated employees. The total annual costs for meeting/convention costs (including travel expenses), training and tuition costs (including travel expenses), and the costs of all licenses, certifications and permits necessary to perform the Professional Services and IT Services as required by law (including the costs for professional licensure and registration of Contractor Employees, but excluding the costs for business licenses) shall not exceed thirty-thousand dollars (\$30,000) without first receiving the prior written approval of the City Manager.

d. **Management Fee:** A Management Fee of **six percent (6%)** on labor costs and five percent (5%) on subcontracted services shall be included in the Contractor's compensation. The Management Fee will not be applied to ODC's.

These costs will be billed as set forth below.

2. Labor. Labor performed under the Agreement shall be billed at a multiplier of **1.76** times the salary or hourly wage, whichever applies, of the applicable Contractor Employee for actual hours worked. An example calculation is provided below for illustrative purposes. "Salary" shall be defined as a predetermined amount constituting all or part of the compensation of a Contractor Employee paid by Contractor, which the Contractor Employee receives each pay period and is not subject to reduction, except as permitted by 29 C.F.R. 541.118. "Salary" shall not include the following, without limitation: any compensation or wage paid as a commission or bonus; employment benefits, such as premiums paid for health, dental or disability insurance, retirement plan or pension contributions, or the payment of FICA or payroll taxes; any lump sum payment for accumulated unused sick leave, vacation leave or other paid leave; any severance payment or accelerated payment of an employment contract for a future period or advance against future wages; any retirement incentive, retirement bonus or retirement gratuitous payment; any payments made on account of death; or any other additional potential compensation paid by Contractor. Additionally, it is agreed that such items shall not be charged as an ODC to the City.

Example Labor Calculation:

Contractor Employee – Non-Exempt under FLSA ("nonexempt employee")

The nonexempt employee receives hourly pay in the amount of \$20 per hour.

Example 1:

The nonexempt employee provides 40 hours of labor during week X. The amount of compensation accrued by Contractor based upon this employee's labor performed during week X shall be:

40 hours * \$20 per hour * 1.76 = **\$1,408.00**

Example 2:

The nonexempt employee provides 55 hours of labor during week Y due to a weather emergency. For the purpose of this example, it is assumed the nonexempt employee's rate for overtime equals \$30/hour (\$20/hour * 1.5). The amount of compensation accrued by Contractor based upon this employee's labor performed during week Y would be:

$$((40 \text{ hours} * \$20 \text{ per hour}) + (15 \text{ hours} * \$30 \text{ per hour})) * 1.76 \text{ multiplier} = \mathbf{\$2,200.00}$$

Example 3:

The nonexempt employee only works 30 hours during week Z. The amount of compensation due to Contractor based upon this employee's labor performed during week Z would be:

$$30 \text{ hours} * \$20 \text{ per hours} * 1.76 = \mathbf{\$1,056.00}$$

Contractor Employee - Exempt under FLSA ("exempt employee")

The exempt employee receives an annual salary of \$75,000. The exempt employee's hourly rate is calculated to be \$36.06 per hour. (\$75,000 divided by 2080 hours). The total annual hours not to exceed 1992 hours (2080 – 88 (88 hours = time for 11 holidays)),

Example 1:

The exempt employee provides 480 hours of labor in performance of the services provided in the Agreement during the 1st Quarter. The amount of compensation accrued by Contractor based upon this employee's labor performed during the 1st Quarter shall be:

$$480 \text{ hours} * \$36.06 \text{ per hour} * 1.76 \text{ multiplier} = \$30,463.49$$

Example 2:

The exempt employee provides a total of 464 hours of labor in performance of the services provided in the Agreement during the 2nd Quarter. The amount of compensation accrued by Contractor based upon this employee's labor performed during the 2nd Quarter shall be:

$$464 \text{ hours} * \$36.06 \text{ per hour} * 1.76 \text{ multiplier} = \$29,448.04$$

3. **Subcontracted Services.** Subcontracted Services performed directly or indirectly on behalf of the Contractor under the Agreement shall be billed at cost plus a Management Fee to be calculated Paragraph 5. See the example calculation below for illustrative purposes:

Example of Subcontracted Services Calculation:

Subcontracted service totaling \$5,000 billed to CH2M HILL by Subcontractor.

