COUNTY AGENDA REQUEST

Department:	Public Works	Presenter(s):	Public Works Director Phil Mallon
Meeting Date:	Tuesday, October 7, 2014	Type of Request:	New Business

Wording for the Agenda:

Consideration of staff's recommendation to approve the Addendum to Agreement between Fayette County and Mallett Consulting, Inc., dated August 1, 2005, for the East Fayetteville Bypass (SPLOST Project R-8).

Background/History/Details:

In August 2005, Fayette County and Mallett Consulting entered into an Agreement for professional services to support multiple transportation projects funded by the 2005 to 2010 Special Purpose Local Open Sales Tax (SPLOST). One of the projects included in this Agreement is the East Fayetteville Bypass Segments I and II (R-8).

Three items are included as background to this agenda request:

1. A September 29, 2014 letter from Mallett Consulting documenting the new Fee Schedule and scope of work for project R-8 (Exhibit A);
2. Proposed Map of the East Fayetteville Bypass (SPLOST R-8)(Exhibit B); and
3. A copy of the original Agreement for Professional Services (Exhibit B).

The East Fayetteville Bypass contains five components: South Jeff Davis Intersection; New Road Construction; McDonough Road Bridge; Morning Creek Bridge; and Corinth Road Curve Realignment. The proposed addendum includes the South Jeff Davis intersection and new road construction.

What action are you seeking from the Board of Commissioners?

Approval of staff's recommendation to approve the Addendum to Agreement between Fayette County and Mallett Consulting, Inc., dated August 1, 2005, for the East Fayetteville Bypass (SPLOST Project R-8).

If this item requires funding, please describe:

The proposed fees for professional services are less than originally planned and adequate funds are available from the SPLOST project account R-8.

Has this request been considered within the past two years?	No	If so, when?	
Is Audio-Visual Equipment Required for this Request?*	No	Backup Provided with Request?	Yes

**** All audio-visual material must be submitted to the County Clerk's Office no later than 48 hours prior to the meeting. It is also your department's responsibility to ensure all third-party audio-visual material is submitted at least 48 hours in advance.***

Approved by Finance	Yes	Reviewed by Legal	
Approved by Purchasing	Yes	County Clerk's Approval	Yes
Administrator's Approval			

Staff Notes:

Design of the two bridges will be competitively bid and staff may do the design for the curve realignment in-house.

EXHIBIT A

Mallett Consulting, Inc.

ENGINEERING - SURVEYING - PROJECT MANAGEMENT

101 DEVANT STREET, SUITE 804
FAYETTEVILLE, GEORGIA 30214
770-719-3333
770-719-3377 (fax)

September 29, 2014

Mr. Phil Mallon - Director
Fayette County Public Works
115 McDonough Road
Fayetteville, GA 30214

Re: Fayette County SPLOST Program
East Fayetteville Bypass (R8)
Revisions to Project Scope

Dear Phil:

Per our recent discussions, we understand that the East Fayetteville Bypass project has been modified from its original intent, scope and sources of funding. A brief summary of the original scope is as follows:

- 4-lane divided roadway
- New alignment and modifications to existing alignments
- Limits: South Jeff Davis Road/County Line Road to SR 85/Corinth Road
- Project Length: 6.2 miles
- Federal funding toward construction cost.

The revised scope results in the following five sub-projects (no federal funding):

#1. Intersection improvement at SJD/County Line/Inman/North Bridge.
#2. New alignment (2 lane) between County Line Ct. and SR 54, approx. 3 miles.
#3. New bridge at pond/creek crossing, south of McDonough Rd.
#4. New bridge at Morning Creek crossing.
#5. Alignment improvements to curve at the north end of Corinth Road.

In accordance with the existing Contract for Professional Services, dated August 1, 2005, between Fayette County and Mallett Consulting, Inc., we are pleased to provide the following amendment to our fees for the reduced scope of this project. This amendment will be in regard to sub-projects #1 and #2 above. We understand that the County will handle the remaining sub-projects outside of the current contract.

All original fees for the East Fayetteville Bypass project (R8), phases I & II, become void upon the acceptance of this amendment. The following amended fees are to provide services from this date forward, as necessary to provide completion of the tasks identified by the scope described in the document prepared by your office titled:

Addendum to Agreement between Fayette County and Mallett Consulting, Inc., dated August 1, 2005 for the East Fayetteville Bypass (SPLOST Project R-8)

(Most recent revision per your email dated 9-29-14)

Project #1 - Intersection Improvements to South Jeff Davis/County Line Rd/Inman Rd/North Bridge Road.

Design:	$ 23,560.00*
Project Mgt:	$ 12,400.00
Environmental:	$ 21,450.00
Traffic Study:	$ 5,775.00
Surveying:	$ 15,400.00
Total Fee:	**$ 78,585.00**

** Includes discount for award with Project #2 below.*

Project #2 - New Alignment - 2 lane roadway County Line Ct. to State Route 54

Design:	$ 266,000.00
Project Mgt:	$ 140,000.00
Environmental:	$ 49,500.00
McDonough Rd Int. Bid Package:	$ 9,500.00 (if required)
Surveying:	$ 77,000.00
Total Fee:	**$ 542,000.00**

Note: Fees for additional services, reimbursable expenses and mileage will be billed in accordance with the original contract. Typical for both projects.

We will await Notice to Proceed by the County prior to beginning work. Thank you for the opportunity to continue providing services to the County. We look forward to bringing these new sub-projects to successful completion.

Sincerely,
Mallett Consulting, Inc.

David Jaeger, PE
Project Manager

Addendum to Agreement between Fayette County and Mallett Consulting, Inc., dated August 1, 2005 for the East Fayetteville Bypass (SPLOST Project R-8)

In August 2005 Fayette County and Mallett Consulting (the Engineer) entered into an Agreement for professional services to support multiple transportation projects funded by the 205 to 2010 Special Purpose Local Option Sales Tax (SPLOST).

One of the projects included in this Agreement is the East Fayetteville Bypass, Segments I and II (R-8). Since execution of the Agreement, the scope and funding sources for this project have changed significantly. Notable changes include: 1) the reduction in lanes from four to two; 2) no proposed work for much of the existing roadway in the project's alignment (i.e., portions of County Line Road and Corinth Road); and 3) the decision to opt-out of the Federal Aid program and fund the project entirely with County SPLOST money.

The purpose of this Addendum is to define the new professional services required for this project and establish new fees for the work.

Revisions to the Agreement

The following Sections of the Agreement are superseded by this Contract Addendum.

- Section 2.5.2 – The need for Resident Project Representative shall be decided prior to start of Construction. Fayette County may do this work in-house, put out for competitive bid, or negotiate fees with Mallett.
- Section 3.1.2 and 3.1.3 – Surveying services to measure and document existing conditions shall be included in the revise lump-sum fee.
- Section 3.1.6 – Color plots of project alignment and similar renderings (i.e., typical sections) shall be provided for up to three difference public meetings over the course of the project. These meetings may be Public Information Open Houses (PIOHs) or Board meetings. Preparation of renderings for more than three meetings will be considered an "Additional Service" and paid for per terms in Section 6. All other printing will be billed as a reimbursable expense, at cost.
- Section 3.1.12 – Costs associated with coordination and/or revisions due to project peer review for Task 1 shall be included as part of Lump Sum fee. Actual cost for Peer Review Consultant will be paid for "By Owner" or billed by the Engineer as an "Outside Consultant" at Cost + 10%. Owner will decide on final billing method.
- Section 3.1.15 – Surveying services, identified in the below Task Descriptions, shall be included as part of the Lump Sum fee.

- Section 4.4.5 – All survey work for this Section, including legal descriptions, shall be included as part of the Lump Sum fee.
- Section 4.8 – The Engineer shall furnish, as part of the Lump Sum fee, all necessary plans, documents, and associated information for Fayette County to obtain needed approvals and permits. These include GDOT signal permits, GDOT encroachment permits, ClaytonCounty approvals for roadway and drainage work, EPD for stream buffers and USACOE for wetland mitigation. All fees and costs associated with permits and with stream and/or wetland mitigation shall be paid for "By Owner".
- Costs associated with land acquisition, except for required surveying documents, will be paid for "By Owner".

All work to meet AASHTO and GDOT Standards and Specifications.

Unless noted otherwise, all scope/work listed in Tasks 1 and 2 shall be provided as part of the ENGINEER's Lump Sum fee.

Task 1 – Intersection at South Jeff Davis

The Engineer shall provide full design of intersection improvement at County Line, South Jeff Davis, Inman Road and North Bridge. Assume roundabout control. Construction for this project will most likely be by a Contractor so all final deliverables shall be suitable for bid.

The project may impact Clayton County. The Consultant is responsible for providing the specific plans and forms for Fayette County to obtain the necessary permits and approvals from Clayton County. Fayette County will develop and execute a Memorandum of Understanding between the two Counties for the project.

Scope of Work and Deliverables

- Provide updated traffic study (or verify existing data and study are still valid) and assessment of appropriate traffic control. Utilize current GDOT assessment tool, or other County-approved method, for evaluation of roundabout. Forecast level-of-service for 2015 and 2035.The updated study will dictate one or two lane design (and/or use of slip lanes).
- Provide Preliminary Design of recommended control with opinion of probable Construction Cost. The Preliminary Design shall account for drainage, utilities and ROW.
- Public Works shall present the Preliminary Design and cost to BOC for approval. If approved, County will get peer-review on roundabout. Consultant shall make modifications as recommended by peer-review team and agreed upon by Fayette County

- If roundabout is proposed, design to include re-alignment of road approaches as-needed to meet recommended geometry for speed control; concrete truck apron; curb and gutter around medians; cross-walks, etc.
- Stormwater Management Plan – at a minimum, stormwater impacts will have to be evaluated during concept and a decision made if water quality, channel protection, overbank flood protection, and/or extreme flood protection are required.
- Environmental – identification of state waters, bufferable state waters, wetlands and floodplain. Preparation of buffer variance application, if applicable, for County to submit. Preparation of forms/applications for USACOE permits, if applicable. Identification of other applicable State or Federal permits.
- Surveying – identify existing conditions, including driveways, pipes, utilities, mailboxes, lights, fences, easements, etc.; establish project controls; mark easements and ROW for negotiations; set final monuments; and provide surveying data in paper and electronic format.
- Road Alignment – with existing and proposed contours.
- Road Profiles and Driveway Profiles.
- Striping Plan.
- Utility Plan.
- Cross-Sections.
- Storm Drain Profiles with HGL.
- Construction Staging/Sequence Plan (needed to assess impact to traffic and possible detours).
- ESCP (per NPDES standards, County will submit to State EPD).
- ROW plans showing existing and required ROW, easement, driveways, utilities, structures, driveways, notable landscaping, fences, etc. Provide legal descriptions for all easements and ROW areas.
- Project details, standards and specifications.

