

**REQUEST FOR PROPOSAL
20-07
NEWTON COUNTY BOARD OF
COMMISSIONERS**

Grant Writer Consultant



September 30, 2019

SUBMISSION ARE DUE AT THE ADDRESS SHOWN BELOW NO LATER
THAN

TUESDAY, OCTOBER 22, 2019, 11:00 AM E.S.T.

NEWTON COUNTY BOARD OF COMMISSIONERS
PURCHASING DEPARTMENT
1113 Usher Street, Suite 204, Covington, GA 30014
678-625-1237

THE OFFEROR IS RESPONSIBLE FOR SUBMITTING A RESPONSE TO THIS REQUEST
FOR PROPOSAL (RFP) TO NEWTON COUNTY ON OR BEFORE THE STATED
DEADLINE

Issue Date: September 30, 2019

ADVERTISEMENT FOR REQUEST FOR PROPOSAL
Grant Writer Consultant
RFP #20-07

Separate sealed proposals for Grant Writer Consultant, will be received by the Newton County Board of Commissioners at the Newton County Administration Building, Purchasing Department, Suite 204 located at 1113 Usher Street, Covington, GA 30014 **until 11:00AM, local time, Tuesday, October 22, 2019.**

The PROPOSAL DOCUMENTS may be examined at the following location:
Newton County Administration Building, Purchasing Department, 1113 Usher Street, Suite 204, Covington, GA 30014.

INSURANCE: The contractor shall maintain insurance in the amounts and types specified in the sample contract attached to the Proposal Documents. The County will consider proposals offering reasonable exceptions to these requirements. All policies shall be issued by an insurer of substantial size and financial stability. Upon request, contractor shall deliver to the County a certificate or policy of insurance evidencing contractor's compliance with this paragraph.

Each proposal will be considered by the County, taking into consideration specific evaluation factors, as set forth in the Request for Proposal. Newton County reserves the right to reject any or all Proposals, including without limitation, the right to reject any Proposal that the County believes would not be in the best interest of the Project.

Digital copies of the PROPOSAL DOCUMENTS may be obtained at the Purchasing office at no charge by visiting www.co.newton.ga.us or contacting Randi Fincher at 678-625-1237 or rfincher@co.newton.ga.us. Hard copies of the PROPOSAL DOCUMENTS may be obtained upon a non-refundable payment of \$25.00 for each set. The County is not obligated to consider the contractor's proposal if they are not on record with the issuing office as having received complete Proposal Documents.

September 30, 2019
Lloyd Kerr, County Manager
Newton County Board of Commissioners

INTRODUCTION

Newton County Board of Commissioners is requesting sealed proposals for Grant Writer Consultant to provide all necessary equipment, labor and material to preform grant writing services to the County. Instructions for preparation and submission of a proposal are contained in this packet. Proposals must be typed or printed in ink.

Newton County provides equal opportunity for all businesses and does not discriminate against any person or business because of race, color, religion, sex, national origin, handicap or veteran's status. This policy ensures all segments of the business community have access to supplying the goods and services needed by Newton County.

PURCHASING CONTACT FOR THIS REQUEST:

All questions concerning this invitation and all questions arising subsequent to award are to be addressed to the Purchasing Department at the following address:

Newton County Purchasing Department, Attn: Randi Fincher, 1113 Usher Street, Suite 204, Covington, GA 30014 Phone: 678-625-1237 E-mail: rfincher@co.newton.ga.us

To maintain a "level playing field", and to assure that all proposers receive the same information, proposers are requested **NOT** to contact anyone other than the contact above until after the award of the contract. Doing so could result in disqualification of the proposer.

DUE DATE

Sealed proposals will be received at the Newton County Purchasing Department, 1113 Usher Street, Suite 204, Covington, GA 30014 no later than 11:00AM, local time, Tuesday, October 22, 2019. Proposals received after this time will not be accepted. Proposal Price Form must be sealed separate from the proposal.

PROPOSAL COPIES FOR EVALUATION:

Four (4) copies, one (1) original and (1) digital copy on USB drive will be required for review purposes.

ADDENDA

Answers to questions submitted that materially change the conditions and specifications of this RFP will be distributed to all addressees as an addendum. Any discussions or documents will be considered non-binding unless incorporated and distributed in an addendum. Answers to all questions shall be provided a minimum of 72 hours prior to the time the Proposal is due.

Proposers should check with the Purchasing Department frequently during the bidding process to verify that they have received all issued addendums. While every attempt is made to make sure that registered proposers receive notice of addendums, proposers have the responsibility of making sure that they have received all issued addendums. Addenda are required to be signed and returned with the proposal submittal.

PROPRIETARY INFORMATION

Careful consideration should be given before submitting confidential information to Newton County. The Georgia Open Records Act permits public scrutiny of most materials collected as part of this process. Please clearly mark and support with an appropriate affidavit any information that is considered a trade secret, as defined by the Georgia Trade Secrets Act of 1990, O.C.G.A. §10-1-760 et seq., as trade secrets are exempt from disclosure under the Open Records Act. Newton County does not guarantee the confidentiality of any information not clearly marked as a trade secret.

SELECTION PROCESS

The Newton County Purchasing Department and Evaluation Committee makes a recommendation for award. The Board of Commissioners will make the actual award of the contract and has the authority to award the contract to a company different than the company recommended by the Purchasing Department and/or Evaluation Committee.

An award will be made to the offeror(s) whose proposal represents the best fit for the County after evaluation in accordance with the factors listed below. Newton County may reject any or all proposals and to waive any technicalities or informalities if such action is in the county’s interest.

The offeror’s initial proposal should contain the offeror’s best terms from a price and technical standpoint. The County reserves the right to conduct discussions if the County later determines them to be necessary.

Proposers will be evaluated based on the following criteria and may be called in for an interview. The County intends to award the contract to the responsible and responsive contractor whose proposal is determined in writing to be the most advantageous to the County taking into consideration all of the evaluation criteria.

EVALUATION CRITERIA

Proposals will be evaluated using the categories and scoring indicated below:

1. Knowledge of grant opportunities, funding sources and associated regulations for government, corporate and private foundation grants within the United States of American primarily in Transportation, Public Safety, Block Grants and Recreation	35 Points
2. Successful track record of acquiring grant funding for organizations of a similar size and mission	35 Points
3. Quality of writing sample	15 Points
4. Cost	15 Points

CONTRACT TERMS

The Contract is for one year with two optional renewal terms.

SAMPLE CONTRACT

The successful proposer is expected to execute a contract to be finalized, but based on the Sample Contract attached this RFP as **Exhibit G**. Proposers should identify in their proposal any unacceptable terms in the Sample Contract.