Compensation due to Contractor for Subcontracted Services = **\$5,000**

4. **Other Direct Costs.** Other Direct Costs (ODC's) incurred by the Contractor under the Agreement shall be billed at cost. See the example calculation below for illustrative purposes:

Example ODC Calculation:

A vehicle is leased for the project at \$650 per month.

Compensation due to Contractor for cost of vehicle = **\$650 per month**

5. **Management Fee.** A Management Fee of 6% will be added to all Labor expenses and a Management Fees of 5% will be added to all Subcontract expenses. See the example calculation below for illustrative purposes:

Example Management Fee Calculation:

A Labor Charge of \$1,408 and a Subcontractor Charge of \$5,000 are incurred by the project.

$(\$1,408 * 0.06) + (\$5,000 * 0.05) = \$334.48$

Compensation due to Contractor for Management Fee = **\$334.48**

B. Estimated Fees Billed to City Prior to Delivery of Services

1. **Annual Estimated Fee.** Based on the Scope of Services provided in **Exhibit A**, Contractor estimates the total fees for the Initial Term to be \$4,594,242, which shall be billed on a monthly basis in the amount of \$382,853.50.

2. **IT Services Monthly Estimated Fee.** Based on the IT Services Scope provided for in **Exhibit B**, Contractor estimates the total fee for IT Services to be \$1,180,858 per annum or \$98,404.82 per month; accordingly, the amount of \$98,404.82 shall be billed on a monthly basis during the period of time IT Services are provided by Contractor. Notwithstanding any other provision set forth herein, such monthly amount shall constitute a lump sum payment for such services, which shall not be subject to reconciliation.

3. **Monthly Estimated Fee for Contractor's Provision of City Subcontractor Services.** For the period of October 1, 2010 through and including November 30, 2010, Contractor shall continue providing those services identified and described in **Exhibit A** as services performed by City Subcontractors ("City Subcontractor Services"). Based on the scope of such services, Contractor estimates the total fee for the provision of City Subcontractor Services to be \$3,782,353.00 per annum or \$315,196.08 per month; accordingly, the amount of \$315,196.08 will be billed on a monthly basis for the period of October 1, 2010 through and including November 30, 2010. Notwithstanding any other provision set forth herein, such monthly amount shall constitute a lump sum payment for such services, which shall not be subject to reconciliation.

4. Vehicle Lease Handling. Contractor will continue to provide vehicles to the City until the specified vehicles are transferred based upon the Fair Market Value to the City. The estimated monthly budget for vehicle expenses, including leases is \$7,370. \$7,370.00 will be billed on a monthly basis until the vehicles are transferred to the City. During the month of transition, Contractor will prorate the vehicles charges to the City.

C. Exhibit H is the sample Reconciliation Template which will be utilized by the Parties.

EXHIBIT D

ESTIMATED RECONCILIATION PERIOD

* assuming 15 day report period, 15 day City review, 15 day resolution

Reconciliation Period					
Billing Date	Service Period	Report Date	City Review	Resolution	Invoice/Refund Date
9/15/2010	October 2010	11/15/2010	11/30/2010	12/15/2010	12/15/2010
10/15/2010	November 2010	12/15/2010	12/30/2010	1/15/2011	1/15/2011
11/15/2010	December 2010	1/15/2011	1/30/2011	2/15/2011	2/15/2011
12/15/2010	January 2011	2/15/2011	2/28/2011	3/15/2011	3/15/2011
1/15/2011	February 2011	3/15/2011	3/30/2011	4/15/2011	4/15/2011
2/15/2011	March 2011	4/15/2011	4/30/2011	5/15/2011	5/15/2011
3/15/2011	April 2011	5/15/2011	5/30/2011	6/15/2011	6/15/2011
4/15/2011	May 2011	6/15/2011	6/30/2011	7/15/2011	7/15/2011
5/15/2011	June 2011	7/15/2011	7/30/2011	8/15/2011	8/15/2011
6/15/2011	July 2011	8/15/2011	8/30/2011	9/15/2011	9/15/2011
7/15/2011	August 2011	9/15/2011	9/30/2011	10/15/2011	10/15/2011
8/15/2011	September 2011	10/15/2011	10/30/2011	11/15/2011	11/15/2011

EXHIBIT E

**IMMIGRATION AND SECURITY FORM
CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm, or corporation which is contracting with the City of Johns Creek has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 989-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