Task 2–New Road Construction

The Engineer shall provide full design of new road from County Line Court to SR 54 at Corinth Road. The typical section will be 2-lane with 10-ft shoulder and ditch. Medians with curb and gutter shall be provided on approaches to select intersections. Road to be off-set within the right-of-way. Work to include evaluation and design of all intersections, including:

- County Line & County Line Court;
- McDonough Road;

- Hewell Road; and
- State Route 54.

Road design and construction will require at least one, and possibly two, bridges. Bridge design and permitting are excluded from this work and will be bid independently by Fayette County. The ENGINEER shall however, be responsible for matching horizontal and vertical alignment of road to that required by the bridge(s) (i.e., first priority will be to minimize bridge costs and environmental impacts, road to match).

Scope of Work and Deliverables

- Board input will be sought regarding need for updated traffic study. The information could be used to identify need and timeframe for possible future expansion. The cost for additional traffic studies and assessments are not included in the Lump Sum Design Fee.
- Provide Preliminary Design of road alignment, intersection controls and ROW impacts with opinion of probable Construction Cost. The concept shall address drainage, utilities and ROW.
- Public Works shall present the Preliminary Design and cost to BOC for approval.
- Completion of road alignment will be dependent upon bridge design. Scheduling should take this into account.
- Geotechnical investigation to assess depth to rock and suitability of native soils will be performed after completion of the approved Preliminary Design. This cost is not included in the Lump Sum Design Fee.
- Stormwater Management Plan – to include water quality, channel protection, overbank flood protection, and/or extreme flood protection. Design all necessary cross drains.
- Environmental – identification of state waters, bufferable state waters, wetlands and floodplain. Preparation of buffer variance application, if applicable, for County to submit. Preparation of forms/applications for USACOE permits, if applicable. Identification of other applicable State or Federal permits.
- Surveying – identify existing conditions, including driveways, pipe, utilities, mailboxes, lights, fences, easements, etc.; establish project controls; mark easements and ROW (for negotiations); set final monuments; and provide surveying data in paper and electronic format.
- Road Alignment – with existing and proposed contours.
- Road Profiles.
- Striping Plan.
- Utility Plan.
- Storm Drain Profiles with HGL.

- Cross-Sections and driveway profiles.
- Intersection with County Line Ct. to be included as a part of road design package.
- Intersection with McDonough Road to be developed as a stand-alone project that may be bid for construction by a Contractor independent of the road work.
- Intersection with Hewell Road to be included as a part of road design package.
- Intersection with SR 54 to be included as part of the road design package. After Preliminary Design, Fayette County may request that this be changed to a stand-alone package for bid purposes. If so, a change order to separate the project at the set limits will be provided.
- Intersections with McDonough Road and SR 54 will require approval and permits from GDOT. Consultant to provide all necessary plans, studies and documents to secure needed permits. Both these roads are part of current State road widening projects so extra coordination will be required.
- ESCP (per NPDES standards, County will submit to State EPD).
- ROW plans showing existing and required ROW, easement, driveways, utilities, structures, driveways, notable landscaping, fences, etc. Provide legal descriptions for all easements and ROW areas.
- Project details, standards and specifications.

Task 3 – McDonough Road Bridge

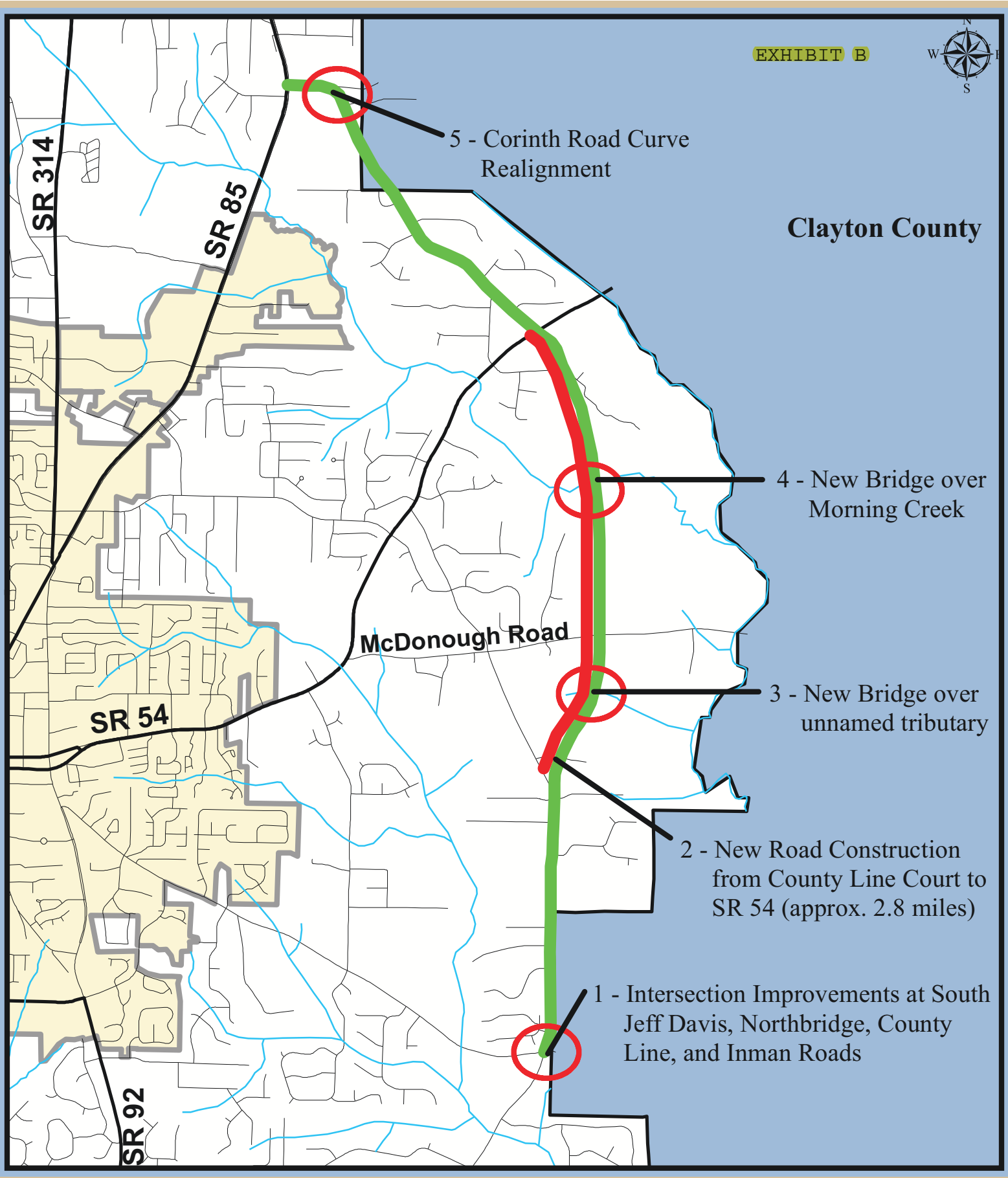
The need for this bridge will be confirmed during Preliminary Design stage of Task 2. If required, Fayette County will bid these design and permitting services separately.

Task 4 – Morning Creek Bridge

Design and permitting services for this bridge will be bid separately.

Task 5 – Corinth Road Curve Realignment

Fayette County will award this work at a later time, bid out, or develop in-house. No action proposed at this time.



State Highways
County and City Roads
Streams
Project Alignment (approx. 6.2 miles)
Work/Improvement Areas

East Fayetteville Bypass (SPLOST R-8)

Miles
0 0.325 0.65 1.3 1.95

"ATTACHMENT NO. 11"

EXHIBIT C

STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

7/18/05

STANDARD FORM OF AGREEMENT
BETWEEN
OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT made as of AUGUST 1, 2005

between Fayette County, Georgia

("OWNER") and

Mallett Consulting, Inc. ("ENGINEER").

OWNER intends to retain the ENGINEER to provide Project Management services and to be responsible for preparation of design, plans, specifications, bid documents and Contract Administration, on a project to project basis, for Phase I of Transportation Projects funded by Fayette County Special Purpose Local Option Sales Tax (S.P.L.O.S.T.) Revenues as more fully outlined on Exhibit A attached (the "Program").

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance or furnishing of professional engineering services by ENGINEER with respect to the Projects of this Program and payment for those services by OWNER set forth below. Execution of this Agreement by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the first phase of the Basic Services described in Section 2 below and as further set forth in Exhibit A, "Further Description of Basic Engineering Services and Related Matters" ("Exhibit A") and in the other exhibits listed in Section 9 below. This Agreement will become effective on the date first above written.

SECTION 1--GENERAL

1.1. Standard of Care.

ENGINEER shall perform for or furnish to OWNER professional engineering and related services, as authorized, for each phase of each Project in the Program to which this Agreement applies as herein after provided. ENGINEER shall serve as OWNER's prime design professional and engineering representative for the Projects of the Program, as authorized, providing professional engineering consultation and advice with respect thereto. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance or furnishing of professional engineering and related services hereunder.

ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality.

1.2. Coordination with Other Documents.

Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the General Conditions of the Contract Documents will be used in this Agreement as defined in the General Conditions.

1.3. Definitions.

Wherever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

1.3.0(a). *Definition of Program.* The Program of the OWNER is the implementation of the Fayette County 2004 SPLOST funded program consisting of several transportation and/or road related Projects.

1.3.0(b). *Definition of Project.* A Project is a designated portion of the Program of the Owner to be planned and/or constructed at one or more county road properties and for which the services of the ENGINEER are to be rendered under this Agreement following proper authorization by OWNER. Such county road properties are identified in Exhibit B attached hereto.

1.3.1. *Additional Services.* Additional Services means the services to be performed for or furnished to OWNER by ENGINEER described in Section 3 of this Agreement.

1.3.2. *Agreement.* Agreement means this Standard Form of Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Section 9 of this Agreement.

1.3.3. *Basic Services.* Basic Services means the services to be performed for or furnished to OWNER by ENGINEER described in Section 2 of this Agreement.

1.3.4. *Construction Cost.* Construction Cost means the total cost to OWNER of those portions of each Project of the Program designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Section 4 of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

1.3.5. *Contractor.* Contractor means the person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the any Project in this Program.