INSURANCE

With its proposal, each proposer shall indicate whether it meets the insurance requirements stated in the Sample Contract attached to this RFP, or if not, the coverage types and amounts in its insurance program.

CONTRACT ADMINISTRATION

The contact for any contract(s) or task order(s) arising as a result of this RFP shall be Lloyd Kerr, County Manger, 678-625-1615.

GENERAL INFORMATION

No proposals received after the time or at any place other than the place as stated in this RFP will be considered. No responsibility shall attach to Newton County for the premature opening of a proposal not properly addressed and identified.

TENTATIVE BID SCHEDULE

Advertisement	September 30, 2019	
Deadline to Submit Questions	October 11, 2019	5:00 PM
Answer to Questions	October 16, 2019	
RFP 20-07 Due Date	October22, 2019	11:00 AM

WITHDRAWAL OF PROPOSAL

A proposer may withdraw his proposal before the proposal due date, without prejudice to the proposer, by submitting a written request of withdrawal to the Newton County Purchasing Department.

REJECTION OF PROPOSAL

Newton County may reject any and all proposals and must reject a proposal of any party who has been delinquent or unfaithful in any formal contract with Newton County. Also, the right is reserved to waive any irregularities or informalities in any proposal in the proposing procedure. Newton County shall be the sole judge as to which proposal is best, and in ascertaining this, will take into consideration the business integrity, financial resources, facilities for performing the work, and experience in similar operations of the various proposers.

STATEMENT OF EXPERIENCE AND QUALIFICATIONS

The proposer may be required, upon request, to prove to the satisfaction of Newton County that he/she has the skill, experience, necessary facilities and ample financial resources to perform the contract(s) in a satisfactory manner and within the required time. If the available evidence of competency of any proposer is not satisfactory, the proposal of such proposer may

be rejected. The successful proposer is required to comply with and abide by all applicable federal and state laws in effect at the time the contract is awarded.

NON-COLLUSION AFFIDAVIT

By submitting a proposal, the proposer represents and warrants that such proposal is genuine and not sham or collusive or made in the interest or in behalf of any person not therein named, that the proposer has not directly or indirectly induced or solicited any other proposer to put in a sham proposal, or any other person, firm or corporation to refrain from proposing and that the proposer has not in any manner sought by collusion to secure to that proposer any advantage over any other proposer.

NO CONFLICT OF INTEREST

By submitting a proposal, the proposer represents and warrants that no Commissioner, Administrator, employee, or any other person employed by Newton County has, in any manner, an interest, directly or indirectly, in the proposal or in the contract which may be made under it, or in any expected profits to arise therefrom.

DOCUMENTS DEEMED PART OF THE CONTRACT

The notice, invitation to proposers, general conditions, and instructions for proposers, special conditions, specifications, proposal, and addenda, if any, will be deemed part of the contract.

STANDARD INSTRUCTIONS

1. The instructions contained herein shall be construed as a part of any proposal invitation and/or specifications issued by Newton County and must be followed by each proposer.
2. The written specifications contained in this proposal shall not be changed or superseded except by written addendum from Newton County. Failure to comply with the written specifications for this proposal may result in disqualification by Newton County.
3. *Reserved*
4. The following number, **RFP 20-07 Grant Writer Consultant** must be written clearly on the outside of each proposal envelope in order to avoid prior opening in error.
5. All proposals must be sealed, received and in-hand at proposal due date and time. Each proposer assumes the responsibility for having his/her proposal received at the designated time and place of proposal due date. Proposals received after the stated time and date may be subject to rejection without consideration, regardless of postmark. Newton County accepts no responsibility for mail delivery.
6. Unless otherwise stated, all proposals submitted shall be valid and may not be withdrawn for a period of 90 days from the due date.
7. Each proposal form submitted must include the name of the business, mailing address, the name, title and signature of the person submitting the proposal. When submitting a proposal to Newton County the first page of your proposal package should be the proposal form listing the price, delivery date, etc., unless the proposal form is requested to be in a separate envelope.
8. Newton County reserves the right to accept a proposal that is not the lowest price if, in the County's judgment, such proposal is in the best interest of the County and the public. The

County reserves the right to reject any and all proposals.

9. Telephone, Telegraphic or Facsimile proposals will not be accepted.

10. *Reserved.*

11. If applicable, completed questionnaires must be signed manually. Newton County reserves the right to accept or reject any proposal on the basis of incomplete or inaccurate answers to the questionnaire.

14. *Reserved.*

15. *Reserved.*

16. Proposers shall identify any subcontractors, and include an explanation of the service or product that they may provide.

17. Proposers should expect to contract with the County using the sample agreement attached to this RFP, without significant modification. Proposers who have questions about any portion of the sample agreement should make these known during the question/answer period and answers will be provided by RFP addendum.

SPECIFIC INSTRUCTIONS

Any Proposer submitting a Proposal in response to the aforesaid Request for Proposal shall comply with the following specific instructions:

(1) *Reserved.*

(2) The submission of a Proposal constitutes a representation by the Contractor that it has studied and examined the Proposal Documents, including the scope of work and sample agreement document attached to this RFP.

(3) Any Proposal may include such documentation and information as the contractor deems appropriate to establish that it is a responsible and responsive Contractor and that its Proposal is the most advantageous to the Owner, taking into consideration the specific evaluation factors, as set forth in the aforesaid Request for Proposals.

(4) Any changes, additions, interpretations, or corrections, to or concerning the Proposal Documents prior to the date for submission of Proposals will be issued as an Addendum by the Owner. Only such written changes, additions, interpretations, or corrections by Addendum shall be binding. Any changes, additions, interpretations, corrections given by any other method shall not be valid and the Contractor shall not rely upon in any manner whatsoever any verbal statements, instructions, interpretations, corrections, or other information provided by the Owner. Addendum will be sent by email to all the contracts and other entities that are registered in the Purchasing Department of the County as having received Contract Documents for the Project.

(5) All Proposals must be signed by a duly authorized officer, member, or general partner (as appropriate) and dated. All blanks on the completed Proposal Form shall be filled in where so requested. The completed Proposal shall be without interlineations, alterations or erasures.

(6) Upon submission, all Proposals shall become and remain the property of the County. **The County shall have no liability arising out of the disclosure, dissemination, or publication of any Proposal or any information contained therein.**

(7) The Proposer must be licensed to do business in the State of Georgia.