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

EEV / Basic Pilot Program* User Identification Number

BY: Authorized Officer or Agent
(Contractor Name)

Date

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON
THIS _____ DAY OF _____ 201____

Notary Public

My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/ Basic Pilot Program" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).
(End of Form)

EXHIBIT F

CITY OF JOHNS CREEK EMPLOYEE POSITION CHART

TOTAL FTEs 84.10		0.75 PROJECT MANAGEMENT		1.10 COMMUNITY DEVELOPMENT		1.10 PUBLIC WORKS		1.50 BUSINESS SYSTEMS		1.80 BUSINESS MANAGEMENT / SERVICE CENTER	
		0.50	Project Director	1.00	Director of Community Development	1.00	Director of Public Works	0.70	Call Center Mgr	0.05	Business Manager
		0.25	Regional Director of Operations	1.00	Executive Assistant	1.00	Executive Assistant	0.15	Citizen Call Center Supervisor	0.05	Financial Manager
				0.00	Deputy Director Community Dev	1.00	Transportation Engineer	1.00	Citizen Call Center	0.10	Financial Analyst
				0.00	Chief Code Enforcement Officer	1.00	Planning Engineer	0.50	Citizen Call Center	0.00	Project Development
				1.00	Code Enforcement Officer	1.00	Right of Way Specialist			0.05	Contracts Manager
				1.00	Administrative Assistant	1.00	Field Service Manager			0.05	SE Contracts Administrator
				0.00	Planning & Zoning Administrator	1.00	Field Operations Superintendent			0.15	IT/HR/IT/Technical Support Manager
				1.00	Administrative Assistant	1.00	Field Service Superintendent			0.05	Salary Manager
				1.00	Planner I	1.00	Storm Water Superintendent			0.00	Mitrex Coordinator
				1.00	Senior Landscape Architect, Arboreal	1.00	Traffic Services Manager				
				1.00	Plant Coordinator	1.00	Traffic Services Superintendent				
				1.00	Planning Coordinator (PII)	0.50	Traffic Services Superintendent				
				1.00	Land Development Manager	1.00	Solid Waste Coordinator				
				1.00	Land Development Inspector	1.00	Recreation Manager				
						1.00	Parks Manager				

The Position Chart represents Contractor's estimate of the amount of labor needed to provide services described in this Agreement. The estimate along with the expenses described in Exhibit C, represents the basis of Annual Estimated Fee to be billed to the City.

Estimate will include overheads on a 17% basis plus insurance for the estimated supporting the City. Holidays, vacation, and sick time are not billable to the City. It is expected that FTE employees will not include those between 1800 and 1900 hours per week, although this could vary depending upon vacation schedules. The yearly hours is normally 2,080 less time for holidays (88 hours = time for 11 holidays) for a net of total amount for non-union employees of 1,992. Hourly employees may incur slightly more hours per year and are would be slightly less overtime.

A more detailed explanation is provided in Exhibit C, Schedule of Fees.

EXHIBIT G
INTENTIONALLY OMITTED

EXHIBIT H

RECONCILIATION TEMPLATE

CITY OF JOHNS CREEK PUBLIC WORKS, COMMUNITY DEVELOPMENT & CALL CENTER SERVICES

Reconciliation through

	ACTUAL EXPENSES FOR THE MONTH OF ation through	ACTUAL EXPENSES YTD (see detail attached)	BILLED & PAID TO DATE	INVOICE/(REFUND) AMOUNT
PUBLIC WORKS				
LABOR	\$ -	\$ -	\$ -	\$ -
LABOR MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
OTHER DIRECT COSTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACT MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -
COMMUNITY DEVELOPMENT				
LABOR	\$ -	\$ -	\$ -	\$ -
LABOR MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
OTHER DIRECT COSTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACT MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -
CALL CENTER				
LABOR	\$ -	\$ -	\$ -	\$ -
LABOR MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
OTHER DIRECT COSTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACTS	\$ -	\$ -	\$ -	\$ -
SUBCONTRACT MANAGEMENT FEE	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ -	\$ -	\$ -	\$ -
GRAND TOTAL	\$ -	\$ -	\$ -	\$ -
INVOICE/CREDIT TO BE APPLIED ON THE DECEMBER 15 INVOICE FOR JANUARY SERVICES				