1.3.6. *ENGINEER's Consultant.* ENGINEER's Consultant means a person or entity having a contract with ENGINEER to perform or furnish Basic or Additional Services as ENGINEER's independent professional associate or consultant engaged directly on the Project.

1.3.7. *Reimbursable Expenses.* Reimbursable Expenses means the expenses incurred directly in connection with the performance or furnishing of Basic and Additional Services for the Projects of this Program for which OWNER shall pay ENGINEER as indicated in Exhibit B, "Payments to Engineer for Services and Reimbursable Expenses" ("Exhibit B").

1.3.8. *Resident Project Representative.* Resident Project Representative means the authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit C, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit C").

1.3.9. *Total Project Costs.* Total Project Costs means the sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under paragraphs 4.4, 4.5 and 4.7 through 4.14, inclusive.

1.3.10. *Total Program Costs.* Total Program Costs means the sum of all Total Project Costs.

SECTION 2--BASIC SERVICES OF ENGINEER

2.1 Study and Report Phase.

The Fayette County Transportation Plan, dated April 2003, prepared by URS Corporation, has been completed at a time prior to this Agreement. References to study and report phase shall pertain to this previously completed

work and are for reference purposes only.

2.2. Preliminary Design Phase.

For each phase of each Project, and only subsequent to authorization from OWNER to proceed with a specified Project, ENGINEER shall:

2.2.1. On the basis of the previously completed Report, and any specific modifications or changes in the scope, extent, character or design requirements of the Project agreed upon by OWNER and ENGINEER, prepare Preliminary Design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project. Design criteria shall include: Geotechnical, right-of-way, environmental, structural, civil, funding, permitting, scheduling and contracting requirements.

2.2.2. Advise OWNER if additional reports, data or other information or services of the types described in paragraph 4.4 are necessary and assist OWNER in obtaining such report, data or other information and services.

2.2.3. Based on the information contained in the Preliminary Design documents, submit an opinion of probable Construction Cost and Total Project Costs known to ENGINEER.

2.2.4. Furnish the Preliminary Design documents to and review them with OWNER.

2.2.5. Submit the Preliminary Design documents and opinion of probable Construction Cost within the stipulated period indicated in Exhibit A.

2.2.6. For each Project, ENGINEER's services under the Preliminary Design Phase will be considered complete at the earlier of (1) the date when the Preliminary Design documents have been accepted by OWNER or (2) thirty days after the date when such Preliminary Design documents are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the Preliminary Design documentation, if such approval is to be obtained during the Preliminary Design Phase.

The duties and responsibilities of ENGINEER during the Preliminary Design Phase as set forth in this paragraph 2.2 are amended and supplemented as indicated in Exhibit A.

2.3. Final Design Phase.

Only after acceptance by OWNER of the Preliminary Design Phase documents and opinion of probable Construction Cost and indication of any specific modifications or changes in the scope, extent, character or design requirements of the Project desired by OWNER, and only upon authorization to proceed with a specified Project from OWNER, ENGINEER shall:

2.3.1. On the basis of the accepted Preliminary Design documents, the modifications or changes in the scope, extent, character or design requirements of the Project agreed upon by OWNER and ENGINEER and the opinion of probable Construction Cost, prepare for incorporation in the Contract Documents final Drawings showing the scope, extent and character of the work to be performed and furnished on the Project by Contractor and specifications (which will be prepared, where appropriate, in general conformance with the sixteen division format of the Construction Specifications Institute or the Georgia Department of Transportation Standards and Specifications, as applicable).

2.3.2. When requested by the OWNER, provide technical criteria, written descriptions and design data for OWNER's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to review or approve the final design of the Project, and assist OWNER in consultations with appropriate authorities.

2.3.3. Advise OWNER of any adjustments to the opinion of probable Construction Cost, any adjustments to Total Project Costs known to ENGINEER, and any adjustment to Total Program Cost known to ENGINEER as a result of changes in scope, extent or character or design requirements of the Project.

2.3.4. Prepare for review and approval by OWNER, its legal counsel and other advisors, contract agreement forms, general conditions and supplementary conditions, and (where appropriate) bid forms, invitations to bid and instructions to bidders (all of which will be generally consistent in form and substance with the forms and pertinent guide sheets prepared by the Engineers Joint Contract Documents Committee), and assist in the preparation of other related documents.

2.3.5. Furnish the above documents, Drawings and Specifications to and review them with OWNER.

2.3.6. Submit the above documents, Drawings and Specifications and a revised opinion of probable Construction Cost within the stipulated period indicated in Exhibit A.

2.3.7. For each Project, ENGINEER's services under the Final Design Phase will be considered complete at the earlier of (1) the date when the submittals have been accepted by OWNER or (2) thirty days after the date when such submittals are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of

governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER, if such approval is to be obtained during the Final Design Phase.

The Duties and responsibilities of ENGINEER during the Final Design Phase of each Project, as set forth in this paragraph 2.3, are amended and supplemented as indicated in Exhibit A.

2.4. Bidding or Negotiating Phase.

For each Project, after acceptance by OWNER of the ENGINEER's Drawings, Specifications and other Final Design Phase documentation (including the most recent opinion of probable Construction Cost), and upon authorization to proceed with a specified Project, ENGINEER shall:

2.4.1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for any contract for construction, materials, equipment and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive and process deposits for Bidding Documents.

2.4.2. Issue Addenda as appropriate to clarify, correct or change the Bidding Documents.

2.4.3. Consult with OWNER as to the acceptability of subcontractors, suppliers and other persons and entities proposed by Contractor for those portions of work as to which such acceptability is required by the Bidding Documents.

2.4.4. Attend the bid opening, prepare bid tabulation sheets and assist OWNER in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.

2.4.5. The Bidding or Negotiating Phase will terminate and the services to be performed or furnished thereunder will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors (except as may otherwise be required to complete the services called for in paragraph E7.2.5, if Exhibit E is a part of this Agreement).

The duties and responsibilities of ENGINEER during the Bidding or Negotiating Phase of each Project as set forth in this paragraph 2.4 are amended and supplemented as indicated in Exhibit A.

2.5. Construction Phase.

During the Construction Phase, following authorization of OWNER to proceed on a specified Project:

2.5.1. *General Administration of Construction Contract.* ENGINEER shall consult with and advise OWNER and act as OWNER's representative. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions of the Contract Documents shall not be modified, except to the extent provided in Exhibit A and except as ENGINEER and OWNER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.

2.5.2. *Visits to Site and Observation of Construction.* In connection with observations of the work of Contractor while it is in progress:

2.5.2.1. ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work. In addition, ENGINEER shall provide the services of a Resident Project Representative at the site to assist ENGINEER and to provide more continuous observations of such work. The furnishing of such Resident Project Representative services will not extend ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this paragraph 2.5. Such visits and observations by ENGINEER and the Resident Project Representative are not intended to be exhaustive or to extend to every aspect of the work in progress, or to involve detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract documents, but rather are to be limited to spot checking, selective sampling and similar methods of general observation of the work based on ENGINEER's exercise of professional judgement as assisted by the Resident Project Representative. Based on information obtained during such visits and such observations, ENGINEER shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and ENGINEER shall keep OWNER informed of the progress of the work. The responsibilities of ENGINEER contained in this paragraph are expressly subject to the limitations set forth in paragraph 2.5.2.2 and other express or general limitations in this Agreement and elsewhere.

2.5.2.2. The purpose of ENGINEER's visits to and representation by the Resident Project Representative at the site will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of

ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed work of Contractor will conform in general to the Contract Documents and that the integrity of the design concept of each completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. On the other hand, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents. However, should ENGINEER become aware of any failure of Contractor to comply with Contract Documents, law, rules, regulations, codes, or orders, it shall be Engineer's duty to notify OWNER of said failure within ten (10) days of gaining said knowledge. Failure to so notify may result in Engineer liability for a portion of any damage occasioned by said Contractor failure.

2.5.3. *Defective Work.* During such visits and on the basis of such observations, ENGINEER shall have authority to disapprove of or reject Contractor's work while it is in progress if ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

2.5.4 *Clarifications and Interpretations; Field Orders.* ENGINEER shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferred from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

2.5.5. *Change Orders and Work Change Directives.* ENGINEER shall recommend Change Orders and Work Change Directives to OWNER as appropriate, and shall prepare Change Orders and Work Change Directives as required.

2.5.6. *Shop Drawings.* ENGINEER shall review and approve (or take other appropriate action in respect of) Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

2.5.7. *Substitutes.* ENGINEER shall evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph 3.2.2.

2.5.8. *Inspections and Tests.* ENGINEER may require special inspections or tests of the work, and shall receive and review all certificates of inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents. ENGINEER's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.

2.5.9. *Disagreements between OWNER and Contractor.* ENGINEER shall render the initial decisions on all claims ,of OWNER and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

2.5.10. *Applications for Payment.* Based on ENGINEER's on-site observations as an experienced and qualified design professional and on review of Applications for Payment and the accompanying data and schedules:

2.5.10.1. ENGINEER shall determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, the work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the

recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph 2.5.10.1 are expressly subject to the limitations set forth in paragraph 2.5.10.2 and other express or general limitations in this Agreement and elsewhere.

2.5.10.2. By recommending any payment ENGINEER shall not thereby be deemed to have represented that on-site observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER's review of Contractor's work for the purposes of recommending payments nor ENGINEER'S recommendations of any payment (including final payment) impose on ENGINEER responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any liens, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid. However, should ENGINEER become aware of any Contractor failure to comply with Contract Documents, law, rules, regulations, codes, or orders, it shall be ENGINEER's duty to notify OWNER of said Contractor failure within ten (10) days of gaining said knowledge. Failure to so notify may result in ENGINEER liability for a portion of any damage occasioned by said Contractor failure.

2.5.11. *Contractor's Completion Documents.* ENGINEER shall receive, review and transmit to owner with written comments maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, and marked-up record documents (including Shop Drawings, Samples and other data approved as provided under paragraph 2.5.6 and marked-up record Drawings) which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. ENGINEER's review of such documents will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests and approvals that the results certified indicate compliance with, the Contract Documents.

2.5.12. *Substantial Completion.* Following notice from Contractor that Contractor considers the entire work ready for its intended use, ENGINEER and OWNER, accompanied by Contractor, shall conduct an inspection to determine if the work is substantially complete. If after considering any objections of OWNER, ENGINEER considers the work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.