- (8) Proposals must be submitted in the name of the legal entity that will execute the awarded contract and be responsible for the work.
- (9) Any Proposal submitted to the County shall remain open for acceptance by the County, and same shall be honored by the contractor, for a period of ninety (90) days of the date set forth hereinabove for the receipt of Proposals;
- (10) The County reserves the right to amend these Instructions, or clarify same by Addendum, within the time provided by Georgia Law. If such revisions or amendments are of such magnitude as to warrant, in the sole discretion of the County, the postponement for the date of the submission and receipt of Proposals, written notification shall be issued to any contractor who has notified the County in writing of its intent to submit a Proposal pursuant to the County's Request for Proposals.
- (11) A Summary Checklist of the items to be included in each proposal is shown below:
 - Exhibit A: Proposal Certification –**REQUIRED SUBMITTAL**
 - Exhibit B: Non Collusion Affidavit –**REQUIRED SUBMITTAL**
 - Exhibit C: Price Proposal Form –**REQUIRED SUBMITTAL**
 - Exhibit D: Business License –**REQUIRED SUBMITTAL**
 - Exhibit E: Any addenda received from County –**REQUIRED SUBMITTAL**
 - Exhibit F: Technical Proposal –**REQUIRED SUBMITTAL**

Exhibit A

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, contractor or person submitting a proposal for the same, and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this Request for **Proposal #20-07** and certify that I am authorized to sign this proposal for the company.

This _____ day of _____ 20__.

Company Name (Please Type or Print)

Person Authorized to Sign:

Name: _____

Name: _____

Street: _____

Title: _____

City: _____

Telephone Number: () _____

State: _____ Zip: _____

Signature: _____

Email: _____

Exhibit B
Non-Collusion Affidavit of Prime Bidder/Subcontractor

State of Georgia
Newton County, Georgia

_____, being the first duly sworn, deposes and says that:

1. He/she is _____ of _____
(Owner, partner, etc.) (Company)

the Bidder that has submitted the attached Bid;

2. He/she is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

3. Such Bid is genuine and is not a collusive or sham Bid;

4. Neither the said Bidder nor any of its officers, partners, owners, subcontractors, agents, representatives, employees or parties in interest including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix price or prices in the attached Bid or of any other Bidder, or to fix overhead, profit or cost element of the bid price or the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement and advantage against Newton County or any person interested in the proposed contract;

5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest including this affiant;

Signature: _____

Date: _____

Name & Title: _____

Notary: _____

My Commission Expires _____

Exhibit C
PROPOSAL PRICE FORM
RFP #20-07
Grant Writing Consultant
TO BE SEALED SEPRATELY

Proposal on Specification as outlined: Yes _____
 No _____ * Variations are to be noted.

Proposal prices expire: _____ Month _____ Day _____ Year
 Minimum of 90 days

DESCRIPTION	QUANTITY	TOTAL PRICE
Grant Writing Services	Flat Fee Pricing	\$ _____
Grant Writing Services	Hourly Pricing	\$ _____

Please attach hourly prices for other staff categories, if necessary.

Proposal Received From:

Company _____

Address _____

Phone _____

Contact # _____

 Authorized Representative (Print or Type)

 Authorized Representative (Signature)

Exhibit D
Business License

Exhibit E
Acknowledgement of Addendum Form
RFP # 20-07
Grant Writer Consultant

The Offeror has examined and carefully studied the Specifications and the following Addenda, receipt of all of which is hereby acknowledged:

Addendum _____	date _____	Acknowledgement _____	<i>Initial</i>
Addendum _____	date _____	Acknowledgement _____	<i>Initial</i>
Addendum _____	date _____	Acknowledgement _____	<i>Initial</i>
Addendum _____	date _____	Acknowledgement _____	<i>Initial</i>

Offerors must acknowledge any issued addenda. Submittals which fail to acknowledge the offeror 's receipt of any addendum will result in the rejection of the submittal if the addendum contained information which substantively changes the Owner's requirements.

Exhibit F

Technical Proposal

Introduction:

Newton County Board of Commissioners is soliciting proposals from all qualified Consultants to provide all necessary equipment, labor and materials to preform grant writing services for Newton County. The County is seeking a Grant Writer with a proven track record for writing, submitting and securing grants of \$100,000 USD and above, ideally for Transportation, Public Safety (Fire & EMA 911), Block Grants and Recreation. The successful Consultant must have over five (5) years of submission experience and knowledge of working with local governments that obtained corporate and/or private foundation grants within the continental United States of America.

Requirements:

1. Those responding to this RFP must follow its procedures and requirements. Failure to comply with or complete any part of this RFP may result in rejection of the proposal. All proposals must include:
 - a. A cover letter
 - b. Experience and qualification of the consultant and include the resume of the principal grant writer providing direct services for this project. Describe in detail your experience writing and submitting government, corporate and private foundation grants.
 - c. A narrative that address how the Scope of Services, as outlined below, will be accomplished, including a timeline with benchmarks and the estimated number of hours required to accomplish the plan
 - d. An excerpt from a grant you have written that is representative of your writing style. The excerpt should not exceed five (5) pages and should not contain any confidential or proprietary information.
 - e. A clearly defined project budget. Hourly or per project fee can be included, but please note that the consultant will be compensated on a per grant writing/submitted basis, with the amount/cost structure being mutually agreed to between the selected writer and Newton Co BOC on a project by project basis.
 - f. Five (5) references from clients for whom the consultant has performed similar scope of services for.

Qualifications:

1. Bachelor's Degree or five (5) years of experience in obtaining grants for governmental entities.
2. Demonstrate experience in obtaining grants from non-profits, charities, and other philanthropic organizations.
3. Excellent verbal and written communications skills required.

4. Ability to manage rejection and overcome common proposal objections.
5. Strong interpersonal and presentation skills required.
6. Experience with sourcing opportunities, cold-calling, contact development and business relationship management.
7. Detail oriented, adaptable, organized and demonstrate the ability to successfully manage multiple projects and tasks.
8. Excellent computer skills including Microsoft Office, email marketing
9. The Consultant must be able to craft funding proposals in a clear and compelling manner.
10. Excellent writing, analytical and research skills are essential.
11. Must have experience using online databases and other sources to locate biographical, financial and philanthropic information.
12. Familiar with Federal, State, Local and Foundation Center database for researching opportunities.
13. A solid understanding of budgets as they relate to proposals and grants.