CITY OF JOHNS CREEK PUBLIC WORKS, COMMUNITY DEVELOPMENT & CALL CENTER SERVICES

Labor Reconciliation through
CH2M HILL labor for
Agile1 labor for

ASSOCIATE	DEPARTMENT	LABOR RATE	LABOR & OH RATE	LABOR HOURS	LABOR AMOUNT	LABOR HOURS YTD	TOTAL LABOR & OH FEE
			CH = labor rate * 1.76 Agile1 = rate * 0	ation through	ation through		
		\$ -	\$ -	-	\$ -	-	\$ -
		\$ -	\$ -	-	\$ -	-	\$ -
		\$ -	\$ -	-	\$ -	-	\$ -
		\$ -	\$ -	-	\$ -	-	\$ -
		\$ -	\$ -	-	\$ -	-	\$ -
		\$ -	\$ -	-	\$ -	-	\$ -
TOTAL					\$ -		\$ -

**CITY OF JOHNS CREEK
PUBLIC WORKS, COMMUNITY DEVELOPMENT & CALL CENTER SERVICES**

Other Direct Cost Reconciliation through

<u>GL PERIOD</u>	<u>EXPENSE CATEGORY</u>	<u>DEPARTMENT</u>	<u>VENDOR NAME</u>	<u>AP INVOICE NUMBER</u>	<u>COMMENTS</u>	<u>EXPENSE AMOUNT</u>
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
TOTAL						\$ -

**CITY OF JOHNS CREEK
PUBLIC WORKS, COMMUNITY DEVELOPMENT & CALL CENTER SERVICES**

Subcontracts Reconciliation through

<u>GL PERIOD</u>	<u>EXPENSE CATEGORY</u>	<u>DEPARTMENT</u>	<u>VENDOR NAME</u>	<u>AP INVOICE NUMBER</u>	<u>COMMENTS</u>	<u>EXPENSE AMOUNT</u>
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
						\$ -
TOTAL						\$ -

EXHIBIT I

**MOTOR VEHICLE USE AGREEMENT
BY AND BETWEEN
THE CITY OF JOHNS CREEK, GEORGIA
AND
CH2M HILL, INC.**

THIS USE AGREEMENT is made and entered into this ____ day of _____, 2010, by and between the CITY OF JOHNS CREEK, a municipal corporation of the State of Georgia (the "City"), and CH2M HILL, Inc., a Florida corporation ("Contractor"), heretofore referred to jointly as the "Parties."

WHEREAS, the City and Contractor have entered into that certain Agreement for Provision of City Operation Services dated November 29, 2006; and

WHEREAS, the City desires that Contractor, including its employees, have the right to use certain motor vehicles owned by the City in order for Contractor to perform the services provided pursuant to the Agreement.

NOW THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Permission to Use City Vehicles. Contractor, including any wholly owned affiliates of CH2M Hill, Inc., and its employees (such employees referred to herein as "Contractor Employees" and shall have the same definition as provided for in the Agreement) shall have the limited right to use the City vehicles described in Exhibit A (referred to herein individually as a "City Vehicle" or collectively as "City Vehicles"), which is attached hereto and incorporated herein, in performance of the services provided to the City pursuant to the Agreement. City Vehicles may not be used by Contractor for any other purpose. Further, Contractor shall be responsible for ensuring that Contractor Employees comply with all of the terms of this Use Agreement.
2. Use of City Vehicles. Contractor agrees to comply with the requirements provided in Exhibit B, which it attached hereto and incorporated herein, in regard to its use, including Contractor Employees' use, of City Vehicles.
3. Drug-Screening. Prior to a Contractor Employee's use of a City Vehicle, Contractor shall perform a drug screening of any such Contractor Employee. Further, Contractor shall implement a random drug testing program for any such Contractor Employees using City Vehicles and shall have a for-cause drug screening program for specified incidents. Provided however, for any Contractor Employee that was subject to a drug screening by Contractor at any time prior to the execution of this Use Agreement and since such drug screening has been continually subject to a random drug testing program of Contractor, such initial drug screening shall not be required. Any Contractor Employee who has

failed to pass a drug screening conducted by Contractor shall be prohibited from using City Vehicles.