2.5.13. *Final Notice of Acceptability of the Work.* ENGINEER shall conduct a final inspection to determine if the completed work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a notice in the form attached hereto as Exhibit D (the "Notice of Acceptability of Work") that the work is acceptable (subject to the provisions of paragraph 2.5.10.2) to the best of ENGINEER'S knowledge, information and belief and based on the extent of the services performed and furnished by ENGINEER under this Agreement.

2.5.14. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any subcontractor, any supplier, or of any other person or organization performing or furnishing any of the work. ENGINEER shall not be responsible for Contractor's failure to perform or furnish the work in accordance with the Contract Documents, except as otherwise provided in this Agreement.

2.5.15. *Duration of Construction Phase.* The Construction Phase of each Project will commence with the execution of the construction contract for each Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment. If the Project involves more than one prime contract as indicated in paragraph 5.5, Construction Phase services may be rendered at different times in respect of separate prime contracts.

The duties and responsibilities of ENGINEER during the Construction Phase as set forth in this paragraph 2.5 are amended and supplemented as indicated in Exhibit A.

2.6. Operational Phase.

For each Project, during the Operational Phase, ENGINEER shall, when authorized by OWNER to

proceed on a specified Project:

2.6.1. Provide assistance in connection with the refining and adjusting of any equipment or system.

2.6.2. Assist OWNER in training OWNER's staff to operate and maintain the Project.

2.6.3. Assist OWNER in developing systems and procedures for control of the operation and maintenance of and record keeping for the Project.

2.6.4. Receive from the Contractor and furnish to the OWNER a set of reproducible record drawings showing record information which ENGINEER considers significant based on the Drawings, Shop Drawings, and other record documents furnished by Contractor to ENGINEER which were annotated by Contractor to show all changes made during construction. ENGINEER will not be responsible for any errors in or omissions in the information provided by Contractor that is incorporated in the record drawings or other record documents.

2.6.5. In company with OWNER, visit the Project to observe any apparent defects in the completed work. Assist OWNER in consultations and discussions with Contractor concerning correction of such defects, and make recommendations as to replacement or correction of defective work.

2.6.6. Provide miscellaneous services as requested by OWNER in connection with Project closeout.

2.6.7. The Operational Phase may commence during the Construction Phase of that Project will terminate one year after the date of Substantial Completion.

The duties and responsibilities of ENGINEER during the Operational Phase as set forth in this paragraph 2.6 are amended and supplemented as indicated in Exhibit A.

SECTION 3--ADDITIONAL SERVICES OF ENGINEER

3.1. Additional Services Requiring Authorization in Advance.

For each Project, if specifically authorized by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 3.1.1 through 3.1.19, inclusive, as amended and supplemented as indicated in Exhibit A. These services are not included as part of Basic Services except to the extent otherwise provided in Exhibit A. These services will be paid for by OWNER as indicated in Section 6.

3.1.1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with any Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of any authorized Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of any Project. Preparation or review of plans, specifications and documents related to determination, evaluation, related permitting or mitigation of downstream impacts or wetlands affected by any authorized Project. Bidding and/or construction phase services as related to wetland mitigation.

3.1.2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.

3.1.3. Services for preparation of measured drawings to fulfill Owner's responsibilities as described in Section 4.

3.1.4. Services resulting from significant changes in the scope, extent or character of the portions of any Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies, reports, Drawings, Specifications or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports, Drawings, Specifications, or Contract Documents, or are due to any other causes beyond ENGINEER'S control.

3.1.5. Services resulting from facts revealed about conditions:

3.1.5.1. which are different from information about such conditions that OWNER previously provided to ENGINEER under paragraph 4.4 and upon which ENGINEER was entitled to rely: or

3.1.5.2. as to which OWNER had responsibility to provide information under paragraph 4.4 if such information was not previously provided.

3.1.6. Providing renderings or models for OWNER's use.

3.1.7. Preparing documents for alternate bids requested by OWNER for Contractor's work which is not executed or documents for out-of-sequence work.

3.1.8. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining

financing for any Project; evaluating processes available for licensing and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment and labor; and audits or inventories required in connection with construction performed by OWNER.

3.1.9. Furnishing services of ENGINEER's Consultants for other than Basic Services; and furnishing data or services of the types described in paragraph 4.4 when OWNER employs ENGINEER to provide such data or services in lieu of furnishing the same under paragraph 4.4.

3.1.10. Services attributable to a variation in the number of prime contracts from the number specified in Exhibit A for work designed or specified by ENGINEER.

3.1.11. Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 2.

3.1.12. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, Construction Management, Cost Estimating, Project Peer Review, Value Engineering and Constructability Review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications or Contract Documents as a result of such review processes.

3.1.13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.

3.1.14. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services, except when such assistance is required to complete services called for in paragraph E7.2.5, if Exhibit E is part of this Agreement.

3.1.15. Providing field or aerial surveys for design purposes, engineering and topographic surveys and staking to enable Contractor to proceed with its work, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.

3.1.16. Preparation of operating, maintenance and staffing manuals to supplement Basic Services under paragraph 2.6.3.

3.1.17. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving a Project (except for assistance in consultations which is included as part of Basic Services under paragraphs 2.1.3 and 2.3.2).

3.1.18. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 4.12.

3.1.19. Other additional services performed or furnished by ENGINEER in connection with a Project, including services which are to be furnished by OWNER under Section 4, and services not otherwise provided for in this Agreement.

3.2. Required Additional Services.

When required by the Contract Documents in connection with the performance or furnishing of ENGINEER's services during the Construction Phase, ENGINEER shall perform or furnish, without waiting for specific authorization from OWNER, Additional Services of the types listed in paragraphs 3.2.1 through 3.2.6, inclusive. These services are not included as part of Basic Services except to the extent provided in Exhibit A. Required Additional Services will be paid for by OWNER as indicated in Section 6. ENGINEER shall advise OWNER in writing within twenty-four (24) hours of starting any such Additional Services.

3.2.1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER if, because of the method of compensation agreed upon by OWNER and ENGINEER, the resulting change in compensation for Basic Services is not commensurate with the extent of the additional services rendered.

3.2.2. Services in making revisions to Drawings and Specifications occasioned by the acceptance by OWNER of substitute materials or equipment other than "or-equal" items; and services after the award of the construction contract in evaluating and determining the acceptability of a substitution which is inappropriate for a Project or an excessive number of substitutions.

3.2.3. Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of materials, equipment or energy shortages.

3.2.4. Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of *defective*, neglected or delayed work of Contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by Contractor.

3.2.5. Services (other than Basic Services during the Operational Phase) in connection with any partial utilization of any part of a Project by OWNER prior to its Substantial Completion.

3.2.6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in

connection with the work.

SECTION 4--OWNER'S RESPONSIBILITIES

Except as otherwise provided in Exhibit A, OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER and shall bear all costs incident thereto:

4.1. Designate a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to ENGINEER's services for any Project of the Program.

4.2. Provide all criteria and full information as to OWNERS' requirements for any Project in the Program, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.

4.3. Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Projects including previous reports and any other data relative to design or construction of the authorized Projects.

4.4. Furnish to ENGINEER, as requested by ENGINEER for performance of Basic Services or as required by the Contract Documents, the following:

4.4.1. Geotechnical reports including but not limited to design recommendations, explorations and tests of subsurface conditions at or contiguous to the site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site, or hydrographic surveys;

4.4.2. the services of an independent testing laboratory to perform all inspections, tests and approvals of samples, materials and equipment prior to and after installation, or to evaluate the performance of materials, equipment and facilities of OWNER, prior to specification, and during construction; including storm water monitoring;

4.4.3. appropriate professional interpretations of all of the foregoing;

4.4.4. environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to each Project, each site and adjacent areas;

4.4.5. field surveys for design purposes and property, boundary, easement, right-of-way, topographic and utility surveys or data, including relevant reference points;

4.4.6. property descriptions;

4.4.7. zoning, deed and other land use restrictions;

4.4.8. services of an independent construction document review service and/or estimating firm or other special data or consultations not covered in section 2; and

4.4.9. appropriate legal, administrative, banking, real estate brokerage and appraisal services as necessary to complete land acquisition requirements necessary for each Project.

OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all reports, data and other information furnished pursuant to this paragraph. ENGINEER may use such reports, data and information in performing or furnishing services under this Agreement.

4.5. Provide, as required by the Contract Documents, engineering surveys and staking to enable Contractor to proceed with the layout of the work, and other special field surveys.

4.6. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

4.7. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate with respect to such examination) and render in writing decisions pertaining thereto.

4.8. Provide approvals and permits from all governmental authorities having jurisdiction to approve the portions of a Project designed or specified by ENGINEER and such approvals and consents from others as may be necessary for completion of such portions of the Project.

4.9. Provide, as may be required for each Project:

4.9.1. Legal, financial and administrative services as necessary to obtain funding from outside sources, including anticipated funding from local, state and federal government agencies.

4.9.2. accounting, bond and financial advisory, independent cost estimating and insurance counseling services;

4.9.3. such legal services as OWNER may require or ENGINEER may reasonably request with regard to legal issues pertaining to each Project, including any that may be raised by Contractor; and

4.9.4. such auditing services as OWNER may require to ascertain how or for what purpose Contractor has used the moneys paid on account of the Contract Price.

4.10. Provide such inspection or monitoring services by an individual or entity other than ENGINEER as OWNER may desire to verify:

4.10.1. that Contractor is complying with any law, rule, regulation, ordinance, code or order applicable to Contractor's performing and furnishing the work; or

4.10.2. that Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

ENGINEER does not undertake in this Agreement to perform the services referred to in 4.10.1 and 4.10.2 above except as otherwise provided in Section 3 and Exhibit A of this Agreement. The identity of any individual or entity employed to perform such services and the scope of such services will be disclosed to ENGINEER.

4.11. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to each Project, including, but not limited to, Construction Management, Cost Estimating, Project Peer Review, Value Engineering and Constructability Review. If OWNER designates a person or entity other than, or in addition to, ENGINEER to represent OWNER at the site, OWNER shall define and set forth in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin, the duties, responsibilities and limitations of authority of such other party and the relation thereof to the duties, responsibilities and authority of ENGINEER.

4.12. Prior to the commencement of the Construction Phase of each Project as authorized by OWNER, notify ENGINEER of any variations in the language of the Notice of Acceptability of Work, or of any notice or certification other than such Notice that ENGINEER will be requested to provide to OWNER or third parties in connection with the financing or completion of each Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notice or certification requested under this paragraph.