Scope of Services:

The Consultant agrees to provide the following services for Newton County BOC:

1. Explore and write request for funding opportunities, Federal State and Local.
2. Identify, define and develop funding sources to support existing and planned program activities as well as coordinate the development, writing and submission of grant proposals to third party entities.
3. Consultant is responsible for collecting, analyzing and reporting data on performance of programs activities that are funded by third party public and private sources.
4. Responsible for identifying grant opportunities, managing the grant development and proposal process.
5. Research grant prospects and advise client on which ones to approach and how.
6. Work with staff to interpret guidelines and gather material and information necessary for a strong proposal.
7. Write grant proposals as requested in time to meet deadlines and prepare the proposal for submission.
8. Attend meetings necessary to accomplish the required work.
9. Research and identify grant opportunities based on funding amount needed, location and organization project.
10. Track and create a calendar of grant opportunities including deadline dates and required materials, etc.
11. Complete and submit grant applications to secure funding.
12. Consultant is responsible for submitting copies of all grant applications and related documents to the Grant coordinator for processing.
13. Maintain chart of grant applications, including grant applied to, status of application and grant deadline.
14. Identify all requirements of grant to ensure all necessary attachments are submitted on time. Prioritize grants to apply for (based on size of grant and time funding is released).
15. Establish and maintain personal contact and relationships with foundation contacts and

program officers.

16. Ensure prompt acknowledgement of foundation gifts.
17. Conduct a kick-off meeting with project team to align on scope, priorities, work plan and deliverables.
18. Develop, prepare and submit a minimum of five (5) grant proposals for a minimum of \$100,000 USD each.
19. Provide ongoing consulting/coaching during the implementation state.

**Exhibit G
Sample Contract**



PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 20__ (the "Effective Date"), by and between **NEWTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, acting by and through its governing authority, the County Board of Commissioners (hereinafter referred to as the "County"), and _____, a _____, (hereinafter referred to as the "Consultant"), collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, County desires to retain Consultant to provide certain services; and

WHEREAS, County finds that specialized knowledge, skills, and training are necessary to perform the Work (defined below) contemplated under this Agreement; and

WHEREAS, Consultant has represented that it is qualified by training and experience to perform the Work; and

WHEREAS, Consultant desires to perform the Work as set forth in this Agreement under the terms and conditions provided in this Agreement; and

WHEREAS, the public interest will be served by this Agreement; and

WHEREAS, Consultant has familiarized itself with the nature and extent of the Agreement and the Work, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of Work.

NOW, THEREFORE, for and in consideration of the mutual promises, the public purposes, and the acknowledgements and agreements contained herein, and other good and adequate consideration, the sufficiency of which is hereby acknowledged, the Parties do mutually agree as follows:

I. SCOPE OF SERVICES AND TERMINATION DATE

A. **Agreement.** The Agreement shall consist of this Professional Services Agreement and each of the Exhibits hereto, which are incorporated herein by reference, including:

Exhibit "A" – County Solicitation Documents

Exhibit "B" – Consultant Response/Proposal

Exhibit "C" – Scope of Work

Exhibit "D" – Contractor Affidavit

Exhibit "E" – Subcontractor Affidavit

Exhibit "F" – Key Personnel

B. **Project Description.** The project at issue in this Agreement is generally described as grant writing consultant services.

C. **The Work.** The Work to be completed under this Agreement (the "Work") includes, but shall not be limited to, the work described in the Scope of Work provided in **Exhibit "C"**, attached hereto and incorporated herein by reference. Unless otherwise stated in **Exhibit "C"**, the Work includes all material, labor, insurance, transportation, services and any other miscellaneous items and work necessary to complete the Work. Some details necessary for proper execution and completion of the Work may not be specifically described in the Scope of Work, but they are a requirement of the Work if they are a usual and customary component of the contemplated services or are otherwise necessary for proper completion of the Work.

D. **Schedule and Term.** Consultant shall promptly identify potential grants and advise and prepare materials as necessary to allow for timely application for and performance under grant funding opportunities. The term of this Agreement ("Term") shall commence as of the Effective Date and expire after one year. The parties may, upon mutual written agreement, extend this Agreement for up to two additional one-year extension terms.

II. WORK CHANGES

A "Change Order" means a written modification of the Agreement, signed by representatives of County and Consultant with appropriate authorization. Any work added to the scope of this Agreement by a Change Order shall be executed under all the applicable conditions of this Agreement. No claim for additional compensation or extension of time shall be recognized, unless contained in a written Change Order duly executed on behalf of County and Consultant.

III. COMPENSATION AND METHOD OF PAYMENT

A. **Payment Terms.** County agrees to pay Consultant for the Work performed by Consultant upon certification by County that the Work was actually performed in accordance with the Agreement. Compensation for Work performed and, if applicable, reimbursement for costs incurred shall be paid to Consultant upon County's receipt and approval of invoices, setting forth in detail the services performed and costs incurred, along with all supporting documents requested by City to process the invoice. Invoices shall be submitted on a monthly basis. Any material deviations in tests or inspections performed, or times or locations required to complete such tests or inspections, and like deviations from the Work described in this Agreement shall be clearly communicated to City before charges are incurred and shall be handled

through Change Orders as described in Section II above. City shall pay Consultant within thirty (30) days after approval of the invoice by City staff.

B. Maximum Contract Price. The maximum amount paid under this Agreement as compensation for Work performed and reimbursement for costs incurred shall be [] (the "Maximum Contract Price"). Compensation shall be based on [TBD – depending on whether hourly/unit rate or lump sum pricing is used.]

C. Reimbursement for Costs. The Maximum Contract Price set forth in Section III(B) above includes all costs, direct and indirect, needed to perform the Work, and there shall be no separate reimbursement for costs. The County shall be responsible for all application fees and related direct costs of applying for and implementing grant awards.

IV. COVENANTS OF CONSULTANT

A. Expertise of Consultant; Licenses, Certification and Permits. Consultant accepts the relationship of trust and confidence established between it and County, recognizing that County's intention and purpose in entering into this Agreement is to engage an entity with the requisite capacity, experience, and professional skill and judgment to provide the Work in pursuit of the timely and competent completion of the Work undertaken by Consultant under this Agreement. Consultant shall employ only persons duly qualified in the appropriate area of expertise to perform the Work described in this Agreement.

Consultant covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of Consultant by any and all national, state, regional, county, or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Work contracted for under this Agreement. Further, Consultant agrees that it will perform all Work in accordance with the standard of care and quality ordinarily expected of competent professionals and in compliance with all federal, state, and local laws, regulations, codes, ordinances, or orders applicable to the Work, including, but not limited to, any applicable records retention requirements and Georgia's Open Records Act (O.C.G.A. § 50-18-71, *et seq.*). Any additional work or costs incurred as a result of error and/or omission by Consultant as a result of not meeting the applicable standard of care or quality will be provided by Consultant at no additional cost to County. This provision shall survive termination of this Agreement.