4. Compliance with City Policies. Contractor agrees that it shall comply with the City's "Vehicle Fleet Policy" and all other City policies to the extent they are applicable to Contractor's use of City Vehicles. Contractor agrees that it has received a copy of the City Vehicle Fleet Policy and has reviewed same.
5. Compliance with Laws. Contractor agrees that it shall comply with all applicable federal, state or local laws, regulations or rules in the use of the City Vehicles.
6. Insurance of Vehicles. The City shall provide insurance for the City Vehicles, which shall include coverage during Contractor's use of the City Vehicles, as long as such use is performed pursuant to the terms of this Use Agreement.
7. Maintenance, Repairs and Fueling. The City shall be responsible for the expenses incurred for maintaining, repairing and fueling the City Vehicles, which shall be performed in accordance with Exhibit B and the City Vehicle Fleet Policy.
8. Indemnification. Performance of this Use Agreement shall be subject to the indemnification provisions provided in Section 15 of the Agreement.
9. List of Contractor Employees and Certification. Prior to Contractor's use of City Vehicles, Contractor shall provide the City Manager or his designee with a list of Contractor Employees that Contractor has authorized to use City Vehicles. Contractor shall certify that all individuals provided on such list meet the requirements provided for in this Use Agreement, including Exhibit B hereof. Contractor shall be required to update such list when it seeks to request the approval of any additional Contractor Employee's use of a City Vehicle or when it seeks to remove any previously authorized Contractor Employee from use of a City Vehicle.

IN WITNESS WHEREOF, the parties hereto have caused their respective agents to execute this instrument on their behalf, at the times set forth below.

CH2M HILL, INC.

By:

DATE

ATTEST

DATE

CITY OF JOHNS CREEK

By:
Mayor

DATE

By:
City Manager

DATE

By:
City Clerk

DATE

Approved as to form and legal
sufficiency subject to execution
by the parties

By:
City Attorney

DATE

EXHIBIT A [to EXHIBIT I]

CITY VEHICLE LIST

Type	Vin Identification
2007 Ford Fusion	3FAHP07117R169795
2007 Ford Fusion	3FAHP07177R169798
2007 Ford Ranger	1FTYR14U27PA60438
2007 Ford Ranger	1FTYR14U27PA60441
2007 Ford Fusion	3FAHP07137R169796
2007 Ford Ranger	1FTYR44U97PA00383
2007 Ford Ranger	1FTYR14U97PA60436
2008 Ford Ranger	1FTYR14U68PA91886
2007 Ford Ranger	1FTYR14U07PA60440
2007 Ford Ranger	1FTYR14U77PA60435
2007 Ford Ranger	1FTYR14U27PA60441
2007 Ford Fusion	3FAHP07147R169791
2007 Ford Ranger	1FTYR14U67PA60443

EXHIBIT B [to EXHIBIT I]

Requirements Governing Use of City Vehicles

Contractor agrees that it shall comply with the following requirements governing the use of City Vehicles by Contractor Employees:

General

City vehicles are provided to support City business activities and are to be used only by qualified and authorized Contractor Employees. In all cases, these vehicles are to be operated in strict compliance with motor vehicle laws of the jurisdiction in which they are driven and with the utmost regard for their care and cost efficient use. Contractor acknowledges and agrees that City Vehicles may also be used by City employees or other authorized users.

Additionally, City Vehicles may not:

- be used for other business activities of Contractor or any other companies.
- be driven outside of the State of Georgia without the prior approval of the City Manager.

Driver Licensing

Any Contractor Employee authorized to operate a City Vehicle must have a valid driver's license issued in the state of residence for the class of the vehicle being operated and must be able to drive a vehicle. A Contractor Employee's attainment of a driver's license shall not be an expense of the City.

Driver Qualifications

Driver qualifications for Contractor Employees are as follows:

1. Must be at least 21 years of age.
2. Have at least one year of experience in the class of vehicle operated.
3. Must meet licensing requirements.
4. Will not qualify for a City Vehicle if, during the last 36 months, the driver has (in any jurisdiction within the United States):
 - Been convicted of a felony.
 - Been convicted of sale, handling or use of drugs.
 - Been convicted of driving under the influence of alcohol or drugs, as provided by O.C.G.A. § 40-6-391, or any similar statute of another state.
 - Had driver's license suspended or revoked.
 - Been convicted of three or more speeding violations or other moving violations or one or more other serious violations, as provided for in O.C.G.A. §§40-6-390 through 40-6-397, or any similar statute of another state. Moving violations shall mean those offenses for which three (3) or more points are assessed pursuant to O.C.G.A. § 40-5-57.
 - Been convicted of two or more moving violations that involved traffic accidents.

Review of Motor Vehicle Record

Contractor shall use State Motor Vehicle Records (MVRs) as the source for verifying driver history. MVRs of Contractor Employees will be obtained and reviewed at least annually by Contractor. Driving privileges may be withdrawn or suspended and/or the City vehicles removed for any authorized driver not meeting the above requirements.

Use of City Vehicles

City vehicles are provided to conduct City business; however, minimal personal use is permitted for Contractor Employees who are authorized to take the vehicles home pursuant to the following section.

Take Home Vehicles

Use of any vehicle as a take home vehicle shall require the prior written approval of the City Manager. Any Contractor Employee approved for a take home vehicle, shall comply with all requirements of the Use Agreement, including this Exhibit B, as well as the following:

- No assigned City Vehicle will be used for personal use, unless the event qualifies under the definition of: "de minimis" personal use, as defined by the I.R.S. code and regulations.
- No driver shall be eligible to take City Vehicles to the driver's home unless the driver is subject to and experiences frequent call outs for emergency response duties or services, after normal working hours, or is employed or contracted with in a capacity that requires frequent evening meetings or engagements pertaining to City business and the vehicle has been approved for take home use by the City Manager.
- Only the authorized Contractor Employee may drive the vehicle.
- Personal trailers, including boat and recreational vehicles, are not to be pulled.

Any exceptions to these rules requires advance, written approval by the City Manager. As between Contractor and the City, Contractor agrees that Contractor shall be solely responsible for the reporting of any tax liabilities incurred pursuant to the I.R.S. code and regulations as a result of the use of City Vehicles by Contractor Employees.

Assignment of Vehicles

The City's Fleet Administrator will be responsible for maintaining a current vehicle inventory that includes the name of the driver or drivers assigned to such vehicle and whether the driver has take home status. City vehicles may only be used by the assigned driver(s). Any vehicle that is used by two (2) or more drivers, including City employees or other authorized users, shall be identified as a "pool" vehicle, and all authorized drivers of the pool vehicle shall be identified. All users of pool vehicles are required to maintain mileage logs of the vehicle, which shall include the daily-incurred vehicle mileage by indicating the starting and ending mileage for each trip and the purpose of such trip. Each entry shall be signed by the applicable driver.

Maintenance

Authorized drivers are required to properly maintain their City vehicles at all times. Vehicles should not be operated with any known defect that would inhibit safe operation during current and foreseeable weather and lighting conditions. Preventive maintenance such as regular oil changes, lubrication and tire pressure and fluid checks determine to a large extent whether you will have a reliable, safe vehicle to drive and support work activities. Drivers of assigned vehicles should have preventive maintenance completed on their vehicle as required in the owner's manual. Maintenance or repairs service should be performed at the service or collision center designated by the Fleet Administrator. The invoice for preventive service should be submitted to the Fleet Administrator for payment, which shall be a City expense. For pool vehicles, the Fleet Administrator shall be responsible for insuring that preventative maintenance is completed on such vehicles as required by the owner's manual for the subject vehicle. All drivers shall notify the Fleet Administrator and Risk Manager of any known maintenance needs of the vehicle discovered as a result of such driver's use of the vehicle, or any other damages incurred to the vehicle.

Vehicle repairs or service in excess of \$50 must have prior approval by the Fleet Administrator. Vehicle repairs or service in excess of \$500 shall also require the prior approval of the City Finance Director and the Fleet Administrator's Supervisor.

Fueling of Vehicles

Drivers of City vehicles shall use the City's fuel supply system for the fueling of City vehicles; provided however, when the City's fuel supply system is not reasonably available for use by the driver, the driver shall be permitted to acquire fuel from other fuel suppliers, which shall be an expense of the City.

Traffic Violations

Fines for parking or moving violations are not the responsibility of the City. The City will not tolerate a driver's failure to appear in regard to the issuance of a traffic citation(s) that results in a court summons being directed to the City as owner of the vehicle.

Each driver is required to report all moving violation citations to Contractor within twenty-four (24) hours or as soon as reasonably possible if more time is reasonably required. Contractor shall be required to review the driver's record to determine whether or not the driver is still eligible to drive a city vehicle. In the event, the Contractor determines the driver does not qualify to drive a City vehicle, the Contractor shall notify the City Risk Manager that the Contractor's employee will no longer be driving a City vehicle. This requirement includes alleged violations involving the use of any vehicle (City, personal or other) while on City business.

Accidents Involving City Vehicles

In the event of an accident involving a City Vehicle, the driver shall:

- Not admit negligence or liability.
- Not attempt settlement, regardless of how minor.

- Get name, address and phone number of injured person and witnesses if possible.
- Exchange vehicle identification, City insurance name and policy numbers with the other driver.
- Take a photograph of the scene of accident if possible.
- Call the police if injury to others is involved or there is damage to any vehicle.
- Complete the accident report in your vehicle.
- Immediately notify Contractor and the City Risk Manager about the accident.
- Turn all information over to the Risk Manager and Fleet Administrator within 24 hours.

Thefts

In the event of the theft of a City vehicle, the driver shall immediately notify local police, the Fleet Administrator, and the Risk Manager.

Driver Responsibilities

Contractor is responsible for the actual possession, care and use of the City Vehicle in its employees' possession. Therefore, Contractor's responsibilities include, but are not limited to, the following:

- Operation of the vehicle in a manner consistent with reasonable practices that avoid abuse, theft, neglect or disrespect of the equipment.
- Obey all traffic laws, including abiding by posted speed limits.
- The use of seat belts and shoulder harness is mandatory for driver and passengers.
- Adhering to manufacturer's recommendations regarding service, maintenance and inspection. Vehicles should not be operated with any defect that would prevent safe operation.
- Attention to and practice of safe driving techniques and adherence to current safety requirements.
- Restricting the use of vehicles to authorized driver only.
- Reporting the occurrence of moving violations.
- Accurate, comprehensive and timely reporting of all accidents by an authorized driver and thefts of a City vehicle to the Fleet Administrator and Risk Manager.
- Participation in driver safety and risk management training offered by the City.
- No smoking shall be permitted in any City vehicle.
- All trash and debris shall be removed from the vehicle upon leaving the vehicle.
- Possession, transportation or consumption of alcohol or illegal drugs by anyone in the vehicle is not allowed.
- Only City employees and Contractor Employees may be passengers in City vehicles; however, non-City employees and non-Contractor Employees may be provided transportation if the vehicle is operated by a Contractor Employee, the transportation of the non-City employee or non-Contractor Employee directly relates to City business and falls within Contractor's duties pursuant to the Agreement.

Preventable Accidents

A preventable accident is defined as any accident involving a City Vehicle – whether being used for City or personal use – or any vehicle while being used on City business that results in property damage and/or personal injury, and in which the driver in question is found to be at fault for causing the accident.

1. Classification of preventable accidents includes accidents in which the driver is convicted for having committed the following violations:
 - Following too closely
 - Failure to maintain lane
 - Driving too fast for conditions
 - Failure to observe clearances
 - Failure to obey signs
 - Improper turns
 - Failure to observe signals from other drivers
 - Failure to reduce speed
 - Improper parking
 - Improper passing
 - Failure to yield
 - Improper backing
 - Failure to obey traffic signals or directions
 - Exceeding the posted speed limit
 - Driving While Intoxicated (DWI) or Driving Under the Influence (DUI) or similar charges.

The City may limit or restrict Contractor's use of City Vehicles by requesting that a Contractor Employee involved in a preventable accident be restricted from driving a City Vehicle.

Failure to Abide by Requirements

Contractor shall immediately notify the City Manager and Fleet Administrator if any Contractor Employee will be removed from the driving list. City shall have the right to withhold, limit, restrict, suspend, deny or revoke Contractor's permission to use a City Vehicle if Contractor fails to meet the requirements provided herein.

City Manager	John J. Kachmar, Jr., Telephone No.: 678-512-3250
Risk Manager	Elizabeth Warren, Telephone No: 678-512-3327
Fleet Administrator	Cindy Moseley, Telephone No.: 678-512-3173
Fleet Administrator's Supervisor	Maryann Haskins, Telephone No.: 678-512-3185