4.13. If more than one prime contract is to be awarded for work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime contractors, and define and set forth the duties, responsibilities and limitations of authority of such person or entity and the relation thereof to the duties, responsibilities and authority of ENGINEER in an exhibit that is to be mutually agreed upon and attached to and made a part of this Agreement before such services begin.

4.14. Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 4.4, 4.5 and 4.7 through 4.14, inclusive) and other costs so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs and Total Program Costs.

4.15. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and Substantial Completion and final payment inspections.

4.16. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

4.17. Furnish, or direct ENGINEER to provide, Additional Services as stipulated in paragraph 3.1 of this Agreement or other services as required.

SECTION 5--TIMES FOR RENDERING SERVICES

5.1. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Program and each Project thereof through completion of the Construction Phase of each authorized Project. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for the design, award of construction contracts, construction and initial operation of the Program including extra work and required extensions thereto, however, said obligation to render services for this Program shall always be contingent upon specific authorization by OWNER to commence work on a specified Project. Upon commencement of said work, all portions of this Agreement shall be in full force and effect, with respect to the specified Project until completion of that Project. Prior to said authorization, no part of this Agreement causes ENGINEER to be guaranteed payment or be obliged to render Program services. Further, no authorization to render services for

a specified Project shall function as an authorization to render services on any other Project.

5.2. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent or character of an authorized Project, the time of performance of ENGINEER's services shall be adjusted equitably.

5.3. If OWNER fails to give prompt written authorization to proceed with or notice of OWNER intention not to use ENGINEER's services on any phase of services on any Project after completion of the immediately preceding phase or Project, or if the Construction Phase of the Project has not commenced within the stipulated period identified in this Agreement (plus such additional time as may be required to complete the services called for under paragraph E7.2.5, if Exhibit E is a part of this Agreement) after completion of the Final Design Phase or does not proceed in an orderly and continuous progression, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement, unless said failure is not due to the fault of ENGINEER.

5.4. If, after receiving authorization to render services on a specified Project, ENGINEER's services for design or construction of that Project are delayed or suspended in whole or in part by OWNER:

5.4.1. for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised; or

5.4.2. for more than one year through no fault of ENGINEER, or if ENGINEER for any reason is required to render Construction Phase services more than one year after Substantial Completion is achieved, the rates and amounts of compensation provided for elsewhere in this Agreement will be subject to equitable adjustment to reflect, among other things, changes in the various elements that comprise such rates of compensation.

5.5. In the event that the work designed or specified by ENGINEER is to be performed or furnished under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating and Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in Exhibit A whether or not the work under such contracts is to proceed concurrently.

SECTION 6--PAYMENTS TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

6.1. Methods of Payment for Services and Expenses of ENGINEER.

6.1.1. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Section 2 on the basis set forth in Exhibit B.

6.1.2. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Section 3 on the basis set forth in Exhibit B.

6.1.3. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 6.1.1 and 6.1.2, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit B. The amount payable for Reimbursable Expenses will include a factor to the extent so indicated in Exhibit B.

6.2. Other Provisions Concerning Payments.

6.2.1. *Preparation of Invoices.* Invoices for Basic and Additional Services and Reimbursable Expenses will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER at least monthly. The amount billed for Basic Services and Additional Services in each invoice will be calculated on the basis set forth in Exhibit B. Invoices are due and payable on receipt.

6.2.2. *Unpaid Invoices.* If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving thirty (30) days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

6.2.3. *Payments Upon Termination.*

6.2.3.0. *Exclusions from the meaning of the term termination.* The term termination shall include the decision of OWNER not to authorize commencement of work by ENGINEER on any specific Project set forth in Exhibit B.

6.2.3.1. *Termination by OWNER for Cause.* In the event of termination by OWNER for cause under paragraph 8.1.1:

6.2.3.1.1. Upon the completion of any Basic Services for any phase of any Project, progress payments for Basic Services due ENGINEER in accordance with this Agreement for all such services performed or furnished by ENGINEER and ENGINEER's Consultants through the completion of such phase will constitute total payment for such services. ENGINEER also will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses which are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence.

6.2.3.1.2. During any phase of any Project, ENGINEER also will be paid for such services performed or furnished in accordance with this Agreement by ENGINEER during that phase through the date of termination of the Agreement on the basis specified in Exhibit B. ENGINEER also will be paid for the charges of ENGINEER's Consultants employed to perform or furnish Basic Services to the extent such services have been performed or furnished in accordance with this Agreement and said Services are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence. ENGINEER also will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses which are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence.

6.2.3.2. *Termination by OWNER for Convenience.* In the event of termination by OWNER under paragraph 8.1.2:

6.2.3.2.1. Upon the completion of Basic Services for any phase of any Project described in Exhibit B, progress payments due ENGINEER in accordance with this Agreement for all such Basic Services performed or furnished by ENGINEER and ENGINEER's Consultants through the completion of such Project phase will constitute total payment for such services. ENGINEER also will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses which are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence, and for termination expenses under subparagraph 6.2.3.2.3 below.

6.2.3.2.2. Unless a specified Project is complete, during rendition of Basic Services on any phase of any Project of the Program, ENGINEER also will be paid for such services performed or furnished by ENGINEER during that Project phase through the date of termination on the basis specified in Exhibit B. In addition, ENGINEER will be paid for the charges of ENGINEER's Consultants employed to perform or furnish Basic Services through the effective date of the termination which are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence ENGINEER also will be paid for all unpaid Additional Services and unpaid Reimbursable Expenses which are supported by evidence sufficient to satisfy OWNER. Said evidence shall be available for OWNER review within thirty (30) days of OWNER's request for said evidence, and for termination expenses under subparagraph 6.2.3.2.3 below.

6.2.3.2.3. In the event of termination by OWNER for convenience during ~~or~~ any phase of any Project, unless said Project is complete, OWNER shall pay ENGINEER's reasonable expenses that

are directly attributable to termination and are unrecoverable through other means. Termination expense will be computed utilizing the fees set forth in Exhibit B for Basic Services or as set forth in Exhibit B for additional services if the subject expense is not covered by Basic Service fees set forth in Exhibit B. Said fees shall be measured from the date of termination to the estimated completion of the specific Project and shall, include fair and reasonable sums for overhead and profit, and costs of terminating contracts with ENGINEER's Consultants which are unrecoverable through other means.

6.2.3.3. *Termination By ENGINEER for Cause.* In the event of termination by ENGINEER for cause under paragraph 8.1.1, ENGINEER shall be entitled to receive compensation calculated as set forth in paragraph 6.2.3.2 and shall return to OWNER all compensation rendered for services not yet performed by Engineer and/or expenses not yet incurred.

6.2.4. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be provided to OWNER annually, at no additional cost to OWNER.

SECTION 7--OPINIONS OF COST

7.1. Opinions of Probable Construction Cost.

ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgement as an experienced and qualified professional engineer generally familiar with the construction industry. However, since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in paragraph 4.9.1.

SECTION 8--GENERAL CONSIDERATIONS

8.1. Termination.

The obligation to provide further services under this Agreement may be terminated:

8.1.1. *For cause,*

8.1.1.1. by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceed diligently to cure such failure within no more than thirty days of receipt thereof; *provided, however,* that if and to the extent such substantial failure cannot be reasonably cured within such thirty-day period, and if such party has diligently attempted to cure the same, then the cure period provided from herein shall extend up to but in no case more than, sixty days after the date of receipt of the notice.

8.1.1.2. by ENGINEER:

8.1.1.2.1. upon seven days' written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed design professional; or

8.1.1.2.2. upon seven days' written notice if the ENGINEER's services for design or during the construction of the Project are delayed or suspended for more than ninety days for reasons beyond ENGINEER's control and within OWNER control.

8.1.1.2.3. In the case of termination under this paragraph 8.1.1.2, ENGINEER shall have no liability to OWNER on account of such termination, except to return any compensation rendered for services as yet unperformed by ENGINEER.

8.1.2. *For convenience,* by OWNER effective upon the receipt of notice by ENGINEER. Failure of OWNER to authorize commencement of work by ENGINEER on any Project described in Exhibit B shall not be deemed to be termination under any circumstance.

8.2. Reuse of Documents.

All documents including Drawings and Specifications in, whatever format they are created and/or maintained (electronic, paper, etc.), that are provided or furnished by ENGINEER (or ENGINEER's Consultants) pursuant to

this Agreement are instruments of service in respect of the Projects of the Program, and ENGINEER and ENGINEER's Consultants, as appropriate, shall retain an ownership and property interest therein (including the right of reuse by and at the discretion of ENGINEER and ENGINEER's Consultants, as appropriate) whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Projects of the Program by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Projects of the Program or on any other Project. However, OWNER shall possess an ownership interest in all such items permitting OWNER to utilize them in whatever manner OWNER deems appropriate. Any such reuse without written verification or adaptation by ENGINEER and ENGINEER's Consultants, as appropriate, for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's Consultants, and OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any required adaptation by Engineer will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

8.3. Insurance.

8.3.1. ENGINEER shall procure and maintain insurance as set forth in Exhibit E, "Insurance", for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom. ENGINEER shall list OWNER as an additional insured on ENGINEER's general liability insurance policy and make proof of all insurance available to OWNER upon request.

8.3.2. OWNER shall list ENGINEER and ENGINEER's Consultants as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Program. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to list ENGINEER and ENGINEER's Consultants as additional insureds with respect to such liability, property and other insurance purchased and maintained by Contractor. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insured or additional insureds thereunder.

8.3.3. At any time OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, different limits or revised deductibles in excess of those specified in Exhibit E. If so requested by OWNER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits or revised deductibles, for such periods of time as requested by OWNER, at OWNER's sole expense, and Exhibit E will be supplemented to incorporate these requirements.

8.4. Controlling Law.

This Agreement is to be governed by the law of the State of Georgia. If any dispute should arise out of or as a result of this Agreement, proper venue shall lie in a court of competent jurisdiction in Fayette County, Georgia.

8.5. Successors and Assigns.

8.5.1. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 8.5.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

8.5.2. Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law.

8.5.3. Unless expressly provided otherwise in this Agreement:

8.5.3.1. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Contractor, Subcontractor, Supplier, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.

8.5.3.2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph shall appear in the Contract Documents.

8.6. Allocation of Risks--Indemnification.

8.6.1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, employees and agents from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused in whole or in part by the negligent reckless and/or intentional acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, agents and ENGINEER's Consultants in the performance and furnishing of ENGINEER'S services under this Agreement.