B. Budgetary Limitations. Consultant agrees and acknowledges that budgetary limitations are not a justification for breach of sound principals of Consultant's profession and industry. Consultant shall take no calculated risk in the performance of the Work. Specifically, Consultant agrees that, in the event it cannot perform the Work within the budgetary limitations established without disregarding sound principles of Consultant's profession and industry, Consultant will give written notice immediately to County.

C. County's Reliance on the Work. Consultant acknowledges and agrees that County does not undertake to approve or pass upon matters of expertise of Consultant and that, therefore, County bears no responsibility for Consultant's Work performed under this Agreement. Consultant acknowledges and agrees that the acceptance of Work by County is limited to the function of determining whether there has been compliance with what is required to be produced under this Agreement. County will not, and need not, inquire into adequacy, fitness, suitability or correctness of Consultant's performance. Consultant further agrees that no approval of designs, plans, specifications or other work product by any

person, body or agency shall relieve Consultant of the responsibility for adequacy, fitness, suitability, and correctness of Consultant's Work under professional and industry standards, or for performing services under this Agreement in accordance with sound and accepted professional and industry principles.

D. Consultant's Reliance on Submissions by County. Consultant must have timely information and input from County in order to perform the Work required under this Agreement. Consultant is entitled to rely upon information provided by County, but Consultant shall provide immediate written notice to County if Consultant knows or reasonably should know that any information provided by County is erroneous, inconsistent, or otherwise problematic.

E. Consultant's Representative. _____ shall be authorized to act on Consultant's behalf with respect to the Work as Consultant's designated representative, provided that this designation shall not relieve either Party of any written notice requirements set forth elsewhere in this Agreement.

F. Assignment of Agreement. Consultant covenants and agrees not to assign or transfer any interest in, or delegate any duties of this Agreement, without the prior express written consent of County. As to any approved subcontractors, Consultant shall be solely responsible for reimbursing them, and County shall have no obligation to them.

G. INTENTIONALLY OMITTED

H. Independent Contractor. Consultant hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of County. Nothing in this Agreement shall be construed to make Consultant or any of its employees, servants, or subcontractors, an employee, servant or agent of County for any purpose. Consultant agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of consultants, agents or employees to complete the Work; and the payment of employees, including benefits and compliance with Social Security, withholding and all other regulations governing such matters. Consultant agrees to be solely responsible for its own acts and those of its subordinates, employees, and subcontractors during the life of this Agreement. There shall be no contractual relationship between any subcontractor or supplier and County by virtue of this Agreement with Consultant. Any provisions of this Agreement that may appear to give County the right to direct Consultant as to the details of the services to be performed by Consultant or to exercise a measure of control over such services will be deemed to mean that Consultant shall follow the directions of County with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and County may hire additional entities to perform the Work related to this Agreement.

Inasmuch as County and Consultant are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Consultant agrees not to represent itself as County's agent for any purpose to any party or to allow any employee of Consultant to do so, unless specifically authorized, in advance and in writing, to do so, and then only for the limited purpose stated in such authorization. Consultant shall assume full liability for any contracts or agreements Consultant enters into on behalf of County without the express knowledge and prior written consent of County.

I. Insurance.

- (1) Requirements: Consultant shall have and maintain in full force and effect for the duration of this Agreement, insurance insuring against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by Consultant, its agents, representatives, employees or subcontractors. All policies shall be subject to approval by County as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the County Manager.
- (2) Minimum Limits of Insurance: Consultant shall maintain the following insurance policies with coverage and limits no less than:
 - (a) Professional Liability of at least \$1,000,000 (one million dollars) limit for claims arising out of professional services and caused by Consultant's errors, omissions, or negligent acts.
 - (b) Workers' Compensation limits as required by the State of Georgia and Employers' Liability limits of \$100,000 (one hundred thousand dollars) per occurrence or disease. No individuals associated with Consultant (Proprietor/Partner/Executive/Officer/Member/etc.) may be excluded from coverage. If, notwithstanding this provision, individuals are excluded, those individuals are strictly prohibited from performing the Work. (If Consultant is a sole proprietor, who is otherwise not entitled to coverage under Georgia's Workers' Compensation Act, Consultant must secure Workers' Compensation coverage approved by both the State Board of Workers' Compensation and the Commissioner of Insurance. The amount of such coverage shall be the same as what is otherwise required of employers entitled to coverage under the Georgia Workers' Compensation Act.)
- (3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by County in writing so that County may ensure the financial solvency of Consultant; self-insured retentions should be included on the certificate of insurance.
- (4) Other Insurance Provisions: Each policy shall contain, or be endorsed to contain, the following provisions respectively:
 - (a) Workers' Compensation Coverage. The insurer providing Workers' Compensation Coverage will agree to waive all rights of subrogation against the Insured Parties for losses arising from Work performed by Consultant for County.
- (5) Acceptability of Insurers: The insurance to be maintained by Consultant must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of Georgia. Such insurance policies shall be placed with insurer(s) with an A.M. Best Policyholder's rate of no less than "A-" and with

a financial rating of Class VII or greater. The Consultant shall be responsible for any delay resulting from the failure of its insurer to provide proof of coverage in the prescribed form.

- (6) Verification of Coverage: Consultant shall furnish to County for County approval certificates of insurance and endorsements to the policies evidencing all coverage required by this Agreement prior to the start of work. Without limiting the general scope of this requirement, Consultant is specifically required to provide an endorsement naming County as an additional insured when required. The certificates of insurance and endorsements for each insurance policy are to be on a form utilized by Consultant's insurer in its normal course of business and are to be signed by a person authorized by that insurer to bind coverage on its behalf, unless alternate sufficient evidence of their validity and incorporation into the policy is provided. County reserves the right to require complete, certified copies of all required insurance policies at any time. Consultant shall provide proof that any expiring coverage has been renewed or replaced prior to the expiration of the coverage.
- (7) Consultant's Duty to Provide Notice of Reduction in Coverage: Consultant shall provide written notice to County at least thirty (30) days prior to any reduction, suspension, voiding, or cancellation of coverage. Consultant shall require the same notice to the County in all subcontractor contracts.
- (8) Subcontractors: Consultant shall either (1) ensure that its insurance policies (as described herein) cover all subcontractors and the Work performed by such subcontractors or (2) ensure that any subcontractor secures separate policies covering that subcontractor and its Work. All coverage for subcontractors shall be subject to all of the requirements stated in this Agreement, including, but not limited to, naming the Insured Parties as additional insureds.
- (9) Claims-Made Policies: Consultant shall extend any claims-made insurance policy for at least six (6) years after termination or final payment under the Agreement, whichever is later, and have an effective date which is on or prior to the Effective Date.