8.6.2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees and agents and ENGINEER's Consultants from and against any and all claims, costs, losses and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused in whole or in part by the negligent reckless and/or intentional acts or omissions of OWNER or OWNER's officers, directors, partners, employees, agents and OWNERS's consultants with respect to this Agreement or any Project.

8.6.3. In addition to the indemnity provided under paragraph 8.7.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and agents and ENGINEER's Consultants from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or relating to the presence, discharge, release, or escape of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material at, on, under or from any Project site, unless said presence, discharge, release, or escape is or was occasioned by the negligent, reckless, or intentional acts or omissions of ENGINEER or his agents or the claim, cost, loss, and/or damage occurs under a condition whereby ENGINEER has knowledge of the danger and fails to notify OWNER within fifteen (15) days of gaining said knowledge and/or ENGINEER permits work in the affected area to continue after gaining said knowledge.

8.7. Notices.

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

8.8. Survival.

All express representations, indemnifications or limitations of liability made in or given in this Agreement will survive the completion of all services of ENGINEER under this Agreement or the termination of this Agreement for any reason.

8.9. Severability.

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SECTION 9--EXHIBITS AND SPECIAL PROVISIONS

9.1. This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

9.1.1. Exhibit A, "Further Description of Basic Engineering Services and Related Matters", consisting of 3 pages.

9.1.2. Exhibit B, "Payments to Engineer for Services and Reimbursable Expenses", consisting of ~~2~~ 4 pages. DWJ

9.1.3. Exhibit C, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative", consisting of 3 pages.

9.1.4. Exhibit D, "Notice of Acceptability of Work", consisting of 2 pages.

9.1.5. Exhibit E, "Insurance", consisting of 1 pages.

9.2. This Agreement (Consisting of pages 1 to 16, inclusive, and the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

Fayette County, Georgia

By:

Title: Chairman, Fayette County Board of Commissioners

Address for giving notices:

140 Stonewall Avenue West
Suite 100
Fayetteville, GA 30214

Attest:

By: Karen Morley
Deputy Clerk

(Corporate Seal)

ENGINEER:

Mallett Consulting, Inc.

By:

Title: President

Address for giving notices:

115-B Bradford Square
Fayetteville, GA 30215

Attest:

By: Cheryl Jaeger
Corporate Secretary

(Corporate Seal)

This is **EXHIBIT A**, consisting of 3 pages, referred to in the **Agreement between OWNER and ENGINEER for Professional Services**, dated 8/1, 2005.

Initial:
OWNER
ENGINEER DWJ

Further Description of Basic Engineering Services and Related Matters

Sections 2, 3, 4 and 5 of the Agreement are amended and supplemented and the time periods for the performance of the Basic Services as indicated in Section 5 of the Agreement are established, all as indicated below:

SECTION A2—BASIC SERVICES OF ENGINEER

A2.0. General.

The Basic Services are premised on the following general scope of professional services:

The ENGINEER shall provide Project Management and Construction Administrative Services and the ENGINEER and the ENGINEER's consultants shall provide design, plans, and specifications necessary for construction of the Program. The Program is divided into two parts, each composed of Projects as discussed in the foregoing Agreement. ENGINEER shall provide services only on those projects which OWNER specifically authorizes ENGINEER's work. Prior to authorization on each project, ENGINEER is not in any way guaranteed by this Agreement, the right to perform services for that Project.

SIGN HERE

I. Fayette County S.P.L.O.S.T. Project List, Phase I
Countywide Projects (70% portion of S.P.L.O.S.T. funds)

Project#	Description	Scope
B-1	Coastline Rd bridge improvements	Design and Construction Phases
B-3	Kenwood Rd bridge	Design and Construction Phases
B-6	McIntosh Road bridge improvement	Design and Construction Phases
1-1	SR 314/279 signal modification	Design and Construction Phases
1-2	Sandy Creek/Sams Dr/Eastin Rd	Design Phase Only
1-3	SR 92/Gingercake signal	Design and Construction Phases
1-4	SR 85/Jeff Davis/SR 314	Design Phase Only
1-5	SR 54/McDonough signal	Design and Construction Phases
I-6/7	Lafayette/SR 85 & SR 54 signal	Design and Construction Phases
1-8	Stonewall/Glynn St/SR 85	Design and Construction Phases
1-9	SR 54/Gingercake signal	Design and Construction Phases
1-10	So. Jeff Davis/County Line/Inman Rd	Design and Construction Phases
1-11	SR 92/Harp Rd/Seay Rd	Design and Construction Phases
1-12	Antioch Rd/McBride Rd	Design and Construction Phases
1-13	Goza Rd/Antioch Rd	Design Phase Only
1-14	SR 85 Conn/Brooks Woolsey Rd	Design and Construction Phases
1-16	Peachtree Pkwy/Crosstown Rd	Design and Construction Phases
1-17	SR 74/Crosstown Rd	Design and Construction Phases
1-18	Huddleston Dr/Dividend Dr	Design and Construction Phases
1-19	SR 54 at SR 74 intersection grade sep.	Design and Construction Phases
R-3	SR 74 Corridor Plan	Design and Construction Phases
R-4	Northside Parkway	Design and Construction Phases
R-5	W. Fayetteville Bypass, from SR 92	Design Phase Only
R-6	Kenwood Rd operational improvements	Design and Construction Phases
R-8	East Fayetteville Bypass Segment I	Design and Construction Phases

R-11	SR 92 realignment and extension	Design and Construction Phases
R-12	Hood Ave connector	Design and Construction Phases
R-13	SR 85/Glynn St Landscape median - Phase I	Design and Construction Phases
R-13	SR 85/Glynn St Landscape median - Phase II	Design and Construction Phases
R-14	Lafayette Ave Extension east	Design and Construction Phases
R-17	SR 92/Jeff Davis connector	Design and Construction Phases
R-25	TDK Extension	Construction Phase Only
R-28	West Fayetteville Bypass - Phase I	Design and Construction Phases
R-28	West Fayetteville Bypass - Phase II	Design Phase Only
S-1	Fayetteville Greenway	Design and Construction Phases
S-2	SR 85 streetscape	Design and Construction Phases
S-3	Lafayette Ave. streetscape improvements	Design and Construction Phases
S-4	Lanier St. streetscape improvements	Design and Construction Phases
S-5	Peachtree City path bridge over SR 54	Design and Construction Phases
S-6	Peachtree City path over SR 54	Design and Construction Phases
S-7	Redwine Road Multi-use trail	Construction Phase Only

Program Part II. Fayette County S.P.L.O.S.T. Project List, Phase I
Unincorporated Fayette County Projects
Portioned share of local S.P.L.O.S.T. funds (30% portion)

Project #	Description	Scope
FC-2	Corinth Road at SR 54 Signal & turn lanes	Design and Construction Phases
FC-3	Sandy Creek at SR 74 - Signal & turn lanes	Design and Construction Phases
FC-4	Westbridge Road at SR 92 - Signal & turn lanes	Design and Construction Phases
FC-5	Bernhard Road at SR 85 - Signal & turn lane	Design and Construction Phases
FC-6	Harp Road at SR 85 - Signal & turn lane	Design and Construction Phases
FC-7	85 Connector at SR 85 - Signal & turn lane	Design and Construction Phases
FC-9	Ebenezer Road at SR 54 - Signal & turn lane	Design and Construction Phases
FC-10	New Hope Road at SR 85 - Signal & turn lane	Design and Construction Phases
FC-12	Goza Road at SR 85 - Signal	Design and Construction Phases
FC-15	Inman/Goza Rd - intersection improvements	Design and Construction Phases
FC-16	Resurfacing of County Roads - 20 miles/yr	Construction Phase Only

A2.1. Study and Report Phase.

A2.1.0. The Study and Report Phase has been completed prior to this Contract. References to the Study and Report Phase are included for reference only.

A2.2. Preliminary Design Phase.

A2.2.0. During the Preliminary Design Phase ENGINEER shall, upon OWNER's authorization to proceed with a given Project:

a. Provide all services as shown in section 2.2 of this contract

b. Submit two (2) sets of Preliminary Design documentation to the owner within 120 days following authorization from owner to proceed with the Preliminary Design Phase services.

A2.3. Final Design Phase.

A2.3.0. During the Final Design Phase ENGINEER, upon OWNER's authorization to proceed with a given Project:

a. Perform all services as outline in Section 2.3 of this contract

b. Submit two (2) sets of contract documents to the owner within 270 calendar days following authorization from OWNER to proceed with the Final Design Phase Services.

A2.3.1. The number of prime contracts for work designed or specified by ENGINEER upon which the ENGINEER's compensation has been established under this Agreement is one (1).

A2.4. Project Management.

A2.4.0. During each Project, the ENGINEER shall be responsible for management of the efforts of all parties involved to insure coordination and cooperation between the OWNER, CONTRACTOR, SUBCONTRACTOR, THIRD PARTIES, ENGINEER, and ENGINEER's CONSULTANTS including:

a. Review and approval of all proposed design and construction schedules.
b. Review and approval of Contractor and sub-contractors qualifications.
c. Insuring plan constructability to help minimize facility-installed costs relating to operation and maintenance.
d. Value Engineering to achieve overall project function at minimum cost.
e. Selection and management of Design Team, including approval of qualified specialty consultants.
f. Project oversight to assure compliance with recommendations outlined in report.
g. Liaison between OWNER and design team and between OWNER and CONTRACTOR.
h. Project spokesman for interaction with public and media.
i. Budget analysis as required for project funding.
j. Plan approval from Georgia Department of Transportation.
k. Coordination with municipalities participating in S.P.L.O.S.T. projects.
l. Coordination with County Attorney's Office.

A2.5. Construction Period.

A2.5.0 The anticipated construction period for each project will be defined in the preliminary design phase documents. The ENGINEER will notify the OWNER immediately if, at any time during the Preliminary Design, Final Design, Bidding or Award periods, it is determined that this Construction Period should be redefined.

This is **EXHIBIT B**, consisting of 4 pages, referred to in the **Agreement between OWNER and ENGINEER for Professional Services**, dated 8/1, 2005.

Initial:
OWNER
ENGINEER DWJ

Payments to ENGINEER for Services and Reimbursable Expenses

Section 6 of the Agreement is amended and supplemented to include the following agreement of the parties:

SECTION B6—PAYMENTS TO ENGINEER

B6.1. Methods of Payment for Services and Expenses of ENGINEER.

B6.1.1. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services as follows:

B6.1.1.1. *General.* A Lump Sum fee for all services of ENGINEER (except for services of ENGINEER's Resident Project Representative performed or furnished under paragraph 2.5.2.1) including services of ENGINEER's Consultants, shall be payable for each portion of each Project of the Program as follows:

1. Design & Contract Administration (See Table B6)
2. Project Management (See Table B6)

B6.1.1.2. *Resident Project Representative Services.* For services of ENGINEER's Resident Project Representative performed or furnished under paragraph 2.5.2.1, an amount equal to ENGINEER's Salary Costs times a factor of 2.5 for services performed or furnished by principals and employees engaged directly in resident Project representation.

B6.1.1.3. *Operational Phase Services.* Operational Phase services performed or furnished under paragraph 2.6, are included in project management fees shown in B6.1.1.1 above. Fees for ENGINEER's consultants during Operational Phase Services will be at ENGINEER's cost times a factor of 1.1.

B6.1.2. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services as follows:

B6.1.2.1. *General.* For services of ENGINEER's principals and employees engaged directly on a Project performed or furnished pursuant to paragraph 3.1 or 3.2 (except services as a consultant or witness under paragraph 3.1.17), an amount equal to ENGINEER's Salary Costs times a factor of 2.5.

B6.1.2.2. *ENGINEER's Consultants.* For services of ENGINEER's Consultants performed or furnished pursuant to paragraph 3.1 or 3.2, the amount billed to ENGINEER therefor times a factor of 1.10.

B6.1.2.3. *Several Prime Contracts.* If more than one separate prime contract is awarded for work designed or specified by ENGINEER for the Project, an additional Lump Sum Fee of N.A. for each of the Basic Services Fee for each such additional prime contract for Basic Services under B6.1.1.1.

B6.1.2.4. *Serving as a Witness.* For services performed by ENGINEER's principals and employees as consultants or witnesses in any litigation, arbitration or other legal or administrative proceeding under paragraph 3.1.17 at the rate of $1,000.00 per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration or proceeding will be on the basis provided in paragraph B6.1.2.1). Compensation for ENGINEER's Consultants for such services will be on the basis provided in paragraph B6.1.2.2.

B6.1.3. For Reimbursable Expenses. OWNER shall pay ENGINEER for Reimbursable Expenses such as:

Printing
Federal Express
U.P.S.
Mileage ($0.40/mi)

The amount payable for Reimbursable Expenses will be the charge actually incurred by or the imputed cost allocated by ENGINEER therefor times a factor of 1.0.

B6.1.4. *Salary Costs.* Salary Costs means direct salaries and wages (basic, premium and incentive) paid to personnel.

The personnel of ENGINEER and the current hourly Salary Costs of such personnel are as follows:

	Hourly Salary Costs
Principal	$ 56.00
Senior Project Engineer, P.E.	$ 40.00
Design Engineer (Not Registered)	$ 38.00
Resident Project Representative	$ 30.00
Technician/Computer Operator	$ 30.00
Draftsman	$ 20.00

B6.1.5. *Adjustment of Salary Costs.* The Salary Costs and the factor applied to Salary Costs in determining compensation payable to ENGINEER will be adjusted annually and equitably to reflect changes in the various elements that comprise such Salary Costs and Factor. All such adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures. Further, no such adjustment shall be made without forwarding written notice of said change to OWNER. At least sixty (60) days prior, the effective date of such adjustment and obtaining OWNER's written consent to said adjustment.

B6.2. Other Provisions Concerning Payments.

B6.2.1. *Preparation of Invoices.* The portion of the amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. Said estimates shall be supported by evidence sufficient to satisfy OWNER as to the validity of said estimate and shall be made available to OWNER within thirty (30) days of any OWNER request therefor. The portion related to services rendered on a Salary Costs basis will be billed based on the Salary Costs (multiplied by a factor, if any, as stated above) incurred at the time of billing.

Upon conclusion of each phase of Basic Services, OWNER shall pay such additional amount, if any, as may be necessary to bring total compensation paid during such phase to the following percentages of total compensation payable for all phases of Basic Services:

Phase	*Percentage*	*Cumulative Percentage*
Preliminary Design	20%	20%
Final Design	60%	80%
Bidding or Negotiating	5%	85%
Construction	15%	100%
	TOTAL	100%

B6.2.2. *Payments Upon Termination.*

B6.2.2. In the event of termination during any phase of the Basic Services of any Project, ENGINEER will be paid for services performed or furnished in accordance with this Agreement during that phase of that Project on the basis of ENGINEER's estimate of the proration of the total services actually completed, including consultants, for services performed or furnished during that phase to date of termination. Said estimate shall be supported by evidence sufficient to satisfy OWNER of the validity of said estimate and said evidence shall be made available to OWNER within thirty (30) days of any OWNER request therefor.

Table B-6

Project#	Description	Scope	Project Costs In Future Dollars	Construction Costs In Future Dollars	Project Mgt. Fee	Design Fee
B-1	Coastline Rd bridge improvements	Design and Construction Phases	$ 608,000.00	$ 456,000.00	$ 9,120.00	$ 27,360.00
B-3	Kenwood Rd bridge	Design and Construction Phases	$1,124,000.00	$ 843,000.00	$ 16,860.00	$ 50,580.00
B-6	McIntosh Road bridge improvement	Design and Construction Phases	$3,042,000.00	$2,281,500.00	$ 45,630.00	$136,890.00
I-1	SR 314/279 signal modification	Design and Construction Phases	$ 11,000.00	$ 8,250.00	$ 165.00	$ 495.00
I-2	Sandy Creek/Sams Dr/Eastin Rd	Design Phase Only	$ 356,000.00	$ 267,000.00	$ 5,340.00	$ 16,020.00
I-3	SR 92/Gingercake signal	Design and Construction Phases	$ 104,000.00	$ 78,000.00	$ 1,560.00	$ 4,680.00
I-4	SR 85/Jeff Davis/SR 314	Design Phase Only	$ 400,000.00	$ 300,000.00	$ 6,000.00	$ 18,000.00
I-5	SR 54/McDonough signal	Design and Construction Phases	$ 32,000.00	$ 24,000.00	$ 480.00	$ 1,440.00
I-6/7	Lafayette/SR 85 & SR 54 signal	Design and Construction Phases	$ 240,000.00	$ 180,000.00	$ 3,600.00	$ 10,800.00
I-8	Stonewall/Glynn St/SR 85	Design and Construction Phases	$ 137,000.00	$ 102,750.00	$ 2,055.00	$ 6,165.00
I-9	SR 54/Gingercake signal	Design and Construction Phases	$ 11,000.00	$ 8,250.00	$ 165.00	$ 495.00
I-10	So. Jeff Davis/County Line/Inman Rd	Design and Construction Phases	$ 304,000.00	$ 228,000.00	$ 4,560.00	$ 13,680.00
I-11	SR 92/Harp Rd/Seay Rd	Design and Construction Phases	$ 285,000.00	$ 213,750.00	$ 4,275.00	$ 12,825.00
I-12	Antioch Rd/McBride Rd	Design and Construction Phases	$ 91,000.00	$ 68,250.00	$ 1,365.00	$ 4,095.00
I-13	Goza Rd/Antioch Rd	Design Phase Only	$ 560,000.00	$ 420,000.00	$ 8,400.00	$ 25,200.00
I-14	SR 85 Conn/Brooks Woolsey Rd	Design and Construction Phases	$ 197,000.00	$ 147,750.00	$ 2,955.00	$ 8,865.00
I-16	Peachtree Pkwy/Crosstown Rd	Design and Construction Phases	$ 162,000.00	$ 121,500.00	$ 2,430.00	$ 7,290.00
I-17	SR 74/Crosstown Rd	Design and Construction Phases	$ 11,000.00	$ 8,250.00	$ 165.00	$ 495.00
I-18	Huddleston Dr/Dividend Dr	Design and Construction Phases	$ 270,000.00	$ 202,500.00	$ 4,050.00	$ 12,150.00
I-19	SR 54 at SR 74 intersection grade sep.	Design and Construction Phases	$7,374,000.00	$5,530,500.00	$110,610.00	$ 331,830.00
R-3	SR 74 Corridor Plan	Design and Construction Phases	$ 468,000.00	$ 351,000.00	$ 7,020.00	$ 21,060.00
R-4	Northside Parkway	Design and Construction Phases	$2,303,000.00	$1,727,250.00	$ 34,545.00	$ 103,635.00
R-5	W. Fayetteville Bypass, from SR 92	Design Phase Only	$8,042,000.00	$6,031,500.00	$120,630.00	$ 361,890.00
R-6	Kenwood Rd operational improvements	Design and Construction Phases	$3,290,000.00	$2,467,500.00	$ 49,350.00	$ 148,050.00
R-8	East Fayetteville Bypass Segment I	Design and Construction Phases	$29,750,000.00	$22,300,000.00	$446,000.00	$ 1,338,000.0
R-8	East Fayetteville Bypass Segment II	Design Phase Only	$75,000,000.00	$56,247,000.00	$ 0.00	$ 1,662,000.0
R-11	SR 92 realignment and extension	Design and Construction Phases	$ 818,000.00	$ 613,500.00	$ 12,270.00	$ 36,810.00
R-12	Hood Ave connector	Design and Construction Phases	$ 972,000.00	$ 729,000.00	$ 14,580.00	$ 43,740.00
R-13	SR 85/Glynn St Landscape median - Phase I	Design and Construction Phases	$ 688,000.00	$ 516,000.00	$ 10,320.00	$ 30,960.00
R-13	SR 85/Glynn St Landscape median - Phase II	Design and Construction Phases	$ 500,000.00	$ 375,000.00	$ 7,500.00	$ 22,500.00
R-14	Lafayette Ave Extension east	Design and Construction Phases	$ 425,000.00	$ 318,750.00	$ 6,375.00	$ 19,125.00
R-17	SR 92/Jeff Davis connector	Design and Construction Phases	$2,340,000.00	$1,755,000.00	$ 35,100.00	$ 105,300.00
R-25	TDK Extension	Construction Phase Only	$4,110,000.00	$3,082,500.00	$ 61,650.00	$ 0.00
R-28	West Fayetteville Bypass - Phase I	Design and Construction Phases	$8,449,000.00	$6,336,750.00	$126,735.00	$ 380,205.00
R-28	West Fayetteville Bypass - Phase II	Design Phase Only	$8,000,000.00	$6,000,000.00	$120,000.00	$ 360,000.00
S-1	Fayetteville Greenway	Design and Construction Phases	$ 553,000.00	$ 414,750.00	$ 8,295.00	$ 24,885.00
S-2	SR 85 Streetscape	Design and Construction Phases	$2,883,000.00	$2,162,250.00	$ 43,245.00	$ 129,735.00
S-3	Lafayette Ave. streetscape improvements	Design and Construction Phases	$1,904,000.00	$1,428,000.00	$ 28,560.00	$ 85,680.00
S-4	Lanier St. streetscape improvements	Design and Construction Phases	$4,315,000.00	$3,236,250.00	$ 64,725.00	$194,175.00
S-5	Peachtree City path bridge over SR 54	Design and Construction Phases	$2,704,000.00	$2,028,000.00	$ 40,560.00	$121,680.00
S-6	Peachtree City path over SR 74	Design and Construction Phases	$3,042,000.00	$2,281,500.00	$ 45,630.00	$136,890.00
S-7	Redwine Road Multi-use trail	Construction Phase Only	$ 312,000.00	$ 234,000.00	$ 4,680.00	$ 0.00

FC-2	Corinth Road at SR 54 Signal & turn lanes	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-3	Sandy Creek at SR 74 - Signal & turn lanes	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-4	Westbridge Road at SR 92 - Signal & turn lanes	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-5	Bernhard Road at SR 85 - Signal & turn lane	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-6	Harp Road at SR 85 - Signal & turn lane	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-7	85 Connector at SR 85 - Signal & turn lane	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-9	Ebenezer Road at SR 54 - Signal & turn lane	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-10	New Hope Road at SR 85 - Signal & turn lane	Design and Construction Phases	$ 200,000.00	$ 150,000.00	$ 3,000.00	$ 9,000.00
FC-12	Goza Road at SR 85 - Signal	Design and Construction Phases	$ 100,000.00	$ 75,000.00	$ 1,500.00	$ 4,500.00
FC-15	Inman/Goza Rd - intersection improvements	Design and Construction Phases	$ 750,000.00	$ 562,500.00	$ 11,250.00	$ 33,750.00
FC-16	Resurfacing of County Roads - 20 miles/yr	Construction Phase Only	$ 14,250,000.00	$14,250,000.00	$285,000.00	$ 0.00
			$192,887,000.00	$148,212,250.00	$1,839,305.00	$6,125,925.00

Notes:
1. Project Costs based on Fayette County Transportation Plan, dated April 2003, except Project R-8 which is based on Transportation Improvement Plan (TIP) Information.
2. 25% of Project Costs assumed to include costs for Legal, Geotechnical, Surveying, Environmental, Testing, Appraisals, Wetland issues, Right-of-Way acquisition and Construction Inspection.
3. Construction Cost Estimates accounts for remaining 75% of Project Costs.
4. Project Management and Design Fees based on estimated Construction Costs for each Project.

This is **Exhibit C**, consisting of 3 pages, referred to in the **Agreement between OWNER and ENGINEER for Professional Services**, dated 8/1, 2005.

Initial:
OWNER
ENGINEER DWJ

Duties, Responsibilities and Limitations of Authority of Resident Project Representative

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ENGINEER shall furnish a Resident Project Representative ("RPR"), assistants and other field staff to assist ENGINEER in observing progress and quality of the work of Contractor.

Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the RPR and assistants, ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the work of Contractor. However, ENGINEER shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences or procedures selected by Contractor, for safety precautions and programs incident to the work of Contractor, for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's performing and furnishing the work, or responsibility of construction for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents. *In particular, the specific limitations set forth in paragraph 2.5 of the Agreement are applicable.*

The duties and responsibilities of the RPR are limited to those of ENGINEER in ENGINEER's agreement with the OWNER and in the construction Contract Documents, and are further limited and described as follows:

A. General

RPR is ENGINEER's agent at the site, will act as directed by and under the supervision of ENGINEER, and will confer with ENGINEER regarding RPR's actions. RPR's dealings in matters pertaining to the on-site work shall in general be with ENGINEER and Contractor, keeping OWNER advised as necessary. RPR's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with OWNER with the knowledge of and under the direction of ENGINEER.

B. Duties and Responsibilities of RPR

1. *Schedules:* Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with ENGINEER concerning acceptability.

2. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

3. *Liaison:*
   a. Serve as ENGINEER's liaison with Contractor, working principally through Contractor's superintendent and assist in understanding the intent of Contract Documents; and assist ENGINEER in serving as OWNER's liaison with Contractor when Contractor's operations affect OWNER's on-site operations.

   b. Assist in obtaining from OWNER additional details or information, when required for proper execution of the work.

4. *Shop Drawings and Samples:*

a. Record date of receipt of Shop Drawings and Samples.

b. Receive Samples which are furnished at the site by Contractor, and notify ENGINEER of availability of Samples for examination.

c. Advise ENGINEER and Contractor of the commencement of any Work requiring a Shop Drawing or Sample if the submittal has not been approved by ENGINEER.

5. *Review of Work, Rejection of Defective Work, Inspections and Tests:*
   a. Conduct on-site observations of the Work in progress to assist ENGINEER in determining if the Work is in general proceeding in accordance with the Contract Documents.

   b. Report to ENGINEER whenever RPR believes that any Work will not produce a completed Project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise ENGINEER of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval. Upon receipt of said report, ENGINEER shall forward such information to OWNER.

   c. Verify that tests, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record and report to ENGINEER appropriate details relative to the test procedures and start-ups.

   d. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to ENGINEER.

6. *Interpretation of Contract Documents:* Report to ENGINEER when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by ENGINEER.

7. *Modifications:* Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report with RPR's recommendations to ENGINEER. Transmit to Contractor in writing decisions as issued by ENGINEER.

8. *Records:*
   a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, reproductions of original Contract Documents including all Work Change Directives, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, ENGINEER's clarifications and interpretations of the Contract Documents, progress reports, Shop Drawing submittals received from and delivered to Contractor and other Project related documents.

   b. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the job site, weather conditions, data relative to questions of Work Change Directives, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to ENGINEER.

   c. Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

9. *Reports:*
   a. Furnish to ENGINEER periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and Sample submittals.

   b. Consult with ENGINEER in advance of scheduled major tests, inspections or start of important phases of the Work.

c. Draft proposed Change Orders and Work Change Directives, obtaining backup material from Contractor and recommend to ENGINEER Change Orders, Work Change Directives, and Field Orders.

d. Report immediately to ENGINEER and OWNER the occurrence of any accident.

10. *Payment Request:* Review Applications for Payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to ENGINEER, noting particularly the relationship of the payment requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.

11. *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to ENGINEER for review and forwarding to OWNER prior to final payment for the Work.

12. *Completion:*

a. Before ENGINEER issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

b. Observe whether Contractor has had performed inspections required by laws, rules, regulations, ordinances, codes, or order, applicable to the work, including but not limited to those to be performed by public agencies having jurisdiction over the work.

c. Conduct a final inspection in the company of ENGINEER, OWNER and Contractor and prepare a final list of items to be completed or corrected.

d. Observe whether all items on final list have been completed or corrected and make recommendations to ENGINEER concerning acceptance and issuance of the Notice of Acceptability of the Work.

C. Limitations of Authority by RPR

Resident Project Representative:

1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items), unless authorized by ENGINEER.

2. Shall not exceed limitations of ENGINEER's authority as set forth in the Agreement or the Contract Documents.

3. Shall not undertake any of the responsibilities of Contractor, Subcontractors, Suppliers, or Contractor's superintendent.

4. Shall not advise or issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

5. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

6. Shall not accept Shop Drawing or Sample submittals from anyone other than Contractor.

7. Shall not authorize OWNER to occupy the Project in whole or in part.

8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by ENGINEER.

This is **EXHIBIT D,** consisting of 2 pages, referred to in the **Agreement between OWNER and ENGINEER for Professional Services,** dated 8/1, 2005.

Initial:
OWNER _____
ENGINEER DWJ

NOTICE OF ACCEPTABILITY OF WORK

PROJECT _____

OWNER _____

OWNER's Contract No _____

CONTRACTOR _____

CONSTRUCTION CONTRACT DATE _____

ENGINEER _____

To _____
OWNER

And To _____
CONTRACTOR

The undersigned hereby gives notice to the above OWNER and CONTRACTOR that the completed Work Furnished and performed by CONTRACTOR under the above Contract is acceptable expressly subject to the provisions of the above Contract and the terms and conditions set forth on the following page 2 of 2 pages.

_____
ENGINEER

Dated:_____, 20 ____

CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK

The Notice on page 1 is expressly made subject to the following terms and conditions to which all persons who receive said Notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the Engineering profession practicing under similar conditions at the same time and in the same locality.

2. Said Notice reflects and is an expression of the professional judgement of ENGINEER.

3. Said Notice is given as to the best of ENGINEER's knowledge, information and belief.

4. Said Notice is based entirely on and expressly limited by the scope of services ENGINEER has been employed by OWNER to perform or furnish during construction of the Project (including observation of the Work) under ENGINEER's Agreement with OWNER and under the Contract referenced on page 1 here of, and applies only to facts that are within ENGINEER's knowledge or could reasonably have been ascertained by ENGINEER as a result of carrying out the responsibilities specifically assigned to ENGINEER under ENGINEER's Agreement with OWNER and the Contract referenced on page 1 hereof.

5. Said Notice is not a guarantee or warranty of CONTRACTOR's performance under the above-referenced Contract referenced on page 1 hereof nor an assumption of responsibility for any failure of CONTRACTOR to furnish and perform the Work thereunder with the Contract Documents.

This is **EXHIBIT E,** consisting of 1 page, referred to in the **Agreement between OWNER and ENGINEER for Professional Services,** dated 8/1, 2005.

Initial:
OWNER
ENGINEER DWJ

Insurance

Section 8 of the Agreement is amended and supplemented to include the following agreement of the parties:

F8.3. Insurance.

F8.3.1. The limits of liability by ENGINEER for the insurance required by paragraph 8.3 of the Agreement are as follows:

1.	Workers' Compensation:	Statutory
	a. Each Accident	$ 100,000
	b. Each Employee	$ 100,000
	c. Aggregate Limit	$ 500,000
2.	General Liability:	$1,000,000
3.	Excess Umbrella Liability:	
	Each Occurrence:	$ N.A.
	General Aggregate:	$ N.A.
4.	Automobile Liability:	
	a. Bodily Injury:	
	Each Person	$ _____
	Each Accident	$ _____
	Property Damage:	
	Each Accident	$ _____
	or	
	b. Combined Single Limit (Bodily Injury and Property Damage):	
	Each Accident	$1,000,000
5.	Other (Specify):	
	Professional Errors & Omissions	
	a. Aggregrate	$2,000,000
	b. Per Claim	$2,000,000