J. Employment of Unauthorized Aliens Prohibited – E-Verify Affidavit.

Pursuant to O.C.G.A. § 13-10-91, Consultant shall: (1) complete the form attached hereto as Exhibit "A", averring that: (i) it will not perform any services in the United States and is exempt from compliance with United States immigration verification laws with respect to the services performed under this Agreement; or (ii) it has registered with, is authorized to use, and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and that will continue to use the federal work authorization program throughout the term of the Agreement; or (2) provide evidence that it is an individual licensed in good standing under Title 26 or Title 43 of the Georgia Code, or by the State Bar of Georgia; or (3) provide a copy of its state-issued drivers' license accompanied by an affidavit that it currently has no employees and does not intend to hire any employees for purposes of satisfying or completing the terms and conditions of this Agreement.

In the event Consultant employs or contracts with any subcontractor(s) in connection with this Agreement, Consultant agrees to secure from such subcontractor(s): (a) attestation of the subcontractor's compliance with O.C.G.A. § 13-10-91 and Georgia Rule 300-10-1-.02 by the subcontractor's execution of the subcontractor affidavit attached hereto as Exhibit "B", which subcontractor affidavit shall become part of the Consultant/subcontractor agreement; or (b) evidence that the subcontractor is not required to provide such an affidavit because it satisfies the criteria of subsections (2) or (3) above. If a subcontractor affidavit is obtained, Consultant agrees to provide a completed copy to County within five (5) business days of receipt from any subcontractor.

K. Records, Reports and Audits.

(1) Records:

- (a) Books, records, documents, account ledgers, data bases, and similar materials relating to the Work performed for County under this Agreement ("Records") shall be established and maintained by Consultant in accordance with applicable law and requirements prescribed by County with respect to all matters covered by this Agreement. Such Records shall include, but not be limited to, current and complete books of account of all transactions with respect to the Work. Such books of account shall be kept in accordance with sound accounting practices consistently applied, and otherwise in such manner as shall be reasonably required by the County. Except as otherwise authorized or required, such Records shall be maintained for at least three (3) years from the date that final payment is made to Consultant by County under this Agreement. Furthermore, Records that are the subject of audit findings shall be retained for three (3) years or until such audit findings have been resolved, whichever is later.
- (b) All costs claimed or anticipated to be incurred in the performance of this Agreement shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

(2) Reports and Information: Upon request, Consultant shall furnish to County any and all Records in the form requested by County. All Records provided electronically must be in a format compatible with County's computer systems and software.

(3) Audits and Inspections: At any time during normal business hours and as often as County may deem necessary, Consultant shall make available to County or County's representative(s) for examination all Records. Consultant will permit County or County's representative(s) to audit, examine, and make excerpts or transcripts from such Records. Consultant shall provide proper facilities for

County or County's representative(s) to access and inspect the Records, or, at the request of County, shall make the Records available for inspection at County's office. Further, Consultant shall permit County or County's representative(s) to observe and inspect any or all of Consultant's facilities and activities during normal hours of business for the purpose of evaluating Consultant's compliance with the terms of this Agreement. In such instances, County or County's representative(s) shall not interfere with or disrupt such activities.

L. Ethics Code; Conflict of Interest. Consultant agrees that it shall not engage in any activity or conduct that would result in a violation of the Newton County Code of Ethics or any other similar law or regulation. Consultant certifies that to the best of its knowledge no circumstances exist which will cause a conflict of interest in performing the Work. Should Consultant become aware of any circumstances that may cause a conflict of interest during the Term of this Agreement, Consultant shall immediately notify County. If County determines that a conflict of interest exists, County may require that Consultant take action to remedy the conflict of interest or terminate the Agreement without liability. County shall have the right to recover any fees paid for services rendered by Consultant when such services were performed while a conflict of interest existed if Consultant had knowledge of the conflict of interest and did not notify County within five (5) business days of becoming aware of the existence of the conflict of interest.

As required by O.C.G.A. § 36-80-28, if the Agreement requires the Consultant to prepare, develop, or draft specifications or requirements for a solicitation (including bids, requests for proposals, procurement orders, or purchase orders) or to serve in a consultative role during a bid or proposal evaluation or negotiation process: (a) the Consultant shall avoid any appearance of impropriety and shall follow all ethics and conflict-of-interest policies and procedures of the County; (b) the Consultant shall immediately disclose to the County any material transaction or relationship, including, but not limited to, that of the Consultant, the Consultant's employees, or the Consultant's agents or subsidiaries, that reasonably could be expected to give rise to a conflict of interest, including, but not limited to, past, present, or known prospective engagements, involvement in litigation or other dispute, client relationships, or other business or financial interest, and shall immediately disclose any material transaction or relationship subsequently discovered during the pendency of the Agreement; and (c) the Consultant agrees and acknowledges that any violation or threatened violation of this paragraph may cause irreparable injury to the County, entitling the County to seek injunctive relief in addition to all other legal remedies.

M. Confidentiality. Consultant acknowledges that it may receive confidential information of County and that it will protect the confidentiality of any such confidential information and will require any of its subcontractors, consultants, and/or staff to likewise protect such confidential information. Consultant agrees that confidential information it learns or receives or such reports, information, opinions or conclusions that Consultant creates under this Agreement shall not be made available to, or discussed with, any individual or organization, including the news media, without prior written approval of County. Consultant shall exercise reasonable precautions to prevent the unauthorized disclosure and use of County information whether specifically deemed confidential or not.

Consultant acknowledges that County's disclosure of documentation is governed by Georgia's Open Records Act, and Consultant further acknowledges that if Consultant submits records containing trade secret information, and if Consultant wishes to keep such records confidential, Consultant must submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10 of the Georgia Code, and

the Parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto.

N. Key Personnel. All of the individuals identified in **Exhibit “F”**, attached hereto, are necessary for the successful completion of the Work due to their unique expertise and depth and breadth of experience. There shall be no change in Consultant’s Project Manager or members of the project team, as listed in **Exhibit “F”**, without written approval of County. Consultant recognizes that the composition of this team was instrumental in County’s decision to award the Work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for County’s consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this paragraph shall constitute a material breach of Consultant’s obligations under this Agreement and shall be grounds for termination.

O. Meetings. Consultant is required to meet with County’s personnel, or designated representatives, to resolve technical or contractual problems that may occur during the Term of this Agreement at no additional cost to County. Meetings will occur as problems arise and will be coordinated by County. County shall inform Consultant’s Representative of the need for a meeting and of the date, time and location of the meeting at least three (3) full business days prior to the date of the meeting. Face-to-face meetings are desired. However, at Consultant’s option and expense, a conference call meeting may be substituted. Consistent failure to participate in problem resolution meetings, two consecutive missed or rescheduled meetings, or failure to make a good faith effort to resolve problems, may result in termination of this Agreement for cause.

P. Authority to Contract. The individual executing this Agreement on behalf of Consultant covenants and declares that it has obtained all necessary approvals of Consultant’s board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Consultant to the terms of this Agreement, if applicable.

Q. Ownership of Work. All reports, designs, drawings, plans, specifications, schedules, work product and other materials, including, but not limited to, those in electronic form, prepared or in the process of being prepared for the Work to be performed by Consultant (“Materials”) shall be the property of County, and County shall be entitled to full access and copies of all Materials in the form prescribed by County. Any Materials remaining in the hands of Consultant or subcontractor upon completion or termination of the Work shall be delivered immediately to County whether or not the Work is commenced or completed; provided, however, that Consultant may retain a copy of any deliverables for its records. Consultant assumes all risk of loss, damage or destruction of or to Materials. If any Materials are lost, damaged or destroyed before final delivery to County, Consultant shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to County, and Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

R. Nondiscrimination. In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, Consultant agrees that, during performance of this Agreement, Consultant, for itself, its assignees and successors in interest, will not discriminate against any employee or applicant for employment, any subcontractor, or any supplier because of race, color, creed, national origin, gender, age or disability. In addition, Consultant agrees to comply with all applicable implementing regulations and shall include the provisions of this paragraph in every subcontract for services contemplated under this Agreement.

V. COVENANTS OF COUNTY

A. Right of Entry. County shall provide for right of entry for Consultant and all necessary equipment as required for Consultant to complete the Work; provided that Consultant shall not unreasonably encumber the project site(s) with materials or equipment.

B. County's Representative. Lloyd Kerr shall be authorized to act on County's behalf with respect to the Work as County's designated representative; provided that any changes to the Work or the terms of this Agreement must be approved as provided in Section II above.

VI. TERMINATION

A. INTENTIONALLY OMITTED

B. For Cause. Consultant shall have no right to terminate this Agreement prior to completion of the Work, except in the event of County's failure to pay Consultant within thirty (30) calendar days of Consultant providing County with notice of a delinquent payment and an opportunity to cure. In the event of Consultant's breach or default under this Agreement, County may terminate this Agreement for cause. County shall give Consultant at least seven (7) calendar days' written notice of its intent to terminate the Agreement for cause and the reasons therefor. If Consultant fails to cure the breach or default within that seven (7) day period, or otherwise remedy the breach or default to the reasonable satisfaction of County, then County may, at its election: (a) in writing terminate the Agreement in whole or in part; (b) cure such default itself and charge Consultant for the costs of curing the default against any sums due or which become due to Consultant under this Agreement; and/or (c) pursue any other remedy then available, at law or in equity, to County for such default.

C. Statutory Termination. If the County's payment obligations continue beyond the calendar year in which this Agreement is executed, the Parties agree that this Agreement, as required by O.C.G.A. § 36-60-13, shall terminate absolutely and without further obligation on the part of County on December 31 each calendar year of the Term, and further, that this Agreement (and any associated Task Orders) shall automatically renew on January 1 of each subsequent calendar year absent County's provision of written notice of non-renewal to Consultant at least five (5) days prior to the end of the then current calendar year. Title to any supplies, materials, equipment, or other personal property shall remain in Consultant until fully paid for by County. Further, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of County.

D. Payment Upon Termination. Upon termination, County shall provide for payment to Consultant for services rendered and, where authorized, expenses incurred prior to the termination date; provided that, where this Agreement is terminated for cause, County may deduct from such payment any portion of the cost for County to complete (or hire someone to complete) the Work, as determined at the time of termination, not otherwise covered by the remaining unpaid Maximum Contract Price.

E. INTENTIONALLY OMITTED

F. Requirements Upon Termination. Upon termination, Consultant shall: (1) promptly

discontinue all services, cancel as many outstanding obligations as possible, and not incur any new obligations, unless the County directs otherwise; and (2) promptly deliver to County all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by Consultant in performing this Agreement, whether completed or in process, in the form specified by County.

G. Reservation of Rights and Remedies. The rights and remedies of County and Consultant provided in this Article are in addition to any other rights and remedies provided under this Agreement or at law or in equity. Specifically, and without limiting the generality of the foregoing, County may, with or without terminating this Agreement, bring an action against Consultant to recover from Consultant all damages, recoverable at law, suffered, incurred or sustained by County as a result of, by reason of, in connection with, or arising out of Consultant's default.

H. Survival. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, confidentiality obligations and insurance maintenance requirements.

VII. MISCELLANEOUS

A. Entire Agreement. This Agreement, including any exhibits hereto, constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Agreement not contained in this Agreement shall be valid or binding. This Agreement may be modified or amended only by a written Change Order (as provided in Section II above) or other document signed by representatives of both Parties with appropriate authorization.

B. Successors and Assigns. Subject to the provision of this Agreement regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

C. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia without regard to choice of law principles. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Newton County, Georgia, or the U.S. District Court for the Northern District of Georgia – Atlanta Division, and Consultant submits to the jurisdiction and venue of such court.

D. Captions and Severability. All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement. Should any article(s) or section(s) of this Agreement, or any part thereof, later be deemed illegal, invalid or unenforceable by a court of competent jurisdiction, the offending portion of the Agreement should be severed, and the remainder of this Agreement shall remain in full force and effect to the extent possible as if this Agreement had been executed with the invalid portion hereof eliminated, it being the intention of the Parties that they would have executed the remaining portion of this Agreement without including any such part, parts, or portions that may for any reason be hereafter declared invalid.

E. Business License. Prior to commencement of the Work to be provided hereunder, Consultant shall apply to County for a business license, pay the applicable business license fee, and maintain said business license during the Term of this Agreement, unless Consultant provides evidence that no such license is required. The Parties acknowledge that Consultant has no business location in Newton County and accordingly is not required to provide a Newton County business license.

F. Notices.

(1) **Communications Relating to Day-to-Day Activities.** All communications relating to the day-to-day activities of the Work shall be exchanged between County's Representative (named above) for County and Consultant's Representative (named above) for Consultant.

(2) **Official Notices.** All other notices, requests, demands, writings, or correspondence, as required by this Agreement, shall be in writing and shall be deemed received, and shall be effective, when: (1) personally delivered, or (2) on the third day after the postmark date when mailed by certified mail, postage prepaid, return receipt requested, or (3) upon actual delivery when sent via national overnight commercial carrier to the Party at the address given below, or at a substitute address previously furnished to the other Party by written notice in accordance herewith.

NOTICE TO COUNTY shall be sent to:

Newton County
Attn: Lloyd Kerr, County Manager
1124 Clark Street
Covington, GA 30014

NOTICE TO CONSULTANT shall be sent to:

G. Waiver of Agreement. No failure by County to enforce any right or power granted under this Agreement, or to insist upon strict compliance by Consultant with this Agreement, and no custom or practice of County at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect County's right to demand exact and strict compliance by Consultant with the terms and conditions of this Agreement. Further, no express waiver shall affect any Term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

I. No Third-Party Rights. This Agreement shall be exclusively for the benefit of the Parties and shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other right.

J. Sovereign Immunity; Ratification. Nothing contained in this Agreement shall be construed to be a waiver of County's sovereign immunity or any individual's qualified, good faith or official immunities. Ratification of this Agreement by a majority of the County Board of Commissioners shall authorize the Chair to execute this Agreement on behalf of County.

K. No Personal Liability. Nothing herein shall be construed as creating any individual or personal liability on the part of any of County's elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys or volunteers. No such individual shall be personally liable to Consultant or any successor in interest in the event of any default or breach by County or for any amount which may become due to Consultant or successor or on any obligation under the terms of this Agreement. Likewise, Consultant's performance of services under this Agreement shall not subject Consultant's individual employees, officers, or directors to any personal contractual liability, except where Consultant is a sole proprietor. The Parties agree that, except where Consultant is a sole proprietor, their sole and exclusive remedy, claim, demand or suit for contractual liability shall be directed and/or asserted only against Consultant or County, respectively, and not against any elected or appointed official, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers.

L. Counterparts; Agreement Construction and Interpretation. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Consultant represents that it has reviewed and become familiar with this Agreement. In the event of a conflict in the terms of this Agreement and/or the exhibits attached hereto, the terms most beneficial to County shall govern. The Parties hereto agree that, if an ambiguity or question of intent or interpretation arises, this Agreement is to be construed as if the Parties had drafted it jointly, as opposed to being construed against a Party because it was responsible for drafting one or more provisions of the Agreement. In the interest of brevity, the Agreement may omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. Words or terms used as nouns in the Agreement shall be inclusive of their singular and plural forms, unless the context of their usage clearly requires contrary meaning.

M. Force Majeure. Neither County nor Consultant shall be liable for its respective non-negligent or non-willful failure to perform or shall be deemed in default with respect to the failure to perform (or cure a failure to perform) any of its respective duties or obligations under this Agreement or for any delay in such performance due to: (i) any cause beyond its respective reasonable control; (ii) any act of God; (iii) any change in applicable governmental rules or regulations rendering the performance of

any portion of this Agreement legally impossible; (iv) earthquake, fire, explosion or flood; (v) strike or labor dispute, excluding strikes or labor disputes by employees and/or agents of Consultant; (vi) delay or failure to act by any governmental or military authority; or (vii) any war, hostility, embargo, sabotage, civil disturbance, riot, insurrection or invasion. In such event, the time for performance shall be extended by an amount of time equal to the period of delay caused by such acts, and all other obligations shall remain intact.

N. Material Condition. Each term of this Agreement is material, and Consultant's breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to County at law or in equity.

O. Exhibits. Each and every exhibit referred to or otherwise mentioned in this Agreement is attached to this Agreement and is and shall be construed to be made a part of this Agreement by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

P. Defined Terms. Capitalized terms used in this Agreement shall have the meanings ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

Q. Pronouns. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

IN WITNESS WHEREOF County and Consultant have executed this Agreement, effective as of the Effective Date first above written.

[SIGNATURES ON FOLLOWING PAGE]

CONSULTANT: _____

Signature: _____

Print Name: _____

Title: [CIRCLE ONE]
President/Vice President (Corporation)
General Partner (Partnership/Limited Partnership)
Member/Manager (LLC)
Owner (Sole Proprietorship/Individual)

Attest/Witness:

Signature: _____

Print Name: _____

Title: _____

NEWTON COUNTY, GEORGIA

By: Marcello Banes, Chair

[COUNTY SEAL]

Attest:

Signature: _____

Jackie Smith, County Clerk

Approved as to form:

County Attorney

Date

EXHIBIT "A"

EXHIBIT "B"

EXHIBIT "C" –

See Scope of Services in Exhibit A

EXHIBIT "D"

STATE OF GEORGIA
COUNTY OF _____

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 that is engaged in the physical performance of services on behalf of Newton County, Georgia: (1) provides all such services through employees working outside the US and none of these employees are subject to United States employment eligibility requirements; or (2) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and will continue to do so throughout the contract period. The contractor has the following number of employees:

___ 500 or more ___ 100 or more ___ Fewer than 100

In performing the contract to which this affidavit applies, the undersigned contractor will subcontract for the physical performance of services only with subcontractors who present an affidavit with the information required by O.C.G.A. § 13-10-91(b), unless the subcontractor shows that he/she is legally exempt from that requirement.

Contractor hereby attests that, if applicable, its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification
Number

Date of Authorization

Name of Contractor

Name of Project

Newton County, Georgia
Name of Public Employer

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

Executed on _____, 20__ in
_____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or
Agent

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

NOTARY PUBLIC

[NOTARY SEAL]

My Commission Expires:

EXHIBIT "E"

STATE OF GEORGIA

COUNTY OF _____

SUBCONTRACTOR AFFIDAVIT

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with _____ (name of contractor) on behalf of Newton County, Georgia: (1) provides all such services through employees working outside the US and none of these employees are subject to United States employment eligibility requirements; or (2) has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91, and will continue to do so throughout the contract period. The contractor has the following number of employees:

____ 500 or more ____ 100 or more ____ Fewer than 100

In performing the contract to which this affidavit applies, the undersigned subcontractor will further subcontract for the physical performance of services only with subcontractors who present an affidavit with the information required by O.C.G.A. § 13-10-91(b), unless the sub-subcontractor shows that he/she is legally exempt from that requirement. Additionally, the undersigned subcontractor will, upon receipt of an affidavit from any lower-tier sub-subcontractor, forward the same to the contractor within five (5) business days of receipt.

Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

Federal Work Authorization User Identification
Number

Date of Authorization

Name of Subcontractor

Name of Project

Newton County, Georgia
Name of Public Employer

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

Executed on _____, 20__ in
_____ (city), _____ (state).

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or
Agent

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

NOTARY PUBLIC
[NOTARY SEAL]

My Commission Expires:
