# LUMPKIN COUNTY
# Board of Commissioners
***Work Session II Agenda***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**May 16, 2023**
**5:30 PM**

- **CALL TO ORDER**

- **CONSIDERATION OF MINUTES**

1. Board of Commissioners - Work Session - April 4, 2023 4:00 p.m.
2. Board of Commissioners - Work Session II - April 18, 2023 5:30 p.m.
3. Board of Commissioners - Regular Meeting - April 18, 2023 6:00 p.m.

- **RESOLUTIONS**

4. 2023-23 Appoint Members to Lumpkin County Veterans Affairs Committee - *Michelle Webb to Seat 5 and Heath Williams to Seat 7, both with terms expiring 04/14/2027*
5. 2023-24 Resolution to Increase the Number of Members on the LC DFACS Board
6. 2023-25 Reappoint Member to Lumpkin County DFACS Board - *Betty Fitts to Seat 5, with a term expiring 06/30/2028*
7. 2023-26 Appoint/Reappoint Members to Lumpkin County Library Board of Trustees - *Bobbi Larson to Seat 6, with a term expiring 06/30/2027.*
8. 2023-27 Appoint Member to Planning Commission - *Robin Hall to Seat 1, with a term expiring 08.27.2027 and Chris Adams to Seat 3, with a term expiring 08/27/2026.*
9. 2023-28 Appoint Member to LC Recycling and Litter Committee - *Karen Ponder to Seat 2*
10. 2023-29 Resolution to Adopt a Policy for the Utilization of On-Call Engineer Services

- **CONTRACTS/AGREEMENTS**

11. 2023-035 RFQ for Engineering on Call Services *(County Manager Alan Ours)*
12. 2023-042 Jack Henry & Associates, Inc. Ambulance Service Check Processing Application *(Finance Director Abby Branan)*
13. 2023-043 Local Share Match and Commitment Letter Legacy Link, Inc. SFY2024 *(Senior Center Manager Linda Kirkpatrick)*
14. 2023-044 iWorq Systems Service Agreement for Land Use Permit (*Community & Economic Development Director, Rebecca Mincey*)
15. 2023-045 Bluebeam Studio Subscription Service Agreement (*Community & Economic Development Director, Rebecca Mincey*)
16. 2023-046 Contract for Trail Construction at Yahoola Creek Reservoir/Lake Zwerner (*Community & Economic Development Director Rebecca Mincey*)
17. 2023-047 2023 TSPLOST Gravel Road Paving Contract - Colditz Trucking *(Special Projects Manager Charles Trammell)*
18. 2023-048 Legacy Link Addendum #2 FY-2023 *(Senior Center Manager Linda Kirkpatrick)*

19. 2023-049 2023 Municipal General Election IGA with City of Dahlonega *(Elections Supervisor Robin McIntosh)*
20. 2023-050 UNG Swimming Pool Facilities Use Agreement *(Park & Rec Manager Joseph Daugherty)*
21. 2023-053 Accessible Solutions, Inc. - Software as a Service (SaaS) Services Agreement Subscription Renewal *(Senior Center Manager Linda Kirkpatrick)*
22. 2023-054 GDOT 5311 FY2024 Transit Grant Award *(Fleet & Transit Division Manager Randy Allison)*

- **COUNTY MANAGER**
- **COUNTY ATTORNEY**
- **COMMISSIONERS**
- **PUBLIC COMMENT (Agenda Specific)**
- **ADJOURNMENT**

# Lumpkin County, Georgia

## County Clerk

**Date:** May 16, 2023

**Agenda Item:** Board of Commissioners - Work Session - April 4, 2023 4:00 p.m.

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

# LUMPKIN COUNTY
# Board of Commissioners
***Work Session Agenda***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 4, 2023**
**4:00 PM**

- **CALL TO ORDER**
- **PRESENTATIONS**
- **PROCLAMATIONS**

1. Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions
2. Proclamation in Recognition of Magistrate Judge Jeff Lowe
3. Proclamation in Recognition of Magistrate Judge Randy Pruitt

- **MINUTES**

4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

- **RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*
11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*
12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Revise the Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*
13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*
14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*
15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*
16. 2023-21 Appoint Members to Hospital Authority of Lumpkin County - *-- to Seat 4, with a term expiring 03/01/2025 and -- to Seat 6, with a term expiring 03/01/2026.*

- **CONTRACTS/AGREEMENTS**

17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*
18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*
19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)* ***Work Session II***
20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*
21. 2023-035 RFQ for Engineering on Call Services *(County Manager Alan Ours)* ***Work Session II***
22. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant *(Finance Director Abby Branan)*
23. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*
24. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*
25. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*
26. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*

- **OTHER ITEMS**

27. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*
28. Renaming of Aquatic Center Road (Road off of Pinetree Way) *(Special Projects Director Ashley Peck)*

- **COUNTY MANAGER**

- **COUNTY ATTORNEY**

- **COMMISSIONERS**

- **PUBLIC COMMENT (Agenda Specific)**

- **ADJOURNMENT**

# LUMPKIN COUNTY
# Board of Commissioners
***Work Session Minutes***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 4, 2023**
**4:00 PM**

**CALL TO ORDER**
The meeting was called to order at 4:01 pm. Present were Chairman Chris Dockery, Commissioner Bobby Mayfield, Commissioner Rhett Stringer, and Commissioner Jeff Moran. Commissioner Tucker Greene was absent.

**PROCLAMATIONS**
1. Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions

2. Proclamation in Recognition of Magistrate Judge Jeff Lowe
This is a proclamation in recognition of Jeff Lowe's service to Lumpkin County as Magistrate Judge.

3. Proclamation in Recognition of Magistrate Judge Randy Pruitt
This is a proclamation in recognition of Randy Pruitt's service to Lumpkin County as Magistrate Judge.

Chairman Dockery said Commissioner Stringer spoke with the families of the judges to be honored. They are fine with the proclamations being read this month and having the plaques unveiled at a later date.

**MINUTES**

4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

**RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*
This is a policy adopted to stay in compliance with the Georgia Records Act to establish the framework of rules and guidelines for handling all of the County's records throughout their lifecycles, including creation, access, use, storage, retention and disposition. This Policy ensures the satisfaction of legal obligations, regulatory requirements, and operational needs for records and their retention by establishing consistent and accountable recordkeeping practices throughout the County.

11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*
This is to amend the special event permit process in the alcoholic beverage ordinance. The proposed change would require a new permit to go before the BOC for approval. If the license is for an event that has been approved by the BOC then the County Clerk will be allowed approve the permits the following years.

12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Revise the Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*

Request to revise the code of ordinances to reflect the new Community and Economic Development Director position.

13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*

Adopt a policy to recognize teams and individuals by the Board of Commissioners

14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*

15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*

The Chairman explained that Oliver Sale moved out of the County, so Tom Lamb will be taking his seat.

16. 2023-21 Appoint Members to Hospital Authority of Lumpkin County - *-- to Seat 4, with a term expiring 03/01/2025 and -- to Seat 6, with a term expiring 03/01/2026.*

**CONTRACTS/AGREEMENTS**

Local Maintenance Improvements Grant (LMIG) Application

Chairman Dockery explained that Charles Trammell was informed of this recently, and it requires action to be taken before the regular meeting. This will provide $250,000 of safety improvements funding for County roads. Mr. Trammell said he will be evaluating roads by number of crashes, but he encouraged the Commissioners to let him know if they know of any dangerous roads that could use safety improvements. The Commissioners were in agreement to proceed and then ratify it at a later date.

17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*

Consideration of Southern Geotechnical Consultants (SGC) special inspection contract proposal.

18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*

Renewal of the contract for supporting existing Security System Cameras, Monitors, Door locks, NVRs and microcomputer.

Sheriff Jarrard said he spoke with Motorola, the company that installed and maintains the security systems at the Justice Center. They did a walk-through to look at the Detention Center's current systems, and Motorola claimed they would be able to assume control of the technology since it is not proprietary. Ms. Peck, the Special Projects Director, said Motorola will be doing a more thorough examination to determine the life expectancy of the systems, but they do not think it needs to be replaced yet.

Chairman Dockery asked for staff to consider implementing a phased approach if the system does need replacing.

19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)* ***Work Session II***

20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*

Approve a letter of Interest with Schneider Electric for the purpose of evaluating existing building systems to determine life expectancy of equipment and the potential to reduce energy costs

21. 2023-035 RFQ for Engineering on Call Services *(County Manager Alan Ours)* ***Work Session II***

22. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant (Finance Director Abby Branan)
This is a grant to reduce euthanasia rate by implementing a community cat sterilization program, as well as a zero-cost microchip clinic.

23. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*
Termination of the owner's representative contract for the construction of a new animal shelter

24. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*
Amendment to the owner's representative contract for the construction of a recreation center.

25. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*
FF&E Design Services for New Recreation Center

26. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*
Updating the auto aid agreement for all hazard and emergency mutual aid services in Lumpkin County.

**OTHER ITEMS**

27. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*
Request for approval to move forward with Animal Shelter Repairs.
Commissioner Moran shared some observations from his visit to the animal shelter earlier today. He agreed it is in definite need of repair, and he commented that the lot is not as flat as a map would make it seem. The topography would make it almost impossible to expand or build anything else. The Chairman commented about the sewer system and the potential to hook up with the LCWSA's sewer treatment facility in the future.

28. Renaming of Aquatic Center Road (Road off of Pinetree Way) *(Special Projects Director Ashley Peck)*
Consideration by the Board to rename the loop road off of Pinetree Way now that the project scope has changed.
Chairman Dockery suggested Pinetree Circle for the road.

**COUNTY MANAGER**
Mr. Ours introduced Joseph Daugherty, the new Parks & Recreation Manager.

**COUNTY ATTORNEY**

**COMMISSIONERS**
Chairman Dockery said Commissioner Greene cannot be at tonight's meeting due to a baseball game.

**PUBLIC COMMENT (Agenda Specific)**
Joe Mirakovits, Chair of the DLC Chamber Board of Directors, was present at the meeting with Chamber Executive Director Robb Nichols. He thanked Chairman Dockery for giving an excellent presentation at the State of the City & County luncheon a few weeks ago. Chairman Dockery said it was a team effort, and that the BOC are able to come together for solutions even if they do not always agree on things.

**ADJOURNMENT**
The meeting was adjourned at 4:19 pm.

Date

Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

Melissa Witcher
Clerk, Lumpkin County

# Lumpkin County, Georgia

## County Clerk

**Date:** May 16, 2023

**Agenda Item:** Board of Commissioners - Work Session II - April 18, 2023 5:30 p.m.

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

# LUMPKIN COUNTY
# Board of Commissioners
***Work Session II Agenda***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 18, 2023**
**5:30 PM**

- **CALL TO ORDER**

- **PROCLAMATIONS**

1. Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions
2. Proclamation in Recognition of Magistrate Judge Jeff Lowe
3. Proclamation in Recognition of Magistrate Judge Randy Pruitt

- **CONSIDERATION OF MINUTES**

4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

- **RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*
11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*
12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Provide a Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*
13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*
14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*
15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*
16. 2023-22 Appoint Members to the Lumpkin County Recycling & Litter Committee - *Evelyn Shirley to Seat 8 and Karen Ponder to Seat 2.*

- **CONTRACTS/AGREEMENTS**

17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern

Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*

18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*
19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)*
20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*
21. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant *(Animal Shelter Manager Wayne Marshall)*
22. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*
23. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*
24. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*
25. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*
26. 2023-041 2023 GDOT LMIG Grant *(Special Projects Manager Charles Trammell)* ***Ratify***

- **OTHER ITEMS**

27. Renaming of Aquatic Center Road (Road off of Pinetree Way) *(Special Projects Director Ashley Peck)*
28. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*

- **COUNTY MANAGER**
- **COUNTY ATTORNEY**
- **COMMISSIONERS**
- **PUBLIC COMMENT (Agenda Specific)**
- **ADJOURNMENT**

# LUMPKIN COUNTY
# Board of Commissioners
***Work Session II Minutes***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 18, 2023**
**5:30 PM**

**CALL TO ORDER**
The meeting was called to order at 5:32 PM. Present were Chairman Chris Dockery, Commissioner Tucker Greene, Commissioner Bobby Mayfield, Commissioner Rhett Stringer, and Commissioner Jeff Moran.

**PROCLAMATIONS**

1.Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions

2.Proclamation in Recognition of Magistrate Judge Jeff Lowe
This is a proclamation in recognition of Jeff Lowe's service to Lumpkin County as Magistrate Judge.

3. Proclamation in Recognition of Magistrate Judge Randy Pruitt
This is a proclamation in recognition of Randy Pruitt's service to Lumpkin County as Magistrate Judge.

**CONSIDERATION OF MINUTES**

4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

**RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*
This is a policy adopted to stay in compliance with the Georgia Records Act to establish the framework of rules and guidelines for handling all of the County's records throughout their lifecycles, including creation, access, use, storage, retention and disposition. This Policy ensures the satisfaction of legal obligations, regulatory requirements, and operational needs for records and their retention by establishing consistent and accountable recordkeeping practices throughout the County.

11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*
This is to amend the special event permit process in the alcoholic beverage ordinance. The proposed change would require a new permit to go before the BOC for approval. If the license is for an event that has been approved by the BOC then the County Clerk will be allowed approve the permits the following years.

12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Provide a Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*

Request to revise the code of ordinances to provide a definition of Planning Director.

13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*

Adopt a policy to recognize teams and individuals by the Board of Commissioners

14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*

15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*

16. 2023-22 Appoint Members to the Lumpkin County Recycling & Litter Committee - *Evelyn Shirley to Seat 8 and Karen Ponder to Seat 2.*

**CONTRACTS/AGREEMENTS**

17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*

Consideration of Southern Geotechnical Consultants (SGC) special inspection contract proposal.

18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*

Renewal of the contract for supporting existing Security System Cameras, Monitors, Door locks, NVRs and microcomputer.

Chairman Dockery said if it is the desire of the Board of Commissioners to pursue a contract with Motorola instead, then we need a motion to not renew the contract with CCI.

19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)*

Lumpkin County Board of Commissioners provides Medical, Dental, Long-Term Disability and Basic term life insurance for eligible full-time employees and certain other designated individuals as allowed. Additionally, certain other voluntary insurances such as Short-Term Disability, vision insurance, additional life insurance, accident and critical illness, and cancer policies are offered to employees, but premiums are not supported by the county.

Rob Fowler from Turner, Wood, & Smith gave a brief presentation on the health insurance renewal changes.

20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*

Approve a letter of Interest with Schneider Electric for the purpose of evaluating existing building systems to determine life expectancy of equipment and the potential to reduce energy costs.

21. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant *(Animal Shelter Manager Wayne Marshall)*

This is a grant to reduce euthanasia rate by implementing a community cat sterilization program, as well as a zero-cost microchip clinic.

Animal Shelter Manager Wayne Marshall said this is part of their outreach program. His employees worked hard to reach out to and befriend this group, so they now have a willingness to work with us. Mr. Marshall is hopeful this will lead to even more grant opportunities in the future.

22. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*

Termination of the owner's representative contract for the construction of a new animal shelter

23. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*

Amendment to the owner's representative contract for the construction of a recreation center.

24. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*

FF&E Design Services for New Recreation Center

25. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*

Updating the auto aid agreement for all hazard and emergency mutual aid services in Lumpkin County.

26. 2023-041 2023 GDOT LMIG Grant *(Special Projects Manager Charles Trammell)* ***Ratify***

**OTHER ITEMS**

27. Renaming of Aquatic Center Road (Road off of Pinetree Way) *(Special Projects Director Ashley Peck)*

Consideration by the Board to rename the loop road off of Pinetree Way now that the project scope has changed.

28. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*

Request for approval to move forward with Animal Shelter Repairs.

**COUNTY MANAGER**

**COUNTY ATTORNEY**

**COMMISSIONERS**

Commissioner Greene commented on the recent success of Lumpkin County's sports programs.

**PUBLIC COMMENT (Agenda Specific)**

**ADJOURNMENT**

The meeting was adjourned at 5:48 PM.

_____ _____

Date

Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____

Melissa Witcher
Clerk, Lumpkin County

# Lumpkin County, Georgia

## County Clerk

**Date:** May 16, 2023

**Agenda Item:** Board of Commissioners - Regular Meeting - April 18, 2023 6:00 p.m.

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

# LUMPKIN COUNTY
# Board of Commissioners

***Regular Meeting Agenda***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 18, 2023**
**6:00 PM**

- **CALL TO ORDER**
- **INVOCATION**
- **CONSIDERATION OF AGENDA**
- **PUBLIC COMMENTS (Agenda Specific)**
- **PROCLAMATIONS**

1. Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions
2. Proclamation in Recognition of Magistrate Judge Jeff Lowe
3. Proclamation in Recognition of Magistrate Judge Randy Pruitt

- **CONSIDERATION OF MINUTES**

4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

- **RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*
11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*
12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Provide a Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*
13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*
14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*
15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*

16. 2023-22 Appoint Members to the Lumpkin County Recycling & Litter Committee - *Evelyn Shirley to Seat 8 and Karen Ponder to Seat 2.*

- **REPORTS**
  County Department reports can be viewed on www.lumpkincounty.gov

- **ELECTED OFFICIALS**

- **CONTRACTS/AGREEMENTS**

17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*
18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*
19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)*
20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*
21. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant *(Animal Shelter Manager Wayne Marshall)*
22. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*
23. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*
24. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*
25. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*
26. 2023-041 2023 GDOT LMIG Grant *(Special Projects Manager Charles Trammell)* ***Ratify***

- **OTHER ITEMS**

27. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*
28. Renaming of Aquatic Center Road (Road off of Pinetree Way) - Pinetree Circle *(Special Projects Director Ashley Peck)*

- **COUNTY MANAGER**

- **COUNTY ATTORNEY**

- **COMMISSIONERS**

- **PUBLIC COMMENTS**

- **ADJOURNMENT**

# LUMPKIN COUNTY
# Board of Commissioners
***Regular Meeting Minutes***
**Commissioners Boardroom**
**99 Courthouse Hill**
**Dahlonega, GA 30533**

**April 18, 2023**
**6:00 PM**

**CALL TO ORDER**
The meeting was called to order at 6:01 pm. Present were Chairman Chris Dockery, Commissioner Tucker Greene, Commissioner Bobby Mayfield, Commissioner Rhett Stringer, and Commissioner Jeff Moran.

**INVOCATION**
Chairman Dockery gave the invocation, which was followed by the Pledge of Allegiance.

**CONSIDERATION OF AGENDA**
***Motion:*** *Commissioner Stringer made a motion to approve the agenda and was seconded by Commissioner Greene. The motion was approved and carried.*

**PUBLIC COMMENTS (Agenda Specific)**

**PROCLAMATIONS**
1. Proclamation Recognizing the 2022-2023 GHSA Traditional Varsity Wrestling State Champions

***Motion****: Commissioner Mayfield moved to approve the proclamation and was seconded by Commissioner Moran. The motion was approved and carried.*

2. Proclamation in Recognition of Magistrate Judge Jeff Lowe
This is a proclamation in recognition of Jeff Lowe's service to Lumpkin County as Magistrate Judge.

***Motion****: Commissioner Stringer moved to approve the proclamation, and it was seconded by Commissioner Greene. The motion was approved unanimously.*

3. Proclamation in Recognition of Magistrate Judge Randy Pruitt
This is a proclamation in recognition of Randy Pruitt's service to Lumpkin County as Magistrate Judge.

***Motion****: Commissioner Mayfield made a motion to approve the proclamation, which was seconded by Commissioner Moran. The motion was approved and carried.*

**CONSIDERATION OF MINUTES**
4. Board of Commissioners - Work Session - March 7, 2023 4:00 p.m.
5. Board of Commissioners - Special Called Meeting - March 7, 2023 4:30 p.m.
6. Board of Commissioners - Special Called Meeting - March 9, 2023 4:30 p.m.
7. Board of Commissioners - Work Session II - March 21, 2023 5:30 p.m.
8. Board of Commissioners - Regular Meeting - March 21, 2023 6:00 p.m.
9. Board of Commissioners - Special Called Meeting - March 29, 2023 4:00 p.m.

***Motion****: Commissioner Moran moved to approve the minutes by acclamation. The motion was seconded by Commissioner Greene, and it was approved unanimously.*

**RESOLUTIONS**

10. 2023-15 Resolution Creating a Records Management Program Records Management Policy *(County Clerk Melissa Witcher)*

This is a policy adopted to stay in compliance with the Georgia Records Act to establish the framework of rules and guidelines for handling all of the County's records throughout their lifecycles, including creation, access, use, storage, retention and disposition. This Policy ensures the satisfaction of legal obligations, regulatory requirements, and operational needs for records and their retention by establishing consistent and accountable recordkeeping practices throughout the County.

***Motion**: Commissioner Stringer moved to approve the resolution and was seconded by Commissioner Moran. The motion was approved unanimously.*

11. 2023-16 Resolution to Amend the Alcoholic Beverage Ordinance *(County Clerk Melissa Witcher)*

This is to amend the special event permit process in the alcoholic beverage ordinance. The proposed change would require a new permit to go before the BOC for approval. If the license is for an event that has been approved by the BOC then the County Clerk will be allowed approve the permits the following years.

***Motion**: Commissioner Mayfield moved to approve the resolution and was seconded by Commissioner Greene. The motion was approved and carried.*

12. 2023-17 Resolution to Amend Sec. 1-2 of the Code of Ordinances to Provide a Definition of Planning Director *(Community & Economic Development Director Rebecca Mincey)*

Request to revise the code of ordinances to provide a definition of Planning Director.

***Motion**: Commissioner Moran made a motion to approve the resolution and was seconded by Commissioner Mayfield. The motion was approved and carried.*

13. 2023-18 Resolution to Adopt a Policy on Recognition of Teams and Individuals by the Board of Commissioners *(County Manager Alan Ours)*

Adopt a policy to recognize teams and individuals by the Board of Commissioners

***Motion**: Commissioner Greene made a motion to approve the resolution, which was seconded by Commissioner Stringer. The motion was approved and carried.*

Commissioner Mayfield wanted to clarify this is to standardize the procedure for Lumpkin County Schools or Park and Rec teams/individuals, not for other individuals being recognized by a proclamation.

14. 2023-19 Appoint/Reappoint Member to Lumpkin County Water & Sewerage Authority - *Darren Wood to Seat 2, and Charles Trammell to Seat 6, with a term expiring 05/31/2027*

***Motion**: Chairman Dockery moved to reappoint Darren Wood to Seat 2 with a term expiring 5/31/2027. Commissioner Greene seconded the motion, which was approved unanimously.*

***Motion**: Chairman Dockery moved to reappoint Charles Trammell to Seat 6 with a term expiring 5/31/2027. The motion was seconded by Commissioner Moran. Motion was approved and carried.*

15. 2023-20 Appoint/Reappoint Members to Yahoola Creek Reservoir Property Study Committee - *Tom Lamb to Seat 1, Ben LaChance to Seat 2, Martie Heaton to Seat 3, Joseph Daugherty to Seat 4, Steve Gooch to Seat 5, Wyman Walden to Seat 6, and DeEnna Walters to Seat 7 all with terms expiring 05/15/2024*

***Motion**: Chairman Dockery made a motion to approve the appointments by acclamation, and was seconded by Commissioner Mayfield. The motion was approved and carried.*

16. 2023-22 Appoint Members to the Lumpkin County Recycling & Litter Committee - *Evelyn Shirley to Seat 8 and Karen Ponder to Seat 2.*

***Motion**: Chairman Dockery moved to appoint Evelyn Shirley to Seat 8. Commissioner Greene seconded the motion, which was approved and carried.*

**REPORTS**
County Department reports can be viewed on www.lumpkincounty.gov

**ELECTED OFFICIALS**

**CONTRACTS/AGREEMENTS**
17. 2023-018 Construction Materials Testing Services and Special Inspections - Southern Geotechnical Consultants (SGC) - Lumpkin County Recreation Center *(Special Projects Director Ashley Peck)*
Consideration of Southern Geotechnical Consultants (SGC) special inspection contract proposal.

***Motion**: Commissioner Mayfield moved to approve the contract, and was seconded by Commissioner Moran. The motion was approve and carried.*

18. 2023-029 Control Concepts, LLC (CCI) Contract Renewal *(Sheriff Stacy Jarrard)*
Renewal of the contract for supporting existing Security System Cameras, Monitors, Door locks, NVRs and microcomputer.

***Motion**: Commissioner Mayfield made a motion not to renew the contract. The motion was seconded by Commissioner Stringer, and it was approved and carried.*

19. 2023-033 Consideration of Health Insurance Renewal and Other Voluntary Insurance Benefits *(Community & Employee Services Director Alicia Davis)*
Lumpkin County Board of Commissioners provides Medical, Dental, Long-Term Disability and Basic term life insurance for eligible full-time employees and certain other designated individuals as allowed. Additionally, certain other voluntary insurances such as Short-Term Disability, vision insurance, additional life insurance, accident and critical illness, and cancer policies are offered to employees, but premiums are not supported by the county.

***Motion**: Commissioner Moran made a motion to approve course of action C, which is to continue with the self-insurance, funding both the stop loss premium increase for a $75,000 per claim deductible along with funding for expected costs plus continue funding $220,000 to the reserve fund with no cost increase to employees, and to approve all plan amendments. The motion was seconded by Commissioner Mayfield, and it was approved unanimously.*

20. 2023-034 Possible Energy Savings Program for County Buildings - Schneider Electric *(County Manager Alan Ours)*
Approve a letter of Interest with Schneider Electric for the purpose of evaluating existing building systems to determine life expectancy of equipment and the potential to reduce energy costs.

***Motion**: Commissioner Greene moved to approve the contract and was seconded by Commissioner Stringer. The motion was approved and carried.*

21. 2023-036 Best Friends Animals Society 2023 Community Cat Sterilization & Microchip Clinic Grant *(Animal Shelter Manager Wayne Marshall)*
This is a grant to reduce euthanasia rate by implementing a community cat sterilization program, as well as a zero-cost microchip clinic.

***Motion**: Commissioner Stringer made a motion to approve the contract and was seconded by Commissioner Mayfield. The motion was approved and carried.*

22. 2023-037 Termination of Owner's Representative Contract for the Construction of a New Animal Shelter *(Special Projects Director Ashley Peck)*
Termination of the owner's representative contract for the construction of a new animal shelter

***Motion**: Commissioner Greene moved to approve the contract termination and was seconded by Commissioner Stringer. The motion was approved and carried.*

23. 2023-038 Amendment to Owner's Representative Contract for the Construction of a Recreation Center *(Special Projects Director Ashley Peck)*
Amendment to the owner's representative contract for the construction of a recreation center.

***Motion**: Commissioner Mayfield moved to approve the contract and was seconded by Commissioner Moran. The motion was approved and carried.*

24. 2023-039 FF&E Design Services for New Recreation Center - Vivre Interiors *(Special Projects Director Ashley Peck)*
FF&E Design Services for New Recreation Center

***Motion**: Commissioner Greene made a motion to approve the contract. Commissioner Mayfield seconded the motion, and it was approved and carried.*

25. 2023-040 Department of the Army/Camp Merrill - Fire Mutual Aid Agreement *(Fire Chief David Wimpy)*
Updating the auto aid agreement for all hazard and emergency mutual aid services in Lumpkin County.

***Motion**: Commissioner Moran moved to approve the agreement, and he was seconded by Commissioner Greene. The motion was approved unanimously.*

26. 2023-041 2023 GDOT LMIG Grant *(Special Projects Manager Charles Trammell)* ***Ratify***

***Motion**: Commissioner Stringer made a motion to approve the agreement, and he was seconded by Commissioner Mayfield. The motion was approved and carried.*

**OTHER ITEMS**
27. Request for Approval of Animal Shelter Repairs *(Special Projects Director Ashley Peck)*
Request for approval to move forward with Animal Shelter Repairs.

***Motion**: Commissioner Moran moved to approve the repairs and was seconded by Commissioner Mayfield. The motion was approved unanimously.*

Commissioner Mayfield said the animal shelter is falling apart and we need to take care of our employees and animals. He urged everyone to keep in mind the possibility of building a new shelter in the future.

28. Renaming of Aquatic Center Road (Road off of Pinetree Way) - Pinetree Circle *(Special Projects Director Ashley Peck)*
Consideration by the Board to rename the loop road off of Pinetree Way now that the project scope has changed.

***Motion**: Commissioner Greene moved to approve the name change to Pinetree Circle. Commissioner Mayfield seconded the motion.*
***Motion**: Commissioner Greene amended his motion to change the name to Pinetree Spur. The motion was seconded by Commissioner Mayfield, and it was approved and carried.*

**COUNTY MANAGER**
Mr. Ours gave an update on the widening of Pinetree Way and the progress on the new recreation center. They are putting in the footings and will put the foundation in next week, and the steel should start going up in May. Next March is still the projected finish date.

**COUNTY ATTORNEY**

**COMMISSIONERS**
Commissioner Greene said he attended the meeting where the City of Dahlonega received the Southern Living Best Small-Town Award. He emphasized how proud he was of the County's efforts in making Dahlonega a better place.

**PUBLIC COMMENTS**
Charles Trammell gave an update on the repair of the Mount Olive Church Road bridge culvert. He said the road should be open within three months.

**ADJOURNMENT**
***Motion**: Commissioner Mayfield moved to adjourn the meeting, and was seconded by Commissioner Greene. The motion was approved and carried. The meeting ended at 6:47 pm.*

_____
Date

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Witcher
Clerk, Lumpkin County

# Lumpkin County, Georgia

## Board of Commissioners

**Date:** May 16, 2023

**Agenda Item:** 2023-23 Appoint Members to Lumpkin County Veterans Affairs Committee - *Michelle Webb to Seat 5 and Heath Williams to Seat 7, both with terms expiring 04/14/2027*

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

**LUMPKIN COUNTY RESOLUTION NO. 2023-23**

**A RESOLUTION TO APPOINT MEMBERS**
**TO THE**
**LUMPKIN COUNTY VETERANS' AFFAIRS ADVISORY COMMITTEE**

**Whereas**, the Board of Commissioners of Lumpkin County desires to appoint two members to the Lumpkin County Veterans' Affairs Advisory Committee to fill vacant seats;

**Now therefore, it is hereby resolved** that the following persons are appointed to serve on the Lumpkin County Veterans' Affairs Advisory Committee for the seats and terms indicated below:

| **Name:** | **Seat Number:** | **Term:** |
|---|---|---|
| Michelle Webb | Seat 5 | May 17, 2023 to April 14, 2027 |
| Heath Williams | Seat 7 | May 17, 2023 to April 14, 2027 |

**Resolved, adopted and effective** this 16th day of May, 2023.

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

# Lumpkin County, Georgia

## County Manager

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-24 Resolution to Increase the Number of Members on the LC DFACS Board |
| **Item Description:** | The Lumpkin County Department of Children and Family Services (DFCS) is requesting to increase their Board membership from five to seven members. |
| **Facts & Historical Information:** | The DFCS Board in Lumpkin County currently has five members. The Director of DFCS is requesting the number of Board members be increased from five to seven members. Per O.C.G.A. 49-3-2 Board members must represent one of nine categories. The Director has requested that, if approved, the two new Board members come from the following groups: Pediatric health care providers, emergency responders, law enforcement, former foster parents and the faith based community. The Director has also requested that the appointments be reflective of the gender, race, ethic and age characteristics of the county population. It is the discretion of the Board of Commissioners to increase the number of Board members. |
| **Potential Courses Of Action:** | A. Increase the number of Board members from five to seven<br>B. Increase the number of Board members from five to six<br>C. Continue with the current size of the Board at five members |
| **Budget Impact:** | The request does not impact the budget |
| **Staff Recommendation:** | |

April 18, 2023

Attn. Chris Dockery, Chairman.

Lumpkin County Board of Commissioners

99 Courthouse Hill

Dahlonega GA 30533

Dear Mr. Dockery,

The Lumpkin County Department of Family and Children Services board currently has five (5) board members as outlined below.

Seat 1: Brigette Barker, Chair – community service provider.

Seat 2: LaGala Fugate – school personnel.

Seat 3: Patricia Hawkins – (retired) school personnel.

Seat 4: Betty Fitts – (retired) child welfare system.

Seat 5: Melissa Line – mental health provider.

The purpose of the local county DFCS board shall be to support the staff who protect the well-being of this state's children while preserving family integrity. The board may review the administration of all welfare and public assistance functions for the county.

At this time, I am requesting to add 2 additional board members to the Lumpkin County Department of Family and Children Services board.

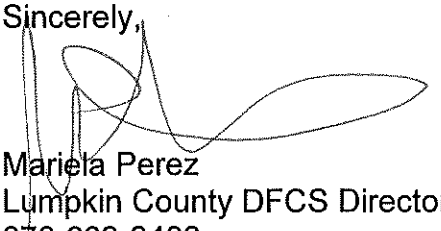
Per O.C.G.A. 49-3-2 (amended via SB 138) each board can have up to seven (7) members. I would like to add two (2) members from categories outlined below as they are not currently represented.

- Pediatric health care providers;
- Emergency responders;
- Law enforcement personnel;
- Former foster parents; and
- Leaders within the faith-based community.

Per O.C.G.A 49-3-2, the appointments should be reflective of the gender, race, ethnic and age characteristics of the county population.

Thank you for your consideration to the proposal to add two (2) additional board members to provide a collective representation of our community.

Sincerely,



Mariela Perez
Lumpkin County DFCS Director
678-662-2492
Mariela.perez@dhs.ga.gov

**LUMPKIN COUNTY RESOLUTION NO. 2023-24**

**A RESOLUTION TO INCREASE THE NUMBER OF MEMBERS OF THE LUMPKIN COUNTY DEPARTMENT OF FAMILY AND CHILDREN SERVICES BOARD**

**Whereas**, pursuant to O.C.G.A. § 49-3-2, each county board of family and children services shall consist of between five and seven members who shall be appointed by the governing authority of the county; and

**Whereas,** pursuant to O.C.G.A. § 49-3-2, in making appointments to the county board of family and children services, the governing authority shall ensure that appointments are reflective of gender, race, ethnic, and age characteristics of the county population. Further, the governing authority shall ensure that all appointments made on or after July 1, 2015, are made from the following categories:

(1) Pediatric health care providers, active or retired;
(2) Appropriate school personnel, active or retired;
(3) Emergency responders, active or retired;
(4) Law enforcement personnel, active or retired;
(5) Private child welfare service providers, active or retired;
(6) Alumni of the child welfare system;
(7) Mental health care providers, active or retired;
(8) Former foster parents; and
(9) Leaders within the faith-based community, active or retired.

**Whereas**, the Lumpkin County Department of Family and Children Services Board is presently comprised of five members; and

**Whereas**, the Lumpkin County Department of Family and Children Services Director has requested the governing authority to increase the number of board members to seven to allow for the appointment of members from categories that are currently unrepresented on the board; and

**Whereas,** the Lumpkin County Board of Commissioners desires to increase the number of board members to seven as requested by the director;

**Now therefore, it is hereby resolved** that the number of members of the Lumpkin County Department of Family and Children Services Board is increased to seven.

**Resolved, adopted and effective** this 16th day of May, 2023

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

**LUMPKIN COUNTY RESOLUTION NO. 2023-25**

**A RESOLUTION TO REAPPOINT A MEMBER TO THE LUMPKIN COUNTY DEPARTMENT OF FAMILY AND CHILDREN SERVICES BOARD**

**Whereas**, the Lumpkin County Board of Commissioners desires to reappoint a member to serve on the Lumpkin County Department of Family and Children Services Board, whose term expires on June 30, 2023;

**Now therefore, it is hereby resolved** that the following person is reappointed to the Lumpkin County Department of Family and Children Services Board for the seat and term provided below:

| **Name** | **Seat** | **Term** |
|---|---|---|
| Betty Fitts | 5 | July 1, 2023 to June 30, 2028 |

**Resolved, adopted and effective** this 16th day of May, 2023

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

**LUMPKIN COUNTY RESOLUTION NO. 2023-26**

**A RESOLUTION TO REAPPOINT A MEMBER**
**TO THE**
**LUMPKIN COUNTY LIBRARY BOARD OF TRUSTEES**

**Whereas**, the Lumpkin County Board of Commissioners desires to reappoint a member to the Lumpkin County Library Board of Trustees to serve in Seat 6;

**Now, therefore, it is hereby resolved** that the following person is reappointed to the Lumpkin County Library Board of Trustees for the seat and term provided below:

| **Name** | **Seat** | **Term** |
|---|---|---|
| Bobbi Larson | 6 | July 1, 2023 to June 30, 2027 |

**Resolved, adopted and effective** this 16th day of May, 2023.

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

# Lumpkin County, Georgia

## Board of Commissioners

**Date:** May 16, 2023

**Agenda Item:** 2023-27 Appoint Member to Planning Commission - *Robin Hall to Seat 1, with a term expiring 08.27.2027 and Chris Adams to Seat 3, with a term expiring 08/27/2026.*

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

**LUMPKIN COUNTY RESOLUTION NO. 2023-27**

**A RESOLUTION TO APPOINT MEMBERS TO THE LUMPKIN COUNTY PLANNING COMMISSION**

**Whereas**, the Lumpkin County Board of Commissioners desires to appoint two members to the Lumpkin County Planning Commission to serve in Seat 1 and Seat 3, which are currently vacant;

**Now therefore, it is hereby resolved** that the following individuals are appointed to the Lumpkin County Planning Commission for the seats and terms provided below:

| **Name** | **Seat** | **Term** |
|---|---|---|
| Robin Hall | 1 | May 17, 2023 to August 27, 2027 |
| Chris Adams | 3 | May 17, 2023 to August 27, 2026 |

**Resolved, adopted and effective** this 16th day of May, 2023.

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

# Lumpkin County, Georgia

## Board of Commissioners

**Date:** May 16, 2023

**Agenda Item:** 2023-28 Appoint Member to LC Recycling and Litter Committee - *Karen Ponder to Seat 2*

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

**Lumpkin County Resolution No. 2023 – 28**

**A Resolution to Amend the Composition of the Lumpkin County Recycling & Litter Committee and Appoint a Member**

**Whereas**, the Lumpkin County Board of Commissioners created the Lumpkin County Recycling & Litter Committee by Lumpkin County Resolution No. 2023-06 as an ad hoc committee for the purpose of assisting the County in establishing an affordable, efficient, sustainable solution for recycling & litter in Lumpkin County; and

**Whereas,** the committee is comprised of nine members as follows: Seat One - University of North Georgia representative, Seat Two - University of North Georgia student representative, Seat Three - Lumpkin County School System representative, Seat Four - Lumpkin County Sheriff, Seat Five - Lumpkin County Commissioner, Seat Six – Lumpkin County Commissioner, Seat Seven - Chamber of Commerce representative, Seat Eight – citizen at-large and Seat Nine – citizen at large; and

**Whereas**, the Board of Commissioners desires to amend the composition of the committee to provide that Seat Two shall be filled by a citizen at-large; and

**Whereas,** the Board of Commissioners desires to appoint a new member to serve in Seat Two;

**Now therefore, it is resolved that** Seat Two shall be filled by a citizen at-large; and

**It is further resolved that** the following person is appointed to serve on the Lumpkin County Recycling & Litter Committee in the seat provided below:

**Seat Two: Karen Ponder**

**Resolved, adopted and effective** this 16th day of May, 2023.

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

# Lumpkin County, Georgia

## Board of Commissioners

**Date:** May 16, 2023

**Agenda Item:** 2023-29 Resolution to Adopt a Policy for the Utilization of On-Call Engineer Services

**Item Description:**

**Facts & Historical Information:**

**Potential Courses Of Action:**

**Budget Impact:**

**Staff Recommendation:**

**LUMPKIN COUNTY RESOLUTION NO. 2023 – 29**

**A RESOLUTION TO ADOPT A POLICY FOR THE UTILIZATION OF ON-CALL ENGINEER SERVICES**

**Whereas**, the Lumpkin County Board of Commissioners anticipates entering into a contract for engineering services on an on-call or task order basis; and

**Whereas,** the Board desires to adopt a policy setting for guidelines for the utilization of on-call engineer services to ensure efficient and effective utilization of engineering expertise, and facilitate timely decision-making for county projects requiring engineering support; and

**Whereas,** County staff has developed and recommended a policy for consideration by the Board of Commissioners; and

**Whereas,** the Board of Commissioners desires to approve and adopt the recommended policy;

**Now therefore, it is hereby resolved that** the policy for Utilization of On-Call Engineer Services attached hereto as Exhibit "A" is hereby approved and adopted.

**Resolved, adopted and effective** this 16th day of May, 2023.

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

# Exhibit 'A'

## Utilization of On-Call Engineer Services

Policy Statement:

This policy establishes guidelines for the utilization of on-call engineer services by Lumpkin County Government. The purpose of this policy is to ensure efficient and effective utilization of engineering expertise, and facilitate timely decision-making for county projects requiring engineering support.

1. Objective:
   The objective of this policy is to establish a framework for engaging the on-call engineer services to support the county government in various engineering related projects and activities. This is to provide the county with dedicated access to engineering expertise and promote continuity, consistency, and cost-effectiveness in the delivery of engineering services.

2. Scope:
   This policy applies to all county departments, offices, and employees involved in projects or activities that require engineering support and have been authorized to engage the on-call engineering services.

3. Utilization of On-Call Engineer Services:
   a. County Departments requiring engineering support shall make a request for the services to the County Manager or designee. The County Manager or designee shall assess the scope and nature of the required engineering services and provide authorization or refusal.
   b. Engineering projects and activities appropriate for utilization of on-call engineer services include:
      i. Design of new roads
      ii. Modifications and improvements to intersections
      iii. Rehabilitation and maintenance of existing roads and bridges to include, but not limited to, road widening, paving, alignment, modifications, and replacement of drainage structures
      iv. Pavement evaluations and reports
      v. Hydrology studies for existing culverts 36 inches or above
      vi. Stormwater management and flood control projects
      vii. Wetland and conservation projects
      viii. Design and construction of public facilities and structures
      ix. Structural assessments and renovations of existing facilities and structures
      x. ADA modification designs and plans
      xi. Emergency Management/Disaster Recovery Projects

c. For a project or situation not explicitly listed in the policy for utilization of on-call engineer services, the county manager is granted the authority to approve the utilization of the on-call engineer. The county manger shall ensure that the utilization of the services supports the efficient and effective delivery of public services, infrastructure development and repair, or emergency response.

4. Compliance:
   All county departments, offices, and employees involved in engaging on-call engineer services shall comply with this policy and any accompanying procedures or guidelines established by the Board of Commissioner or County Manager.

5. Policy Review:
   This policy may be reviewed and updated at anytime to ensure its ongoing relevance and effectiveness. Any necessary revisions or updates will be approved by the Lumpkin County Board of Commissioners.

# Lumpkin County, Georgia

## County Manager

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-035 RFQ for Engineering on Call Services *(County Manager Alan Ours)* |
| **Item Description:** | Approval of a contract with an On-Call Engineer |
| **Facts & Historical Information:** | In the fall of 2022 the Public Works Director and County Engineer, Larry Reiter, went to work for a private firm. A decision was made to not fill his position and contract out engineering services. A request for qualifications from engineering firms was solicited and responses were received from the following four firms: Davis Engineering and Surveying, Falcon Design, GMC and Kimley Horn. Rebecca Mincey, Charles Trammell and Alan Ours served on the review team. The qualifications of each firm were ranked based on a written submittal. In addition, interviews were held with each firm. At the conclusion of the interviews the review team unanimously selected Falcon Design to recommend to the Board of Commissioners as the On-Call Engineer. The recommendation is based on Falcon Design's experience with road design, culvert sizing, intersection improvements, plan review and LMIG analysis. The recommendation is also based on Falcon Design's ability to respond in a timely manner for requests for engineering services. Falcon Design's main point of contact for Lumpkin County would be from their office in Cumming, Georgia. The firm's hourly rates are competitive with the other firm's rates that submitted qualifications. |
| **Potential Courses Of Action:** | A. Approve a contract with Falcon Design for on-call engineering services<br>B. Approve a contract with a different engineering firm<br>C. Solicit additional RFQ's<br>D. Hire a County Engineer that is a member of county staff |
| **Budget Impact:** | The majority of the expense for the On-Call Engineer will be paid from TSPLOST funds |
| **Staff Recommendation:** | |

# Budget and Fees

FALCON DESIGN

*ENGINEERING * LAND PLANNING * SURVEYING *
*CONSTRUCTION MANAGEMENT * LANDSCAPE ARCHITECTURE*
WWW.FDC-LLC.COM

## 2023 HOURLY BILLING RATES

### Engineering Services

| Classification | Hourly Rate |
|---|---|
| Managing Partner | $175.00 |
| President/Partner | $150.00 |
| Engineering Manager | $140.00 |
| Senior Project Manager II | $130.00 |
| Senior Project Manager I | $115.00 |
| Senior Construction Manager | $135.00 |
| Construction Manager/Municipal Services | $120.00 |
| Project Manager II | $110.00 |
| Project Manager I | $95.00 |
| Planning Director | $120.00 |
| Project Engineer III | $105.00 |
| Project Engineer II | $90.00 |
| Project Engineer I | $75.00 |
| Planner III | $105.00 |
| Planner II | $85.00 |
| Planner I | $75.00 |
| Landscape Architect | $110.00 |
| GIS Coordinator | $115.00 |
| CADD III | $90.00 |
| CADD II | $80.00 |
| CADD I | $70.00 |
| Permit Coordinator | $75.00 |
| Office Manager | $80.00 |
| Administrative III | $80.00 |
| Administrative II | $70.00 |
| Administrative I | $60.00 |

### Surveying Services

| Classification | Hourly Rate |
|---|---|
| Senior Survey Project Manager III | $140.00 |
| Senior Survey Project Manager II | $120.00 |
| Senior Survey Project Manager I | $110.00 |
| Survey Project Manager II | $100.00 |
| Survey Project Manager I | $90.00 |
| Survey Technician III | $90.00 |
| Survey Technician II | $80.00 |
| Survey Technician I | $70.00 |
| 3-Man Survey Crew | $185.00 |
| 2-Man Survey Field Crew | $150.00 |
| 1-Man w/ GPS | $110.00 |
| 1-Man w/ Handheld | $75.00 |
| 1-Man Lidar Drone | $160.00 |
| Administrative I | $60.00 |

**ENGINEERING SERVICES AGREEMENT**
**FOR LUMPKIN COUNTY**
**CONTRACT NO. 2023-035**

This Agreement is made and entered into as of May 17, 2023, by and between the **Lumpkin County Board of Commissioners** ('OWNER'), and **Falcon Design Consultants, LLC** ('CONSULTANT').

**Whereas,** OWNER desires to engage the services of CONSULTANT to perform professional engineering services on an on-call or task order basis;

**Now, therefore,** in consideration of the covenants and mutual agreements herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## A. SERVICES

1. CONSULTANT agrees to provide professional engineering and surveying services as directed by the OWNER on an on-call or task order basis to include indefinite quantity or as-needed work under a broader general civil engineering and non-project specific task. Services may include, but is not limited to, concept report preparation and validation, utility plans, preparation of displays for public meetings, surveys and mapping, preliminary construction plans, final right-of-way plans (including staking of right-of-way), erosion control plans, structural plans, permit assistance, and final construction plans.

Typical projects may include developing the scope of construction; development of concept, preliminary, and final design documents; environmental documents; utility coordination and relocation plans; right-of- way plans and documents; specifications and bid documents; contract administration. Typical projects will generally fall into the following categories:

- Utility Improvements and Relocations (Water, sewer, and stormwater infrastructure)
- Large Transportation (New alignments, road widening, repairs and maintenance)
- Small Transportation (Sidewalks/Paths/Trails – Pedestrian or Multi-use)
- Site Development/Public Buildings

2. For each task or project, the OWNER shall provide to the CONSULTANT a detailed description of the services to be performed. The CONSULTANT shall respond with a proposed Task Order describing the work, the proposed work procedure, schedule and estimated fee to complete the described services. If this response is acceptable, the OWNER'S authorized representative shall sign the Task Order and provide the approved Task Order to CONSULTANT. Each Task Order shall be numbered consecutively, shall reference this AGREEMENT, and shall be deemed an authorization for the CONSULTANT to proceed with the work when signed by the OWNER'S authorized representative, unless otherwise stated. The provisions of this AGREEMENT shall control with respect to each Task Order. Each Task Order, after execution by both parties to this AGREEMENT, shall be incorporated into and become a part to this AGREEMENT. The Task Order format is attached hereto as Exhibit A.

## B. TERM OF AGREEMENT

The term of this agreement will be one year beginning May 17, 2023, and ending May 16, 2024, and may be renewed annually upon mutual agreement of the parties.

## C. TERMS AND CONDITIONS OF AGREEMENT

1. Governing Law. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Georgia. If dispute arises out of or relates to this Agreement, or the breach thereof, and the dispute is not resolved through mediation, the parties agree that venue for any litigation will be in the courts of Lumpkin County, Georgia and the parties hereby waive any right to initiate any action in, or remove any action to, any other jurisdiction.

2. Time of Performance. The CONSULTANT will commence work within ten (10) calendar days after receiving an approved Task Order from OWNER, unless otherwise stated in the Task Order. Work will be completed according to the schedule provided in the Task Order. If OWNER requests modifications to the services under a Task Order, or if CONSULTANT'S services extend past the scheduled completion date, the CONSULTANT'S time of performance may be extended by mutual agreement of the parties.

3. Compensation. CONSULTANT agrees to perform the Services, and the OWNER agrees to compensate the CONSULTANT for same as follows:

    a. OWNER shall compensate the CONSULTANT according to CONSULTANT'S 2023 Hourly Billing Rates set forth in EXHIBIT B attached hereto and incorporated herein by reference.
    b. In addition to customary overhead items, the following costs are specifically defined as an overhead and there shall be no additional charges for these costs: telephone charges, computer expenses, software expenses, use of company vehicles, mileage, in-house reproduction, photocopying, use of company-owned equipment and routine expendable supplies. Direct expenses (including subconsultants hired by CONSULTANT upon approved by OWNER) will be invoiced 'at cost' to the OWNER with no mark-up.

    c. Statements. The CONSULTANT shall submit monthly detailed statements for completed work on or about the first of each month.

    d. Payments. OWNER shall make monthly payments for completed work in accordance with the Prompt Payment Act found in Georgia Law after receipt of monthly Statements rendered by the CONSULTANT.

4. Termination. This Agreement may be terminated as follows:

    a. Termination for Cause. If, through any cause, the CONSULTANT shall fail to fulfill in a timely and proper manner any material obligations under this Agreement, or if the CONSULTANT shall violate any of the covenants, agreements, or stipulations of this Agreement, OWNER shall thereupon give written notice to the CONSULTANT of such failure, violation or breach. If CONSULTANT has not or cannot remedy such failure, violation or breach within ten (10) calendar days of the giving of such notice by OWNER, OWNER shall thereupon have the right to terminate this Agreement by giving written notice to the CONSULTANT of such termination and specifying the effective date thereof.

    b. Termination by Mutual Consent. This Agreement may be terminated at any time by mutual written consent of the parties, the effective date to be agreed upon by the parties. If this Agreement is terminated by mutual consent, and CONSULTANT timely provides all required documentation of SERVICES performed prior to termination to OWNER, CONSULTANT shall be paid for all such Services within thirty (30) days of the effective date of termination.

c. Termination for Convenience. Notwithstanding anything to the contrary contained herein, OWNER may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving sixty (60) days written notice to the CONSULTANT.

5. Force Majeure. Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract: labor strikes, riots, war, acts of governmental authorities, or natural catastrophe. Delay or failure to perform is excused only during continuance of such force majeure and the affected party will provide written notice of such force majeure and act diligently to remove or eliminate the force majeure.

6. Suspension of Services. If the CONSULTANT'S Services are suspended for any reason other than the fault of CONSULTANT for more than thirty (30) calendar days in the aggregate, CONSULTANT may be compensated for services performed prior to the suspension. In addition, there shall be an adjustment in the Task Order schedule based on the delay caused by the suspension.

7. Representatives and Notices. Each party has designated below the signatures herein, a representative who is authorized to act on behalf of that party and receive notices under this Agreement. Such representatives have complete authority to act on behalf of their principals in respect to all matters arising under this Agreement. All notices, consents and approvals required to be given hereunder shall be in writing. All such required notices shall be deemed to be properly given and received within two (2) business days if made in writing and sent via statutory overnight delivery with an exact copy being sent simultaneously via email addressed to the designated representative below. As needed, each party may notify the other party of a change in the street and / or email address for notice providing written notice of the revised street and / or email address.

8. CONSULTANT'S Responsibilities. The CONSULTANT represents that it has or will secure, at its own expense, all necessary qualified personnel to perform the Services under this Agreement. CONSULTANT represents that it has access to the experience and capability necessary to perform the Services with the reasonable skill and diligence required by customarily accepted professional practices and procedures for such Services. Such personnel shall not be employees of or have any contractual relationship with OWNER. All of the Services required hereunder will be performed by the CONSULTANT or under its supervision and all personnel engaged in the Services shall be fully qualified and shall be authorized or permitted under State and local law to perform such Services.

   In performing the Services and receiving compensation under this Agreement, CONSULTANT shall operate as an independent contractor and shall not act as or be an employee of OWNER.

   The SERVICES performed by CONSULTANT shall be subject to the inspection and review of OWNER at all times but such inspection and review shall not relieve CONSULTANT from its responsibility for the proper performance of the Services.

9. OWNER Responsibilities. OWNER shall provide to CONSULTANT an outline of the requirements of each Task Order, including the budget and time constraints for each task. OWNER will make available to the CONSULTANT relevant information or data pertinent to each task which is in OWNER'S possession. However, OWNER does not guarantee the accuracy and completeness of the information and data furnished and the CONSULTANT will independently check and / or verify all such information as it relates to the SERVICES provided.

10. Reports, Audits & Confidentiality. The CONSULTANT, at such times and in such forms as OWNER may require, shall furnish OWNER such periodic reports as it may request pertaining to the SERVICES performed pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement. The CONSULTANT shall maintain accounts and records,

including personnel, property and financial records, adequate to identify and account for all costs pertaining to this Agreement. These records will be made available for audit purposes to OWNER or its authorized representative and will be retained for three years after the expiration or termination of this Agreement. All of the reports, information, data, etc. prepared or assembled by CONSULTANT under this Agreement are confidential and the CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of OWNER or a validly issued subpoena.

11. Ownership of Documents. All documents prepared or furnished by CONSULTANT pursuant to this Agreement are instruments of CONSULTANT'S professional service, and CONSULTANT shall retain an ownership and property interests therein, including all copyrights, unless otherwise agreed in writing by CONSULTANT and OWNER. Regarding construction drawings, CONSULTANT grants OWNER a license to use instruments of CONSULTANT'S professional service for the purpose of constructing, occupying, or maintaining the PROJECT.

    OWNER shall have the option to purchase copies of all finished or unfinished documents, data, studies, surveys drawings, maps, models, photographs, and reports prepared by the CONSULTANT under this Agreement and each Task Order for the price of Ten Dollars ($10.00). Reuse or modification of any such documents by OWNER, without CONSULTANT'S written permission, shall be at OWNER'S sole risk. Documents are defined as reports, drawings, specifications, record drawings, plats, and other deliverables defined in the SERVICES, whether in printed or electronic format.

12. Third Party Reliance Upon Documents. CONSULTANT'S performance of the SERVICES, as set forth in this Agreement, is intended solely and exclusively for the benefit and use of OWNER. No other person or entity may claim under this Agreement as a third party beneficiary, unless otherwise required by law, court order, or for use in connection with legal or administrative proceedings, mediation or arbitration. No third party may rely upon CONSULTANT'S documents unless CONSULTANT has agreed to such reliance in advance and in writing.

13. Use of Electronic Media. Copies of documents that may be utilized by OWNER may be printed copies (also known as hard copies) or electronic copies that are signed or sealed by CONSULTANT. Construction Drawings shall be signed and sealed in accordance with the Rules and Regulations of the State of Georgia Administrative Code. Files in electronic formats, or other types of information furnished by CONSULTANT to OWNER such as text, data, or graphics, are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

14. Assignability. This Agreement shall not be assigned or transferred by either the CONSULTANT or the OWNER without the prior written consent of the other.

15. Insurance. Before any SERVICES are provided under this Agreement, CONSULTANT shall procure and maintain at a minimum the following insurance coverage and limits during the life of the Agreement:

    a. Statutory Workers Compensation Insurance: a minimum of $500,000 or greater amount if required by Georgia law.

    b. Commercial General Liability Insurance: coverage for personal and bodily injury, including death, and property damage in the amount of not less than $1,000,000 per occurrence and not less than $2,000,000 in the aggregate.

    c. Automobile Liability Insurance: for bodily injury, including death, and property damage for all owned, hired and non-owned automobiles in the minimum amount of $1,000,000 per occurrence.

d. Professional Liability Insurance: of $1,000,000 per claim and $2,000,000 in the aggregate.

e. Certificates: Upon request, CONSULTANT shall provide certificates of insurance evidencing coverage required above. Each certificate shall provide that the coverage therein afforded shall not be cancelled except with thirty (30) days prior written notice to OWNER.

16. Indemnification. CONSULTANT shall indemnify and hold OWNER harmless from and against judgments, losses, costs, expenses, and damages to the extent caused by the negligent acts or omissions of CONSULTANT in the performance of professional services pursuant to this AGREEMENT. In the event judgments, losses, costs, expenses, and damages are caused by the joint or concurrent negligence of CONSULTANT and OWNER, they shall be borne by each party in proportion to its negligence.

17. Standard of Care. CONSULTANT will employ that degree of care, skill and diligence ordinarily exercised by professionals performing the same or similar services at the time said services are performed. CONSULTANT shall re-perform any services not meeting this standard without additional compensation. CONSULTANT warrants that any services it conducts will be adequate and sufficient to accomplish the purposes for which they are performed, and no review or approval thereof by the OWNER shall be deemed to diminish this warranty in any way.

18. Dispute Resolution. If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree first, prior to litigation or any other form of dispute resolution, to try in good faith to settle the dispute by mediation with a mediator registered with the Ninth Judicial Administrative District ADR Program or other mediator as may be agreed upon by the parties.

19. Successors. This Agreement shall inure to the benefit or and be binding upon the successors of the parties.

20. Waiver. No action taken pursuant to this Agreement shall be deemed to constitute a waiver by the party taking such action of compliance with any representation, warranty, covenant or agreement in this Agreement. The waiver by any party of a breach of any provision or condition contained in this Agreement shall not operate or be construed as a waiver of any subsequent breach or of any other conditions.

21. Section Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

22. Severability. Any provision of this Agreement which is held by a court of competent jurisdiction to be prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability, without invalidating or rendering unenforceable the remaining provisions of this Agreement.

23. Entire Agreement. This Agreement (and its attached Exhibits and incorporated Task Orders) constitutes and contains the entire, integrated agreement of the parties, and shall supersede any and all prior negotiations, correspondence, understandings and agreements between the parties, respecting the subject matter of this Agreement. This Agreement may be amended only in writing, and signed by an authorized agent of each party.

24. Authority & Understanding. The individual executing this Agreement on behalf of a corporation or other entity warrants that he or she is authorized to do so and that this Agreement constitutes the legally binding obligation of the corporation or other entity that the individual represents. By signing this Agreement, the parties acknowledge that they have read each and every page of this Agreement before signing same and that they understand and assent to all the terms thereof.

IN WITNESS WHEREOF, the CONSULTANT and OWNER have executed this Agreement as of the date written below.

| **LUMPKIN COUNTY BOARD OF COMMISSIONERS** | **CONSULTANT:** |
|---|---|
| **Signature:** | **Signature:** |
| Printed: Chris Dockery | Printed: Adam L. Price |
| Title: Chairman | Title: Managing Partner |
| Date: | Date: |
| **Address for giving notices:** | **Address for giving notices:** |
| 99 Courthouse Hill, Ste A | 235 Corporate Center Dr |
| Dahlonega, GA 30533 | Stockbridge, GA 30281 |
| **Designated Representative:** | **Designated Representative:** |
| Name: Alan Ours | Name: |
| Title: County Manager | Title: |
| Phone: 706-864-3742 | Phone: |
| Email: alan.ours@lumpkincounty.gov | Email: |

**EXHIBIT A**

**TASK ORDER NO. 2023- __**

**TO THE ENGINEERING SERVICES AGREEMENT FOR LUMPKIN COUNTY CONTRACT NO. 2023-035**

This Task Order, made and entered into by and between **Lumpkin County Board of Commissioners** hereinafter called the "**OWNER**" and **Falcon Design Consultants, LLC,** hereinafter called the "**CONSULTANT**", shall be incorporated into and become a part of the ENGINEERING SERVICES AGREEMENT FOR LUMPKIN COUNTY, CONTRACT NO. 2023-035 (the "AGREEMENT") entered into by the parties hereto on May 17, 2023.

**A. PURPOSE**

This Task Order authorizes and directs the CONSULTANT to proceed with assisting the OWNER with the following described project or task:

_____

_____

_____.

**B. CONSULTANT'S SCOPE OF SERVICES AND SCHEDULE OF WORK**

The CONSULTANT'S scope of services is described as follows:

_____

_____.

The Schedule of Work is:

_____

_____.

**C. CONSULTANT'S COMPENSATION**

As consideration for providing the services described in this Task Order, the OWNER shall pay the CONSULTANT in accordance with the AGREEMENT. CONSULTANT estimates the total compensation for the services under this Task Order to be $_____.

**EXHIBIT A (CONT.)**

IN WITNESS WHEREOF, the parties hereto have executed this Task Order on this, the _____ day of _____, 2023.

| **LUMPKIN COUNTY BOARD OF COMMISSIONERS** | **CONSULTANT:** |
|---|---|
| _____ | _____ |
| Signature | Signature |
| Printed: _____ | Printed: _____ |
| Title: _____ | Title: _____ |
| Date: _____ | Date: _____ |

EXHIBIT 'B'

FALCON DESIGN

*ENGINEERING * LAND PLANNING * SURVEYING *
*CONSTRUCTION MANAGEMENT * LANDSCAPE ARCHITECTURE*
WWW.FDC-LLC.COM

# 2023 HOURLY BILLING RATES

## Engineering Services

| Classification | Hourly Rate |
|---|---|
| Managing Partner | $175.00 |
| President/Partner | $150.00 |
| Engineering Manager | $140.00 |
| Senior Project Manager II | $130.00 |
| Senior Project Manager I | $115.00 |
| Senior Construction Manager | $135.00 |
| Construction Manager/Municipal Services | $120.00 |
| Project Manager II | $110.00 |
| Project Manager I | $95.00 |
| Planning Director | $120.00 |
| Project Engineer III | $105.00 |
| Project Engineer II | $90.00 |
| Project Engineer I | $75.00 |
| Planner III | $105.00 |
| Planner II | $85.00 |
| Planner I | $75.00 |
| Landscape Architect | $110.00 |
| GIS Coordinator | $115.00 |
| CADD III | $90.00 |
| CADD II | $80.00 |
| CADD I | $70.00 |
| Permit Coordinator | $75.00 |
| Office Manager | $80.00 |
| Administrative III | $80.00 |
| Administrative II | $70.00 |
| Administrative I | $60.00 |

## Surveying Services

| Classification | Hourly Rate |
|---|---|
| Senior Survey Project Manager III | $140.00 |
| Senior Survey Project Manager II | $120.00 |
| Senior Survey Project Manager I | $110.00 |
| Survey Project Manager II | $100.00 |
| Survey Project Manager I | $90.00 |
| Survey Technician III | $90.00 |
| Survey Technician II | $80.00 |
| Survey Technician I | $70.00 |
| 3-Man Survey Crew | $185.00 |
| 2-Man Survey Field Crew | $150.00 |
| 1-Man w/ GPS | $110.00 |
| 1-Man w/ Handheld | $75.00 |
| 1-Man Lidar Drone | $160.00 |
| Administrative I | $60.00 |

# Lumpkin County, Georgia

## Finance

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-042 Jack Henry & Associates, Inc. Ambulance Service Check Processing Application *(Finance Director Abby Branan)* |
| **Item Description:** | Consideration of an application and Terms of Service with Jack Henry & Associates, Inc. for electronic check processing. |
| **Facts & Historical Information:** | Professional Practice Support (PPS) has been the County's ambulance billing services provider since 2017. For the past few years, staff has moved towards check payments being mailed directly to PPS, which has reduced the amount of staff time spent opening and sorting mail, recording payments, and scanning and sending Explanations of Benefits to PPS. It has also reduced the opportunity for misplacing EOBs needed to properly credit patients' ambulance service accounts.<br><br>During this time, PPS has been physically taking check deposits to United Community Bank and making deposits into the County's account. PPS is working towards migrating all clients to a Check 21 service, which will allow PPS to make check deposits to deposit accounts electronically. The proposed application and Terms of Service are with the Check 21 service provider, Jack Henry & Associates, Inc. |
| **Potential Courses Of Action:** | A) Approve the application and Terms of Service with Jack Henry & Associates, Inc.<br>B) Not approve the application and Terms of Service with Jack Henry & Associates, Inc. and have PPS continue to deposit paper checks into the County's bank account. |
| **Budget Impact:** | There is no impact to the operating budget. |
| **Staff Recommendation:** | Staff recommends COA A. |

# Merchant Processing Terms of Service

These Terms of Service (these “Terms”) govern Merchant’s use of the Jack Henry & Associates, Inc. (“JH”) Services. These Terms are a legal contract between JH and the business entity using the Services (“Merchant”). Each party represents and warrants that it has the authority to enter into these Terms and that these Terms do not conflict with any other agreement to which it is a party.

**1. DEFINITIONS:**

(a) “ACH”: has the meaning ascribed to such term in the NACHA Operating Rules & Guidelines.

(b) “Bank of First Deposit”: has the meaning ascribed to the term “depositary bank” in the Check Clearing for the 21st Century Act.

(c) "Business Day”: Monday through Friday, excluding holidays observed by the Federal Reserve System.

(d) “Check”: has the meaning ascribed to such term in the Check Clearing for the 21st Century Act.

(e) “Confidential Information”: the Software programs and documentation used by JH to provide the Services to Merchant and passwords and other information or materials of a confidential and proprietary nature that JH provides to Merchant under these Terms. Confidential Information also includes all information provided by Merchant to JH.

(f) "Documentation”: all operating instructions, policies and procedures, end-user manuals, training materials, guides, implementation manuals, functional and technical specifications relating to the Services and provided to Merchant in writing, including any revisions or additions to the foregoing

(g) "Excluded Activity”: any activity or business which is illegal under U.S. law or with which JH declines to accept and conduct business generally.

(h) “Financial Institution”: as applicable, (i) in a Check Transaction, the Bank of First Deposit, or (ii) in an ACH Transaction, the ODFI.

(i) “Image”: the image that results from an electronic scan of a Check by Merchant.

(j) "Loss" any of the following, directly incurred by a party: losses, liabilities, damages, claims, costs, expenses, and reasonable attorney fees actually paid to a third party.

(k) "Originating Depository Financial Institution" or "ODFI": has the meaning ascribed to such term in the NACHA Operating Rules & Guidelines.

(l) "Reseller": A third party reseller appointed and authorized by JH to resell and/or deliver the Services to Merchant.

(m) "Rules" means all laws, regulations and industry rules that apply to the Services, including without limitation, the NACHA Operating Rules & Guidelines and associated regulations and guidelines, including those promulgated by any regional payment alliance associated with NACHA, the Check Clearing for the 21st Century Act and associated regulations and guidelines, and Federal Reserve System requirements.

(n) "Same Day Entry" has the meaning ascribed to such term in the NACHA Operating Rules & Guidelines.

(o) "Services": the ACH processing services and/or the Check processing services provided by JH to Merchant under these Terms.

(p) "Settlement Account": a commercial demand deposit bank account which Merchant has established for JH's access and use to settle Transactions.

(q) "Software": the software programs owned by JH and its licensors and provided by JH with or incorporated as part of the Services.

(r) "Substitute Check": has the meaning ascribed to such term in the Check Clearing for the 21st Century Act.

(s) "Transaction" means an ACH transaction and/or a Check transaction processed by JH under these Terms, as applicable.

**2. SET-UP AND DELIVERY OF SERVICES:**

2.1 In conjunction with these Terms, Merchant has completed and submitted to JH or Reseller, as applicable, a written application and supporting documentation about Merchant's business and financial status for JH's consideration in connection with the account set-up and provision of the Services to Merchant. Merchant acknowledges that JH shall be entitled to rely upon the validity, accuracy and completeness of the information provided by Merchant in its application and supporting documentation for determining (a) if JH will provide the Services to Merchant under these Terms and (b) the credit and account processing standards and limits that JH will apply to the processing of Merchant's Transactions. Subsequent to the initial acceptance and set-up of Merchant for JH's provision of the Services, JH may from time to time request that Merchant provide updated information and supporting documentation to JH to confirm Merchant's then-current business and credit status, which Merchant shall apply best efforts to deliver to JH within three Business Days following receipt of JH's written request. Any failure by Merchant to provide the information and supporting documentation requested by JH via the application or by other means within a timely manner shall be deemed to be a material breach of these Terms by Merchant. JH will have no liability or responsibility for any errors, fees or penalties incurred in the set up or delivery of Services to Merchant which are caused by inaccurate or incomplete application information and/or supporting documentation or any subsequent written modification thereto.

2.2 When Merchant's application has been accepted and approved by JH, JH, either directly or through a Reseller, shall provide the Services selected by Merchant in its application. Merchant shall utilize and access the Services in accordance with these Terms and the Documentation. As part of the Merchant set-up and boarding process, JH will provide Merchant with an administrative and gateway user name and password to access the Services. Merchant will designate an administrator who shall be the sole individual vested with the authority to determine who will be authorized to use the Services; establish separate passwords for each user; and establish limits on each user's authority to access information and conduct Transactions. Merchant is responsible for the actions of its administrator, the authority the administrator gives others to act on Merchant's behalf, and the actions of the persons designated by the administrator to use the Services. Merchant shall take reasonable security procedures and practices to safeguard the confidentiality of the passwords; limit access to its passwords solely to persons who have a need to know such information; closely and regularly monitor the activities of employees who access the Services; and prohibit its employees and agents from initiating Transactions without proper authorization and supervision and adequate security controls.

2.3 Prior to submitting a Transaction to JH for processing, Merchant shall secure all authorizations and approvals from its customer and deliver any notifications pertaining to that Transaction which are required by the Rules. Merchant shall be responsible for the accuracy and propriety of all Transactions submitted to JH for processing.

2.4 To the extent reasonably possible, JH will first attempt to process a Transaction as an ACH Transaction, unless the Transaction has clearly been designated to be processed as a Check Transaction, provided that the Transaction fully qualifies to be processed as an ACH Transaction according to applicable Rules and JH has received all of the required information from the Image or Check necessary to process the Transaction as an ACH Transaction. If the Transaction cannot be processed as an ACH Transaction for any reason, then JH will process the Transaction as a Check Transaction.

2.5 Merchant acknowledges that JH has specific processing deadlines imposed by the Financial Institution and ACH operator, as applicable. Files received by the deadline will be transmitted that day to the Federal Reserve Bank for settlement on the effective entry day. Files received after the deadline will be processed the next Business Day. Notwithstanding the foregoing, in the event JH provides Same Day Entry ACH Transaction Services under these Terms, the following terms will apply:

(a) If JH creates the Same Day Entry ACH Transaction file and provides sending point services to the ACH operator, Merchant must transmit the Transactions to JH prior to the published file cutoff time for Same Day Entry ACH Transactions. If JH creates the Same Day Entry ACH Transaction file and Merchant processes the file, Merchant may select the cutoff time; provided, however, that Merchant will allow enough time to receive the file and meet the ACH operator's Same Day Entry ACH processing windows.

(b) If Merchant's Same Day Entry ACH Transactions are received by JH after the Same Day Entry ACH Transaction cutoff time but before the standard ACH Transaction cutoff time, the Transactions will be processed as standard ACH Transactions and will be subject to the standard ACH Transaction fees. Same Day Entry ACH Transactions received after the standard ACH Transaction cutoff time will be processed the following Business Day as Same Day Entry ACH Transactions and subject to Same Day Entry ACH Transaction fees.

(c) If Merchant creates the Same Day Entry ACH Transaction file and sends it directly to the ACH operator, JH shall have no liability or responsibility for the transmittal of such Transactions.

2.6 In the event JH provides Check Transaction Services under these Terms, the following terms will

apply:

(a) All Checks deposited electronically by Merchant through use of the remote deposit capture Services shall be subject to the following requirements: (i) The original Check will not be deposited through the remote deposit capture Services more than once; (ii) All Checks will conform to the requirements of Merchant's deposit agreement with its financial institution; and (iii) Merchant shall review and validate the accuracy and completeness of the Check Transaction data being captured, including but not limited to the amount of the Check and the legibility of the Image generated from use of the remote deposit capture Services.

(b) If Merchant utilizes a scanner to create Images which are delivered to JH for processing, Merchant shall be solely responsible to ensure the quality, accuracy and completeness of the Image transmitted to JH for processing. Merchant shall be solely responsible for the selection, use and operation of the scanner. Any scanner used by Merchant with the remote deposit capture Services must meet the technical specifications for scanners published by JH to be deemed compatible with the remote deposit capture Services. JH has certified certain scanners as compatible for use with the remote deposit capture Services, and such scanners are available for purchase or lease by customers of JH's remote deposit capture Services. Any purchase or lease of such scanners shall be transacted in a separate equipment purchase/lease agreement with JH or JH's third-party provider.

(c) Merchant shall be solely liable and responsible for all damages, losses, expenses and claims arising from any of the following: (i) Duplication of Images transmitted by Merchant to JH through the remote deposit capture Services; (ii) Alteration of Images not caused by the Services or Software; (iii) Deposit of Checks on accounts with insufficient funds, counterfeit Checks, fraudulent Checks, or Checks bearing unauthorized or forged endorsements; (iv) Acts of fraud, negligence or willful misconduct committed by employees or agents of Merchant in depositing Checks using the remote deposit capture Services; (v) Hardware failure not caused by the Services or Software; and (vi) Merchant's failure to properly store original Checks once the Image has been captured.

(d) JH is not responsible for printing any Substitute Checks which may be required by a financial institution to receive and process the Transactions. The party who prints a Substitute Check, and not JH, shall be wholly liable for all applicable warranties and indemnification obligations under the Rules. JH shall not be liable for any degradation of a Substitute Check not caused by JH.

**3. PRICING AND PAYMENT:**

3.1 Merchant shall pay JH or Reseller (if Merchant has contracted for the Services to be delivered by a Reseller) the fees, penalties and charges for the Services shown in the then-current standard published fee schedule. All amounts are stated and due and payable in U.S. dollars, and are exclusive of any taxes or other charges which may be imposed by a government entity on the Services, except for taxes due on JH's or the Reseller's income. For Services fees invoiced by JH directly to Merchant, JH reserves the right to require Merchant's payment of these fees due under these Terms via an ACH debit made by JH against Merchant's Settlement Account or other banking account.

3.2 After the initial twelve-month period of the initial term of these Terms has been completed, if Merchant has not contracted for the delivery of Services through a Reseller, JH reserves the right to increase the Services fee rates once each 12-month period during the term of these Terms by no more than 10% from the previous Services fee rates by giving Merchant at least 60 days prior written notice of such increase. The foregoing limitation on increases does not apply to increases attributable to a change in the Rules that changes JH's cost for providing the affected Service, pass-thru fees, or third-party costs. If Merchant has

contracted with a Reseller for JH's provision of the Services to Merchant, then any price increases in the Services fee rates will be determined and applied in accordance with the written agreement between Reseller and Merchant.

**4. CONFIDENTIAL INFORMATION AND SECURITY PROCEDURES:**

4.1 Each Party shall protect and maintain the confidentiality of all Confidential Information under these Terms and comply with the security procedures described in these Terms and in any JH policies and procedures communicated in writing to Merchant. Merchant acknowledges that the purpose of these security procedures is for verification of authenticity of a Transaction and not to detect an error in the transmission or content of a Transaction. No security procedure for the detection of any such error has been agreed upon between JH and Merchant. Merchant is strictly responsible to establish and maintain the procedures to safeguard against unauthorized transmissions.

4.2 Merchant understands that the password and Services access and use instructions provided by JH are confidential and agrees to assume all risks of accidental disclosure or inadvertent or wrongful use by any party whatsoever except for JH, whether such disclosure of use are on account of Merchant's negligence or are deliberate acts. Merchant acknowledges that no person from JH will ever ask for any password and that JH employees do not need and should not ask for Merchant's password.

4.3 Merchant shall change its password periodically and whenever anyone who has had access to a password is no longer employed or authorized by Merchant to use the Services. JH may require Merchant to change its password at any time. JH may deny access to the Services without prior notice if it is unable to confirm to its satisfaction any person's authority to access the Services or if JH believes such action is necessary for security reasons.

4.4 Merchant acknowledges that the Services and Software provided by JH under these Terms incorporates trade secrets of JH and its licensors, and as such is protected by civil and criminal law. Merchant shall notify JH immediately of the unauthorized possession, use or knowledge of any item supplied under these Terms by any person or organization not authorized by these Terms to have such possession, use or knowledge. JH shall have, in addition to any other remedies available to it at law or equity, the right to seek injunctive relief enjoining any wrongful use or possession of the trade secrets contained in the Services or Software by any party. Merchant acknowledges that irreparable harm will occur to JH in the event of such wrongful use or possession of the trade secrets contained in the Services or Software and that other remedies are inadequate.

**5 DATA PRIVACY AND SECURITY BY JH:**

5.1 In accordance with data privacy Rules applicable to these Terms, which may include but not be limited to the Gramm-Leach-Bliley Act ("GLBA"), JH shall not disclose or permit access to or use of the non-public personal information made available by Merchant to JH for any purposes other than those specifically required to fulfill JH's contractual obligations with Merchant. JH shall not sell such information for any reason. In connection with providing Services to Merchant, JH shall take all commercially reasonable steps to ensure the privacy and security of the non-public personal information made available by Merchant to JH and protect such information against anticipated threats and hazards to the security of such information. JH shall take all commercially reasonable steps to prevent unauthorized access to or use of such information. In the event any court or regulatory agency seeks to compel disclosure of such information, JH shall, if legally permissible, promptly notify Merchant of the disclosure requirement and will cooperate so that Merchant may at its expense seek to legally prevent this disclosure of the information.

5.2 If a breach of security results in an unauthorized intrusion into JH's systems which directly and materially affects Merchant, JH will take appropriate measures to stop the intrusion; report on the intrusion to Merchant within a reasonable time after discovery of the intrusion; subsequently report the corrective action taken by JH in response to the intrusion; and provide reasonable assistance to Merchant to support any mandatory disclosures about the intrusion by Merchant to its customers required by law. If JH has notified law enforcement agencies about the intrusion, JH may delay its notification of the intrusion to Merchant until authorized to do so by the law enforcement agencies.

5.3 In the event Merchant is a "Covered Entity" or a "Business Associate," as such terms are defined in the Health Insurance Portability and Accountability Act ("HIPAA"), Merchant acknowledges and agrees that HIPAA does not apply to the Services and activities in which JH is engaged under these Terms.

**6 RESERVATION OF RIGHTS:**

6.1 Merchant shall immediately reimburse JH for any returns or shortfalls that occur in the Settlement Account. JH reserves the right to delay the availability of funds for deposit without prior written notice to Merchant if, in its sole discretion, JH deems itself at financial or relative risk for any and all Services performed under these Terms. Merchant hereby acknowledges and agrees that JH shall have a right of setoff against: (a) any amounts JH would otherwise be obligated to deposit into the Settlement Account; and (b) any other amounts JH may owe Merchant under these Terms.

6.2 JH will not knowingly provide Services to Merchant if Merchant's use of the Services involves or pertains to an Excluded Activity. JH reserves the right to decline to process any Transaction which it deems in its sole discretion is in conjunction with an Excluded Activity.

6.3 JH reserves the right to hold, freeze or otherwise limit access by Merchant or JH to any settlement funds, Transactions or proceeds thereof for the purposes of complying with any court, regulatory agency or government authority order or request.

6.4 JH reserves the right to withdraw the Services provided generally to its customers including Merchant for individual Transaction types from general market availability and coverage under these Terms upon 90 days prior written notice to Merchant.

**7 WARRANTIES:**

7.1 Each party represents and warrants to the other that it has (a) taken all corporate action necessary for the authorization and performance of these Terms, and (b) no agreement or understanding with any third party that may prevent, prohibit, or substantially hinder its performance of its obligations under these Terms.

7.2 JH warrants to Merchant that the Services will be performed in a professional and timely manner consistent with transaction processing industry standards and in accordance with the Rules and Documentation. In the event that Merchant discovers an error in the Services or Software which has been caused by JH, if Merchant has contracted directly with JH for the Services, Merchant shall immediately notify JH of the existence and details of the error; if Merchant has contracted with a Reseller for the Services, then Merchant shall provide this notification to Reseller. JH shall apply commercially reasonable efforts to correct the error within a reasonable time after JH's receipt of notification of the error. EXCEPT FOR THE FOREGOING WARRANTY, JH MAKES NO OTHER WARRANTIES FOR THE SERVICES PROVIDED BY JH AND JH DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, INCLUDING

WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. JH does not guarantee the completeness or accuracy of the information provided from a third-party database. JH shall have no liability to Merchant for any invalid customer or Transaction information provided by Merchant or Transactions returned unpaid to Merchant.

7.3 Merchant warrants to JH that: (a) all Transactions submitted to JH for processing will comply with applicable Rules and Documentation; (b) Merchant will comply with all Rules and Documentation applicable to Merchant's obligations under these Terms; (c) all information provided by Merchant initially in its application and supporting documentation and subsequently in all updates to its application and supporting documentation provided to JH is valid, complete, accurate and up-to-date; (d) it will not utilize the Services in conjunction with any Excluded Activity; and (e) if applicable, Merchant is registered as a Money Services Business ("MSB") with US Department of Treasury Financial Crimes Enforcement Network ("FinCEN") and it is registered as an MSB and / or licensed as required by the applicable state MSB laws; Merchant shall maintain all state licenses in good standing; and Merchant will not originate a transaction in or to a state in which Merchant is not a fully licensed and in good standing.

**8 INDEMNIFICATION:**

8.1 JH shall indemnify, defend and hold harmless Merchant for Losses from third-party claims against Merchant that, during the term of these Terms, the Software or Services, owned by JH, infringe any valid United States copyright, patent, trademark, trade secret, or other proprietary right of any entity or individual. If Merchant is enjoined or otherwise prohibited from using any such Software or Services as a result of, or in connection with, any claim described in this section, JH shall, at its sole expense and at its sole option, promptly (a) procure for Merchant the right to continue to use such Software or Processing Services, (b) modify such Software or Processing Services so that it becomes non-infringing, without substantially diminishing the form, features, functionality, or performance of the Software or Processing Services, or (c) replace such Software or Processing Services with Software or Processing Services that are non-infringing, with materially equivalent features, functionality, and performance. If JH cannot, within a reasonable period of time, procure, modify, or replace the Software or Processing Services involved, JH may terminate Merchant's right to use such Software or Processing Services after giving Merchant advance notice, if possible under the circumstances. THE PROVISIONS OF THIS SECTION STATE JH'S ENTIRE LIABILITY AND MERCHANT'S EXCLUSIVE REMEDY FOR JH'S INFRINGEMENT OR CLAIMED INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

8.2 Merchant shall indemnify, defend and hold harmless JH and the Financial Institution from and against all Losses incurred by JH and/or the Financial Institution arising out of (a) Merchant's breach of these Terms or the Rules; (b) return of a Transaction due to incorrect or incomplete data or information provided by Merchant in the submission of the Transaction to JH, a closed Merchant or customer account, or insufficient funds in a Merchant or customer account, and/or (c) fraudulent activity, wrongful or unauthorized use of the Services, or submission of fraudulent or illegal Transactions by Merchant or a third party who has gained access to the Services through the use of Merchant's password.

**9 LIMITATIONS OF LIABILITY:** IN NO EVENT SHALL JH OR THE FINANCIAL INSTITUTION BE LIABLE TO MERCHANT OR ANY OTHER PARTY FOR ANY LOSS OF PROFITS OR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES WAS FORESEEABLE. Except for JH's indemnification liability stated in Section 8.1 above and actual, direct damages arising from any action or omission of action by JH which constitutes the gross negligence or willful misconduct of JH, JH's aggregate, cumulative liability to the Merchant for all claims of actual direct damages relating to the Services, these Terms, or the relationship between JH and Merchant, including any cause of action in contract, negligence, tort, strict

liability or otherwise, shall not exceed an amount equal to the total amount of all fees paid by the Merchant to JH or a Reseller (as the case may be) for Services delivered under these Terms during the three-month period preceding the origination of the claim giving rise to liability.

**10 TERM AND TERMINATION:**

10.1 These Terms shall take effect upon Merchant's use of the Services and continue in effect as long as Merchant uses the Services. Merchant is not obligated to use the Services and, if applicable, these Terms shall have no effect upon the expiration of termination of Merchant's agreement with Reseller.

10.2 These Terms shall terminate upon either party giving the other party written notice of the breach of these Terms committed by the other party and giving the other party a reasonable time to cure the breach. For the purpose of these Terms, a reasonable time to cure the breach specified in the written notice shall be deemed to be:

(a) For any breach of Sections 2.1, 2.2, 3.1, 4, 6.1, or 7.3 above: five business days from receipt of written notice.

(b) For all other types of breach of these Terms, except as provided below: 30 calendar days from receipt of written notice of the breach.
Notwithstanding the foregoing, in the event either party materially breaches any provision of these Terms by fraud, act of intent to defraud, failure to notify the other party of a material change in party's financial structure or a material change in the information originally provided to induce the other party to enter into the Agreement, the non-breaching party may immediately terminate these Terms in writing without giving the breaching party an opportunity to cure the breach with prior written notice.

10.3 JH reserves the right to terminate these Terms in whole or in part at any time due to the occurrence of any of the following:

(a) Merchant becomes insolvent, enters into suspension of payments, moratorium, reorganization or bankruptcy, makes a general assignment for the benefit of creditors, admits in writing its inability to pay debts as they mature, suffers or permits the appointment of a receiver for its business or assets, or avails itself of or becomes subject to any other judicial or administrative proceeding that relates to insolvency or protection of creditors' rights, any of which in JH's reasonable judgment impairs the ability of Merchant to perform its responsibilities under these Terms;

(b) In JH's sole but reasonable discretion, JH determines that providing the Services to Merchant falls outside JH's risk tolerance based on, but not limited to, any of the following: (i) JH has knowledge of a material degradation or other materially negative change in Merchant's financial status, structure, or business operations; (ii) JH has knowledge that indicates it is likely to experience a financial loss or reputational harm; or (iii) JH has knowledge of or reasonably suspects Merchant's involvement in suspicious or fraudulent activity;

(c) There is a change in the Rules that are applicable to these Terms and JH's provision of any of the Services which restricts or prohibits JH from providing the affected Services to Merchant or significantly increases JH's costs in providing the affected Services to its customers generally;

(d) Merchant's business and/or assets are acquired by a competitor of JH;

(e) In JH's sole judgment, Reseller fails to comply with Reseller's underwriting and/or other due diligence

obligations applicable to Merchant;

or

(f) The agreement between JH and Reseller is terminated or expired.

In instances 10.3(a)-(e), JH will provide written notice of the termination on the applicable basis to Merchant, which shall become effective upon receipt by Merchant. In instance 10.3(f), termination shall become effective immediately upon termination or expiration of the agreement between JH and Reseller.

**11 GENERAL PROVISIONS:**

11.1 Governing Law; Venue: These Terms are governed by and will be construed in accordance with the laws of the State of Missouri, without reference to its conflict of laws provisions. The United Nations Convention on Contracts in the International Sale of Goods shall not apply to these Terms. Merchant consents to jurisdiction and venue of all state and federal courts located in the State of Missouri, waives notice and service of process, and agrees that valid service of process in any Missouri court proceeding is confirmed upon notice.

11.2 Publicity and Marketing Efforts: Neither party shall issue any press release, public endorsement, public announcement, or other public statement arising out of or relating to these Terms or the relationship of the parties, without the prior written consent of the other party. Merchant acknowledges and agrees that these Terms does not include any rights to participate in any JH events, trade shows, or other marketing efforts. Any such rights must be mutually agreed upon in a separate agreement.

11.3 Trademarks: Each party agrees that it will not use the names, trademarks, or service marks (“Marks”) of the other party in any medium or manner, without the prior written consent of the other party. Each party agrees it will not use the other party’s Marks in a manner which misappropriates or infringes any third-party’s Marks, or which may reasonably be anticipated to diminish the value of a Mark or the owning party’s rights therein. Without limiting the foregoing, Merchant shall only use the JH Marks in accordance with the JH Trademark Usage Guidelines, as in effect from time to time.

11.4 Notice: Any notice required under these Terms must be in writing and is deemed received on the Business Day after (i) delivered to the appropriate address by hand or by nationally recognized overnight courier service, (ii) sent electronically via a commercially reasonable method to the attention of the undersigned or designated contact, or (iii) received or rejected by the addressee if sent by certified mail, return receipt requested, in each case to the addresses and marked to the attention of the person (by name or title) designated on the application (or to another address, facsimile number, or person as a party may designate by notice to the other party). Merchant shall also deliver a copy of any notice to the attention of JH’s Legal Department at LegalIntake@JackHenry.com.

11.5 Relationships; Third Party Beneficiaries: The parties are independent contractors and have no legal right or authority to make any binding commitments on behalf of each other. Each party is responsible for providing insurance, workers compensation, and other benefits to its own personnel. Nothing in these Terms creates any third-party beneficiaries.

11.6 Subcontractors: JH may use subcontractors at its discretion. JH is responsible for the performance of its subcontractors to the same extent as if JH itself performed the activity itself.

11.7 Assignment: These Terms bind and benefit the parties and their successors and assigns and may not

be assigned or transferred by Merchant voluntarily, involuntarily, or by operation of law without the written consent of JH.

11.8 Force Majeure: Except with respect to delays or failures caused by the negligent act or omission of either party, and except for the payment of amounts due under these Terms, any delay in or failure of performance by either party under these Terms will not be considered a breach of these Terms and will be excused to the extent caused by any occurrence beyond the reasonable control of such party including, but not limited to, acts of God, acts of terrorism, power outages, failures of the Internet, and ; failures of the Financial Institution, ACH or Federal Reserve Bank system network, provided that the party affected by such event shall immediately begin or resume performance as soon as practicable after the event has abated. Excusable delays do not include lockout, shortage of labor, lack of or inability to obtain raw materials, fuel or supplies or any other industrial disturbance. In the event that the party experiencing the force majeure event is not able to resume performance within 10 business days after the force majeure event has commenced, the other party shall have the right to terminate these Terms immediately upon written notice to the party experiencing the force majeure event.

11.9 Drafting: References to sections, subsections, and exhibits refer to the sections, subsections, and exhibits of these Terms. References to a particular section of these Terms refer to all of its subsections. All provisions of these Terms will be construed as consistent with one another whenever possible. Whenever the context requires, the singular number will include the plural and vice versa, and any gender will include both genders. The words “include”, “includes”, “included” and “including” and variations are terms of inclusion without limitation. The captions and headings are for convenience only and will not affect the interpretation of these Terms. The parties have jointly negotiated and drafted these Terms. No presumption or burden of proof will favor or disfavor either party by virtue of authorship.

11.10 Time Limitation on Cause of Action: No action arising out of these Terms may be brought by Merchant or JH more than two years after the cause of action has accrued. The prevailing party in any litigation conducted in relation to these Terms will be entitled to recover its reasonable attorneys’ fees from the other party.

11.11 Entire Agreement: These Terms, along with the terms in the EPS Application for Payment Processing if applicable, supersede all prior agreements and understandings, both written and oral, between the parties with respect to the subject matter and contains the entire agreement between the parties with respect to the subject matter.

11.12 Amendments: These Terms can be modified or altered by JH at any time without notice. Merchant's continued use of the Services shall constitute acceptance of any additional modifications, amendments, and new terms.

11.13 Waiver. Waiver of any provision of these Terms is not a waiver of any other provision, nor is a waiver of any breach of these Terms construed as a continuing waiver of other breaches of the same or other provisions of these Terms.

11.14 Survival. All provisions in these Terms which by their nature and intent should survive expiration or termination, including, but not limited to, Confidential Information and Security Procedures, Limitations of Liability, Indemnification, Pricing and Payment, Warranties, and Recoupment and Setoff, will survive the expiration or termination of these Terms.

11.15 Severability. If any provision of these Terms becomes or is declared by a court of competent

jurisdiction to be illegal, void or unenforceable, the remainder of these Terms will continue in full force and effect and the application of the provision to other persons or circumstances will be interpreted so as to reasonably effect the intent of the parties.

(https://www.linkedin.com/company/6970) (https://www.facebook.com/JackHenryAssociates/)

(https://twitter.com/JH_Fintech) (https://www.instagram.com/jackhenry_fintech)

Privacy Policy (https://www.jackhenry.com/privacy-policy) | California Privacy Policy (https://www.jackhenry.com/california-privacy-policy) | Intellectual Property (https://www.jackhenry.com/intellectual-property) | Terms of Use (https://www.jackhenry.com/terms-of-use)

© 2023 Jack Henry & Associates, Inc.®

# Lumpkin County, Georgia

## Senior Center

**Date:** May 16, 2023

**Agenda Item:** 2023-043 Local Share Match and Commitment Letter Legacy Link, Inc. SFY2024 *(Senior Center Manager Linda Kirkpatrick)*

**Item Description:** Each year the Lumpkin County Board of Commissioners is requested to submit an approved Local Share Match Commitment Letter and to pay its local share match. For SFY2024 the match is $14,050.00.

**Facts & Historical Information:** Legacy Link administers federal and state monies from the Georgia Division of Aging Services for the Lumpkin County Senior Center Nutrition Program to include center management, congregate meals, home-delivered meals and transportation. Legacy Link administers federal and state funds for senior centers to 12 of 13 counties in the region.

In addition to the funds provided to senior centers, Legacy Link provides the following additional services to all 13 counties in the region (including Lumpkin County):

- Information, telephone screening and counseling through its Gateway Office for various services for families seeking assistance for seniors and persons with disabilities.
- Long-term care Ombudsman staff visit all personal care and nursing homes in the area.
- Georgia Cares staff and volunteers provide counseling and assist with Medicare, other insurance, fraud and scam issues.
- Legacy Link subcontracts with agencies for Elderly Legal Services and homemaker and personal care services to benefit frail older individuals in the area and help them remain in their homes and avoid premature nursing home placement.
- RN's and social workers provide assessments and care management for non-Medicaid and Medicaid-funded health programs to help older adults with chronic health conditions remain in their own homes and communities and avoid premature nursing home placement.
- Kinship Care Program – Support for Grandparents raising grandchildren.
- Senior Community Service and Employment Program which assists low income persons age 55+ in need of employment and training.
- Retired Senior & Volunteer Program which enrolls senior volunteers throughout the area who provide service in their community.

Match monies from all local government entities in the region are necessary for Legacy Link to continue to subcontract and provide the above-described services. Each government entity's local share contribution is critical for Legacy Link to access federal and state monies for continuation of services that help families in each county.

**Potential Courses Of**

A. Submit an approved and signed commitment letter and submit the local

| | |
|---|---|
| **Action:** | share match payment of $14,050.00 to Legacy Link, Inc.<br>B. Do not submit an approved and signed commitment letter and do not submit the local share match payment of $14,050.00 to Legacy Link, Inc.<br><br>If Course A is chosen, the above referenced services will continue to be provided to elderly residents of Lumpkin County for the period July 1, 2023 through June 30, 2024.<br><br>If Course B is chosen, Lumpkin County is at risk for losing some or all of the above referenced services to elderly residents of Lumpkin County at the end of the SFY2023 funding cycle (June 30, 2023). |
| **Budget Impact:** | $14,050.00 was requested in the 2024 budget (this will be paid in January, 2024). This is an increase of $1,600 over last year. The local share match along with known increases are routinely included each year in the Senior Center budget. |
| **Staff Recommendation:** | It is recommended that Course A be chosen and the approved and signed commitment letter and local share match payment be submitted to Legacy Link, Inc. The above referenced services are valuable to elderly residents of Lumpkin County who otherwise may not be able to access such services. |

LEGACY LINK
Area Agency on Aging

April 3, 2023

Honorable Chris Dockery, Chairman
Lumpkin County Commission
99 Courthouse Hill Suite H
Dahlonega, Georgia 30533

Dear Chairman Dockery,

The Legacy Link, Inc. will once again provide state and federal funds to Lumpkin County for Services at your senior center including Meals on Wheels, congregate meals, transportation, center management, etc. in the fiscal year beginning July 1, 2023. We plan to provide $172,940.00 to Lumpkin County for these services. Due to federal COVID 19 legislation additional federal funds will be allocated for your county.

Legacy Link provides the following services in all 13 counties: Information, telephone screening and counseling for families seeking assistance for seniors and persons with disabilities. Georgia SHIP staff and volunteers provide counseling and assist with Medicare, other insurance, fraud, and scam issues. We subcontract with a personal care service agency for homemaker and personal care to help frail older persons remain in their homes and also subcontract for legal services for older individuals in the region.

Legacy Link's RN's and social workers will continue to provide care management in all 13 counties for non-Medicaid and Medicaid-funded health programs to help nursing home eligible persons of all ages with chronic health conditions remain in their homes and communities. The RN's and case managers work with over 1,000 persons and their families to arrange for in-home and community health services to avoid premature nursing home placement.

Legacy Link staff will also continue to work with families and nursing home staff and assist residents in moving out of nursing homes and back into the community when feasible.

Additionally, we provide funding for services to help caregivers of persons with Alzheimer's disease and other dementias. We will continue funding various services designed to help families caring for someone with Alzheimer's in part-time day programs in Forsyth, White, Dawson, and Union Counties. We have a Caregiver Specialist on staff to work with families in all counties who have caregiver issues.

4080 Mundy Mill Road • P.O. Box 1480 • Oakwood, Georgia 30566
770-538-2650 • Fax 770-538-2660

The Legacy Link Kinship Care Program (Grandparents Raising Grandchildren) continues to help relatives and the children in their care. Our Wellness program for seniors has been highly successful in the region and the Retired Senior and Volunteer Program (RSVP) has about 200 volunteers aged 50+ who volunteer in their communities.

The Legacy Link Senior Community Service Employment Program assists low-income persons aged 55+ needing employment and training. We pay minimum wage for part-time employment based training. The participants are helping their communities by training in local non-profits and government organizations while learning workplace skills to obtain unsubsidized employment.

In order to draw down federal and state funds for programs and services as described, we must have local matching funds. These local matching funds from each county government are necessary for us to continue sub-contracting and providing services including administration, information and referral, screening services, and volunteer programs in all counties. We utilize in-kind match as much as possible but need local matching funds revenue to continue our services in the region.

Our local share match request of each county government for the fiscal year July 1, 2023, to June 30, 2024, is $14,050.00 this year. Each county government's local share contribution is critical to draw down funds for continuation of services that help families in your county. This amount may be paid in one payment, quarterly, or semi-annually. If you elect for a payment option other than a one time payment, please notify our office.

The commitment page for your signature signifying approval of the request is enclosed. Please sign and return to me so we can continue services offered in your county in the new fiscal year. If you have any questions about services operated or funded by Legacy Link in your county, please do not hesitate to call me.

We appreciate your support of Legacy Link. Through continued partnership, we can keep improving the quality of life of older adults, individuals with disabilities, and their caregivers in your community.

Sincerely,

Melissa Armstrong, MSW
CEO/ AAA Director
The Legacy Link, Inc.

Enclosure

LEGACY LINK
Area Agency on Aging

# LOCAL SHARE COMMITMENT LETTER

## FY2024

The FY–2024 local share requested by The Legacy Link, Inc. from each county is $14,050.00. These funds will be used by the Area Agency on Aging (AAA) as match to draw down the federal and state funding for administration, coordination, information & referral, employment & training of older workers, volunteer program and other services These funds will also help to continue to Wellness Programs, Kinship Care Program, and Medicare Prescription assistance in all counties.

The Lumpkin County Commission hereby approves the services to be offered for older citizens, family members and individuals with disabilities in Lumpkin County in FY–2024. Lumpkin County Commission also agrees to pay the necessary local share funds in the amount of $14,050.00 to secure federal and state funding and continue services as noted above.

Approved: _____ Date: _____
Lumpkin County Commission Chairman

Please return to: Melissa Armstrong, CEO/ AAA Director
The Legacy Link, Inc.
P.O. Box 1480
Oakwood, Georgia 30566

# Lumpkin County, Georgia

## Planning

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-044 iWorq Systems Service Agreement for Land Use Permit (*Community & Economic Development Director, Rebecca Mincey*) |
| **Item Description:** | This request for consideration is an add on to also include the Land Use Application within the iWorQ online permitting system. |
| **Facts & Historical Information:** | iWorQ is the Lumpkin County Planning Department's online permitting system. The existing service agreement with iWorQ was first executed on June 29, 2022. This renewal is for three year term. |
| **Potential Courses Of Action:** | a. Approve the contract as presented<br>b. Approve the contract with suggested revisions<br>c. Do not approve the contract<br>d. Provide staff another course of action |
| **Budget Impact:** | The contract is an additional fee of $2,500 annually. This would be covered through a department budget amendment within the approved FY23 Planning budget, likely from Training/Meetings. The other $14,000 is already included in the FY23 budget.<br><br>Staff has accounted for this expense within the draft FY2024 budget ($16,500). |
| **Staff Recommendation:** | |

# IWORQ SERVICE AGREEMENT

## For iWorQ applications and services

Lumpkin County here after known as ("Customer"), enters into THIS SERVICE AGREEMENT ("Agreement") with iWorQ Systems Inc. ("iWorQ") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

### 1. SOFTWARE AS A SERVICE (SaaS) TERMS OF ACCESS:

iWorQ grants Customer a non-exclusive, non-transferable limited access to use iWorQ service(s), application(s) on iWorQ's authorized website for the fee(s) and terms listed in Appendix A. This agreement will govern all application(s) and service(s) listed in the Appendix A.

### 2. CUSTOMER RESPONSIBILITY:

Customer acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or to the application(s), service(s), and related documentation, all of which title and rights shall remain with iWorQ. Customer shall not permit any user to reproduce, copy, or reverse engineer any of the application(s), service(s) and related documentation.

iWorQ is not responsible for the content entered into iWorQ's database or uploaded as a document or image. Access to iWorQ cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload any images or documents considered personal or confidential.

### 3. TRAINING AND IMPLEMENTATION:

Customer agrees to provide the time, resources, and personnel to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the customer implementation team. iWorQ can provide project management and implementation documents upon request.

iWorQ will do ONE import of the Customer's data. This import consists of importing data, sent by the Customer, in an electronic relational database format.

Customer must have clear ownership of all forms, letters, inspections, checklists, and data sent to iWorQ.

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

## 4. CUSTOMER DATA:

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 7. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.

Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

## 5. INDEMNFICATION:

Customer will defend iWorQ at Customer's expense and indemnify iWorQ against any judgments finally awarded by a court, and pay any settlements or costs with respect to any claims regarding:(a) Breach of personal information on such as driver's licenses, or social security numbers; (b)Customer Data and/or The Customer's method or process of scanning of storing personal information or conducting business; (c) Access by any Customer's employees to personal information.

## 6. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

## 7. BILLING:

iWorQ will invoice Customer on an annual basis. iWorQ will send invoice by mail and by email to the address(s) listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service(s) Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly.

## 8. TERMINATION:

Either party may terminate this agreement, after the initial 3-YEAR TERM, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed.

Upon termination (7. TERMINATION), iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide customer with an electronic copy of all of Customer's data, if requested by the Customer (within 3-5 business days).

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than $2,500; and all provisions of this Agreement will continue.

## 9. ACCEPTABLE USE:

Customer represents and warrants that the application(s) and service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of application(s) and service(s).

## 10. CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact Rebecca Mincey Title Community & Economic Development Director

Office Phone 706.482.2648 Cell _____

Email rebecca.mincey@lumpkincounty.gov

Secondary Implementation Contact Martin Durand Title GIS Administrator

Office Phone 706.482.2584 Cell _____

Email martin.durand@lumpkincounty.gov

## 11. CUSTOMER BILLING INFORMATION:

Billing Contact Abby Branan Title Director of Finance & Purchasing

Billing Address: 99 Courthouse Hill, Suite D, Dahlonega, GA 30533

Office Phone 706.482.2554 Cell _____

Email abby.branan@lumpkincounty.gov

PO# _____ (if required) Tax Exempt ID # 586000857

## 12. ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature _____ Effective Date: May 16, 2023

Printed Name Chris Dockery

Title Chairman

Office Number 706.482.2566

Cell Number _____

## Agency Website Contact- Portal Link

(All field are required)

Name: Martin Durand

Title: GIS Administrator

Email: martin.durand@lumpkincounty.gov

Office Number: 706.482.2584

Cell Number: _____

Signature: _____

(This person is responsible for placing the iWorQ Portal Link being placed on the agency's website within 90 days of the agreement signature. The iWorQ Portal Link will remain on agencies website for the entire Term of the agreement. If the iWorQ Portal Link is not placed on the city website within 90 days, the Agency agrees to pay an additional $1000 dollars towards setup costs (this is to cover iWorQ's time).

# iWorQ Service(s) Agreement

## APPENDIX A

# iWorQ Price Proposal

| Lumpkin County | Population- 33,500 |
|---|---|
| 99 Courthouse Hill, Dahlonega, GA 30533, US | Prepared by: Garyn Perrett |

## Annual Subscription Fees

| Application(s) and Service(s) | Package Price | Billing |
|---|---|---|
| **Community Development (Enterprise Package)**<br>*Permit Management<br>*Code Enforcement<br>*Portal Home (Permit, Code and License)<br><br>Daily upload of parcel information to iWorQ's GIS Map<br>Track contractors, inspections, property information<br>Track code violations, fees, and activities<br>Unlimited reports and ad-hoc reporting<br>Unlimited letters and documents configured through iWorQ's template library and 3 custom letters<br>**6 custom forms** for Portal Home<br><br>**Premium Data** (50MB Uploads & 200GB Storage)<br>**Payment Processing – PayRoc –** Online credit/debit card processing integrated with iWorQ.<br><br>**GIS REST Services -** iWorQ will publish your agency's WMS layers in iWorQ Community Development applications. iWorQ will update parcel information daily from the published service.<br>*Note: If GIS configurations change (FTP location, name format, field changes, etc.) iWorQ will charge a minimum $500 fee to accommodate new configuration adjustments (subject to additional hourly charges)*<br><br>**Plan Review Management**<br><br>- Draw & annotate on plans<br>- Save data in layers on plans<br>- Place watermarks on plans<br>- Must have premium data to use | **$10,000** | Annual |

| | | |
|---|---|---|
| **License Management and License Portal**<br><br>- Available on any computer, tablet, or mobile device using Chrome browser<br>- Licensing for business, alcohol, liquor, rentals, etc.<br>- Free letters and / or permits utilizing iWorQ's template library, and up to 3 custom letters.<br>- Reminder letter generation<br>- Online renewal capabilities | **$4,000** | Annual |
| **Bluebeam Integration**<br><br>iWorQ integration with Bluebeam Studio Prime<br>*StudioPrime is required for integration and all Bluebeam products will need to be purchased directly from Bluebeam or authorized distributor/dealer. | **Included** | |
| **Permit Management – Land Use Permit**<br><br>-Available on any computer, tablet, or mobile device using Chrome Browser -Track Permits, inspections, contractors, and their licensing -Track fees and payments -Inspection and plan review tracking -Configurable reporting -Quarterly parcel update -OpenStreetMap tracking abilities -Free forms, letters, and/or permits utilizing iWorQ's template library, and up to 3 custom letters/forms | **$2,500** | Annual |
| **Additional Web forms for Online Permit Applications**<br><br>-3 Additional Web Forms for portal home for online permit applications. Total Forms = 9<br>*Additional forms can be purchased at any time 3 forms =$500/annually | **Included** | |
| **Subscription Fee Total (This amount will be invoiced each year)** | **$16,500** | Annual |

## One-Time Setup, GIS integration, and Data Conversion Fees

| Service(s) | Full Price Cost | Package Price | Billing |
|---|---|---|---|
| Implementation and Setup cost year 1 | $0 | $0 | Year One |

# NOTES AND SERVICE DESCRIPTION

I. Invoice for the (Annual Subscription Fee Total + One-Time Total) will be sent out 2 weeks after signature and Effective Date.
II. This subscription Fee and Agreement have been provided at the Customer's request and is valid for 25 days.
III. This cost proposal cannot be disclosed or used to compete with other companies.
IV. The annual fees and services listed above are fixed for a term of 3 years. After such time the agreement will remain on a year-to-year basis with annual increases not to exceed 5%.
V. NEW agreement required based on Customer uploading personal information

# Lumpkin County, Georgia

## Planning

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-045 Bluebeam Studio Subscription Service Agreement ( *Community & Economic Development Director, Rebecca Mincey*) |
| **Item Description:** | This request for consideration is a renewal of the annual Bluebeam subscription service used by the Planning Department, LCWSA, and the Fire Marshal's office for plan review. The subscription service will automatically renew April 9, 2024. |
| **Facts & Historical Information:** | The subscription renewal it is being brought to the Board for consideration because staff was unable to find where the Bluebeam service was originally approved by the Board of Commissioners one year ago. The service has General Terms and Conditions of Use and Product and Services Addendum as a part of the subscription. |
| **Potential Courses Of Action:** | a. Approve the contract as presented<br>b. Approve the contract with suggested revisions<br>c. Do not approve the contract<br>d. Provide staff another course of action |
| **Budget Impact:** | None. This is a budgeted item. |
| **Staff Recommendation:** | |

# Quote

**Generated:** 10 Apr 2023
**Quote #:** Q-126981
**Expires:** 10 May 2023

**Bluebeam, Inc.**
443 S. Raymond Ave.
Pasadena, California 91105-2630
United States
1-866-496-2140
**Account Manager**:
**Email:**

not an invoice

**Bill To:**
Lumpkin County
99 Courthouse Hill
Dahlonega, GA 30533-0541
US

**Ship To:**
Lumpkin County
99 Courthouse Hill
Dahlonega, GA 30533-0541
US

**Currency**: USD
**Payment Method:** Purchase Order (PO)
**Payment Terms:** Net 30
**Billing Contact Email:** martin.durand@lumpkincounty.gov

**Delivery/Subscription**
**Start Date:** 10 Apr 2023

**End Date:** 9 Apr 2024

| Item | Description | Qty | Unit Price | Amount |
|---|---|---|---|---|
| Studio Prime Tier 1 | Annual subscription, Studio advanced administrative functionality and third party software integrations, 1-100 Users | 1 | $2,340.00 | $2,340.00 |

**Subtotal:** $2,340.00
**Discount:** $0.00
***Total Tax:** $0.00
**Total:** $2,340.00

not an invoice

* Taxes are estimated on Quote and will be adjusted, if needed, on Customer invoice.

**Terms of Use:**

1 This Bluebeam Quote (“Quote”) together with Bluebeam’s General Terms and Conditions of Use and Bluebeam’s Products and Services Agreement found at https://www.bluebeam.com/legal/ (collectively the “Terms and Conditions”) incorporated herein by this reference, form the contract governing Customer’s access to and use of the Bluebeam Software and Services described above unless a separate written agreement governing this purchase has been executed between the parties in which case the Quote and that separate written agreement shall govern (in either case, the “Agreement”). The Agreement contains, among other things, warranty disclaimers, liability limitations and use limitations.

2 Changes to the Agreement are not effective unless in an amendment signed by both parties. There shall be no force or effect to any terms in a customer issued purchase order or similar form even if signed by the parties. Acknowledgement by Bluebeam of Customer’s purchase order shall not constitute acceptance of any pre-printed and/or referenced provisions on Customer’s purchase order. Capitalized terms not defined in this Quote have the meanings assigned in the Agreement. This Quote shall govern to the extent of any conflict with the Agreement.

3 As further described in the Terms and Conditions, Bluebeam reserves the right to increase fees at each renewal term up to

ten percent (10%).

4 Upon signature of the Quote by Customer and submission to Bluebeam, the parties hereby enter into the Agreement, which constitutes a binding contract between Customer and Bluebeam unless rejected by Bluebeam because the signatory does not have authority to bind the Customer, changes have been made to the Quote (other than completion of included form fields and request for information), or the Quote information is incomplete according to Bluebeam's records. The undersigned representative of Customer represents they have read, understand, and accept on behalf of Customer, as a duly authorized representative, this Agreement in its entirety.

| **Additional Notes:** |
|---|
| |

| **Bluebeam, Inc.** | **Lumpkin County** |
|---|---|
| Bluebeam Signature: | Customer Signature: |
| Name: Roger Piskulick | Name: |
| Title: Chief Financial Officer | Title: |
| Date: 10 Apr 2023 | Date |
| | PO Number: |

To purchase off this quote, please return the signed quote to billing@bluebeam.com to receive an invoice. Purchase orders are acceptable instead of signed quotes. An invoice will be sent to the Billing/AP contact specified. For payment instructions, refer to banking details on invoice once received.

# Lumpkin County, Georgia

## Development Authority

**Date:** May 16, 2023

**Agenda Item:** 2023-046 Contract for Trail Construction at Yahoola Creek Reservoir/Lake Zwerner (*Community & Economic Development Director Rebecca Mincey*)

**Item Description:** February 28, 2023 Lumpkin County received a notice to proceed for the DNR Recreational Trail Program Yahoola Creek Trails project. Upon notice to proceed, staff could issue a RFP for a trail construction company. Three responses were received for the proposal.

A committee reviewed the responses and recommends Steele & Associates as the vendor for the Board's consideration.

**Facts & Historical Information:** The lump sum total for the project from Steele & Associates is $122,835. This is approximately a 18% more than the approved project budget of $104,040.

The grant budget was based on proposals received during the phase 1 (submitted in October 2021) and phase 2 (submitted in March 2022). The RFP being considered has been received a year and a half after first drafting the project budget, which has resulted in a budget shortfall of $18,795 (primarily within trail work and footbridges).

**Potential Courses Of Action:**

a. Approve the contract as presented
b. Approve the contract with suggested revisions
c. Do not approve the contract
d. Provide staff another course of action

**Budget Impact:** $18,795 additional funding could be from:

a. Hotel Motel Tax (Non-restricted funds or Tourism Product Development funds)
b. General Fund Balance
c. Reallocation of 2014 SPLOST funds
d. Contingency

Staff can also ask the DALC Board of Consideration:

a. DALC Fund Balance
b. DALC budget savings from salary expense

Staff also reached out to DNR for guidance.

**Staff Recommendation:**

# CONTRACT FOR TRAIL CONSTRUCTION AT YAHOOLA CREEK RESERVOIR/LAKE ZWERNER

## PROJECT NUMBER RFP 2023-003

This agreement is made and entered into between the **Lumpkin County Board of Commissioners**, hereinafter referred to as "Lumpkin County", a political subdivision of the State of Georgia, and **Steele & Associates, Inc.**, hereinafter referred to as "Contractor".

Whereas, in consideration of the mutual benefits accruing to each party, the parties hereby agree as follows:

## A. Summary of Work and Payment:

1. Contractor shall provide all necessary labor, material and equipment to construct approximately 2 miles of natural surface trail, realign a section of the existing trail, construct 2 trailhead kiosks, and construct 4 wayfinding posts at the Yahoola Creek Reservoir/Lake Zwerner in Lumpkin County, Georgia. All work will be done in accordance with the Specifications contained in the Request for Proposal issued by Lumpkin County on March 22, 2023.

After the issuance of a Notice to Proceed, Contractor shall coordinate a pre-construction meeting with the County's Project Manager to review the project and schedule. During the pre-construction meeting, Contractor and County shall schedule an on-site meeting to review and confirm the flag line of the new trail to be constructed and confirm the location, dimensions and design of any necessary small water crossings. All trees to be cut should be flagged for removal prior to the start of construction. Contractor shall meet on-site with the County's Project Manager weekly to review progress and scheduling.

Contractor acknowledges this Project is a part of a Georgia Department of Natural Resources (DNR) Recreational Trails Program grant. Contractor shall comply with the DNR Recreational Trail Program Rules & Regulations. Contractor shall comply with all applicable federal, state and local laws, regulations, executive orders and ordinances, including without limitation 23 USC 206 and ORS 390.980, which makes funds available for the purposes of the Recreational Trail Program. Key regulations include, but are not limited to:

- 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements
- for Federal Awards2 CFR 1201
- FHWA Recreational Trails Program Interim Guidance
- 23 U.S.C. 206 Recreational Trails Program
- 23 U.S.C. 104 (h), Recreational Trails Program Apportionments
- 23 U.S.C. 106, Project Approval and Oversight
- 23 CFR 1.36, Compliance with other Federal Laws and Regulations
- 23 CFR 771, Environmental Requirements
- 23 CFR 635.410 Buy America
- 49 CFR 29, Suspension and Debarment

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- 23 U.S.C. 114(b), Convict Labor
- 29 CFR 3, Anti-Kickback (Copeland Act)
- 23 U.S.C. 113, Prevailing Wage Rate (Davis Bacon Act)

2. Contractor shall be authorized to begin work upon the issuance of a Notice to Proceed from Lumpkin County. All work shall be completed no later than 180 calendar days from the day the Notice to Proceed is issued.

3. The Contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The Contractor shall designate one such person as a Project Manager, and the Project Manager shall be deemed to be the Contractor's authorized representative, who shall be authorized to receive and accept any and all communications from the County. The County shall name a Project Manager who shall be authorized to generate, receive and accept communication as an authorized representative of the County.

4. The Contractor hereby agrees to replace any personnel or sub-contractor, at no cost or penalty to the County, if the County reasonably determines that the performance of any sub- contractor or personnel is unsatisfactory.

5. Contractor shall be paid for work performed under this Contract the lump sum amount of $122,835.00.

- Progress payments may be requested once every 30 days by submitting an invoice to:

  Lumpkin County Board of Commissioners
  Attn: Accounts Payable
  99 Courthouse Hill, Suite D
  Dahlonega, GA 30533

- Each invoice must include the following information:
  - Date of invoice
  - Detailed description of Work performed, including appropriate units of measure, if applicable
  - Billing period
- Invoices will be submitted to the County's Project Manager for approval of the Work prior to payment. Approved invoices will be paid within 30 days of approval by the County's Project Manager.

**B. Bonds:**

Contractor shall, prior to commencing work, provide and shall maintain, during the continuance of all work under the Contract, all Bonds required in the Request for Proposal.

**C. Liability:**

Contractor shall be responsible for his work and every part thereof, and for all materials, tools, equipment, appliances, and properties of any and all description used in connection with this Contract.

Contractor assumes all risks of direct and indirect damage or injury to the property of persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

Contractor shall be liable for any collateral damage (such as broken curbs, crushed sidewalks, broken water meters, etc.) caused as a result of its work under this Contract. Contractor shall restore and/or repair, at Contractor's cost, any and all collateral damage, including, but not limited to, damage to infrastructure, back to its pre-existing condition if the damage was caused by Contractor's activities.

**D. Insurance:**

The Contractor shall, during the continuance of all work under the Contract, provide and maintain all insurance policies required by the Request for Proposal.

**E. Assignment of Contractual Rights and Subcontracting:**

It is agreed that the Contractor will not assign, transfer, convey, or otherwise dispose of this contract or its right, title, or interest in or to the same, or any part thereof, without written consent of the County.

Contractor shall not subcontract any work without the express written consent of the County. The County must approve all subcontractors.

**F. Indemnity:**

To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold Lumpkin County harmless from and against any and all claims, damages, losses, and expenses, including, but not limited to, fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the negligent acts, negligent omissions, willful misconduct, or reckless misconduct of the Contractor or anyone for whom the Contractor is responsible.

**G. Documents Deemed Part of Contract**:

Unless otherwise modified by this Contract, Lumpkin County's Request for Proposal issued March 22, 2023, for Project Number RFP 2023-003, and any addendums issued thereto, shall be deemed part of the contract. No documentation or information provided by the Contractor shall be deemed part of the contract unless expressly incorporated herein.

**H. Severability**:

It is understood and agreed by the parties hereto that if any part, term, or provision of this Contract is held illegal or in conflict with any law of the State or Georgia, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provisions held to be invalid.

**I. Dispute Resolution:**

Lumpkin County and the Contractor agree to resolve through negotiation or mediation prior to filing any cause of action. The venue for any litigation arising from this contract shall be Lumpkin County, Georgia.

**J. Cancellation:**

Lumpkin County reserves the right to terminate the contract immediately in the event that the Contractor discontinues or abandons operations, is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

Failure of the Contractor to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by the County without penalty to Lumpkin County. Lumpkin County shall pay for services rendered up to the point of termination.

Notwithstanding anything to the contrary contained herein, the County may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the Contractor.

If the termination clause is used by the County, the Contractor will be paid by the County for all scheduled work completed satisfactorily by the Contractor up to the termination date set forth in the written termination notice.

**K. Safe Working Environment and Drug Free Workplace**

Contractor shall provide a safe working environment.

Contractor certifies that the provisions of Code Sections 5024-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-free Workplace Act", have been complied with in full. The Contractor further certifies that:

1. A drug-free workplace will be provided for the Contractor's employees during performance of the contract; and

2. If Contractor hires a Sub Contractor to work in a drug-free work place, Contractor shall secure from that Sub Contractor the following written certification:

> As part of the subcontracting agreement with (Contractor's name), (Sub Contractor's name) certifies to the Contractor that a drug-free workplace will be provided for the Sub Contractor's employees during the performance of this Contract pursuant to Paragraph (7) of Sub-section (b) of Code Section 50-24-3".

The Contractor further certifies that it will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.

**L. Amendments or Modifications:**

All contract amendments or modifications must be in writing and signed by all parties.

**M. Notices:**

Any notice, order, instruction, claim, or other written communication required or permitted under this contract shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, which delivery may be accomplished by in person hand delivery, via bona fide overnight express service or telephonic facsimile transmission; or

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, with return receipt requested, addressed to the Contractor at the following address:

Steele & Associates, Inc.
Attn: Aaron Steele
7561 Industrial Ct
Alpharetta, GA 30004

and to Lumpkin County at the following address:

Lumpkin County Board of Commissioners
Attn: Alan Ours, County Manager
99 Courthouse Hill, Ste A
Dahlonega, Georgia 30533

This Contract is made and entered into as of May 16, 2023.

**Lumpkin County:**

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

**Contractor:**

**Steele & Associates, Inc.**

By: _____
Aaron Steele, President

STEELE & ASSOCIATES INC. CORPORATE SEAL GEORGIA

Bond No. NGA 1813

# Document A312™ – 2010

**Conforms with The American Institute of Architects AIA Document 312**

## *Performance Bond*

**CONTRACTOR:**
*(Name, legal status and address)*

Steele & Associates, Inc.
7561 Industrial Court Suite A
Alpharetta, GA 30004

**SURETY:**
*(Name, legal status and principal place of business)*

Merchants National Bonding, Inc.
P.O. Box 14498
Des Moines, IA 50306-3498
**Mailing Address for Notices**

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**OWNER:**
*(Name, legal status and address)*

Lumpkin County Board of Commissioners
99 Courthouse Hill, Suite A
Dahlonega, GA 30533

**CONSTRUCTION CONTRACT**
Date: May 16, 2023

Amount: $ 122,835.00 One Hundred Twenty Two Thousand Eight Hundred Thirty Five Dollars and 00/100

Description:
*(Name and location)*
Trail Construction at Yahoola Creek Reservoir/Lake Zwerner

**BOND**
Date: May 16, 2023
*(Not earlier than Construction Contract Date)*

Amount: $ 122,835.00 One Hundred Twenty Two Thousand Eight Hundred Thirty Five Dollars and 00/100

Modifications to this Bond: ☒ None ☐ See Section 16

**CONTRACTOR AS PRINCIPAL**
Company: *(Corporate Seal)*
Steele & Associates, Inc.

Signature: Anne Steele-Bent

Name and Title:

STEELE & ASSOCIATES INC. CORPORATE SEAL GEORGIA

**SURETY**
Company: *(Corporate Seal)*
Merchants National Bonding, Inc.

Signature: Kevin M. Neidert

Name and Title: Kevin M. Neidert
Attorney-in-Fact

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -0- 2003

*(Any additional signatures appear on the last page of this Performance Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**
Yates, LLC
2800 Century Parkway, NE, Suite 300
Atlanta, GA 30345
404-633-4321

**OWNER'S REPRESENTATIVE:**
*(Architect, Engineer or other party:)*

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

.1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

.2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

.3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
.2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 14 Definitions**

**§ 14.1 Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**§ 14.2 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

**§ 14.3 Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

**§ 14.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 14.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 16** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

| **CONTRACTOR AS PRINCIPAL** | | **SURETY** | |
|---|---|---|---|
| Company: | *(Corporate Seal)* | Company: | *(Corporate Seal)* |
| Signature: | | Signature: | |
| Name and Title: | | Name and Title: | |
| Address | | Address | |

Bond No. NGA 1813

# Document A312™ – 2010

**Conforms with The American Institute of Architects AIA Document 312**

## *Payment Bond*

**CONTRACTOR:**
*(Name, legal status and address)*

Steele & Associates, Inc.
7561 Industrial Court Suite A
Alpharetta, GA 30004

**SURETY:**
*(Name, legal status and principal place of business)*

Merchants National Bonding, Inc.
P.O. Box 14498
Des Moines, IA 50306-3498
**Mailing Address for Notices**

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

**OWNER:**
*(Name, legal status and address)*

Lumpkin County Board of Commissioners
99 Courthouse Hill, Suite A
Dahlonega, GA 30533

**CONSTRUCTION CONTRACT**
Date: May 16, 2023

Amount: $ 122,835.00 One Hundred Twenty Two Thousand Eight Hundred Thirty Five Dollars and 00/100

Description:
*(Name and location)*
Trail Construction at Yahoola Creek Reservoir/Lake Zwerner

**BOND**
Date: May 16, 2023
*(Not earlier than Construction Contract Date)*

Amount: $ 122,835.00 One Hundred Twenty Two Thousand Eight Hundred Thirty Five Dollars and 00/100

Modifications to this Bond: ☒ None ☐ See Section 18

**CONTRACTOR AS PRINCIPAL**
Company: *(Corporate Seal)*

Steele & Associates, Inc.

Signature:

Name and Title: Agent

STEELE & ASSOCIATES INC. CORPORATE SEAL GEORGIA

**SURETY**
Company: *(Corporate Seal)*

Merchants National Bonding, Inc.

Signature:

Name and Title: Kevin M. Neidert
Attorney-in-Fact

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -IOWA- 2003

*(Any additional signatures appear on the last page of this Payment Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**
Yates, LLC
2800 Century Parkway, NE, Suite 300
Atlanta, GA 30345
404-633-4321

**OWNER'S REPRESENTATIVE:**
*(Architect, Engineer or other party:)*

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

**§ 2** If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

**§ 4** When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

**§ 5** The Surety's obligations to a Claimant under this Bond shall arise after the following:

**§ 5.1** Claimants, who do not have a direct contract with the Contractor,

- **.1** have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- **.2** have sent a Claim to the Surety (at the address described in Section 13).

**§ 5.2** Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

**§ 6** If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

**§ 7** When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

**§ 7.1** Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

**§ 7.2** Pay or arrange for payment of any undisputed amounts.

**§ 7.3** The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

**§ 8** The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**§ 9** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

**§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- **.1** the name of the Claimant;
- **.2** the name of the person for whom the labor was done, or materials or equipment furnished;
- **.3** a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- **.4** a brief description of the labor, materials or equipment furnished;
- **.5** the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- **.6** the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- **.7** the total amount of previous payments received by the Claimant; and
- **.8** the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

| **CONTRACTOR AS PRINCIPAL** | | **SURETY** | |
|---|---|---|---|
| Company: | *(Corporate Seal)* | Company: | *(Corporate Seal)* |
| Signature: _____ | | Signature: _____ | |
| Name and Title: | | Name and Title: | |
| Address | | Address | |

MERCHANTS
BONDING COMPANY™

# POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

**Kevin M. Neidert**

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

Surety Bond #: NGA 1813
Principal: Steele & Associates, Inc.
Obligee: Lumpkin County Board of Commissioners

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 16th day of May , 2023 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

**MERCHANTS BONDING COMPANY (MUTUAL)**
**MERCHANTS NATIONAL BONDING, INC.**
**d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY**

By Larry Taylor
*President*

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 16th day of May , 2023 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA

**Kim Lee**
Commission Number 702737
My Commission Expires
April 14, 2024

Kim Lee
*Notary Public*

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 16th day of May ,2023 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
*Secretary*

# LUMPKIN COUNTY BOARD OF COMMISSIONERS

# REQUEST FOR PROPOSAL

# TRAIL CONSTRUCTION

# PROJECT NUMBER RFP 2023-003

**SUBMISSIONS ARE DUE AT THE ADDRESS SHOWN BELOW NO LATER THAN**

**April 12, 2023 AT 2:00 PM, EST**

**ELECTRONIC SUBMISSIONS VIA E-MAIL OR FAX WILL NOT BE ACCEPTED**

LUMPKIN COUNTY BOARD OF COMMISSIONERS
ATTENTION: RYAN MCDUFFIE, PURCHASING AGENT
99 COURTHOUSE HILL, SUITE D
DAHLONEGA, GA 30533

Release March 22, 2023

---

THE RESPONSIBILITY FOR SUBMITTING A RESPONSE TO THIS RFP ON OR BEFORE THE STATED DATE AND TIME WILL BE SOLELY AND STRICTLY THE RESPONSIBILITY OF THE OFFEROR.

---

## 1.0 INTRODUCTION

### 1.1 Purpose of Procurement

The Lumpkin County Board of Commissioners is soliciting sealed proposals from qualified professional trail builders to construct approximately 2 miles of natural surface trail, realign a section of the existing trail, construct 2 trailhead kiosks, and construct 4 wayfinding posts at the Yahoola Creek Reservoir/Lake Zwerner in Lumpkin County, Georgia.
This Request for Proposal is a part of a Georgia Department of Natural Resources Recreational Trails Program grant Lumpkin County Government has been awarded. More information on this grant program can be found - https://gadnr.org/RTP.
The detailed scope of work can be found in **Section 2.0**.

### 1.2 Proposal Certification

Pursuant to the provisions of the Official Code of Georgia Annotated § 50-5- 67(a), Lumpkin County certifies that the use of competitive sealed proposals will be practical or advantageous to the County in completing the acquisition described in this document.

The owner shall have the right to waive any informality, irregularity, or insufficiency in the proposal procedure and in any proposal or proposals received, and to accept the proposal which, in the Owner's sole judgment, is in the Owner's own best interest. The Owner shall have the right to accept any proposal.

### 1.3 Schedule of Events

The Request for Proposals shall be governed by the following schedule:

| DATE | ACTIVITY |
|---|---|
| March 22, 2023 | Release of RFP |
| March 29, 2023, 1:00PM EDT | Pre-proposal meeting/site visit |
| April 4, 2023, 12:00PM EDT | Deadline for written questions to Purchasing Agent |
| April 6, 2023, 5:00PM EDT | Answers to written questions and addenda posted to website |
| April 12, 2023, 2:00 pm EDT | Proposals Due |
| May 16, 2023 | Board Meeting- Selection of awarded vendor |
| June 5, 2023 | Notice to Proceed |

### 1.4 Restrictions on Communications

From the issue date of this RFP until a vendor is selected and the award is announced, contractors are not allowed to communicate about this project with any County staff or elected officials except: 1) through the Purchasing Agent named herein, 2) at the Pre-Proposal Meeting (if applicable to project), or 3) as provided by existing work agreement(s). The County reserves the right to reject the submittal of any vendor violating this provision.

## 1.5 Pre-Proposal Conference

A pre-proposal site visit for this project will be held on Wednesday, March 29, 2023 at 1:00 PM at Yahoola Creek Reservoir/Lake Zwerner dam parking lot located at 1330 Morrison Moore Pkwy E, Dahlonega, GA 30533. It is recommended, but not required, to attend.

## 1.6 Questions & Addenda

All questions concerning this RFP **must be submitted in writing**, (email is preferred but fax and mail may also be used) to the Purchasing Agent no later than 12:00 PM, April 4, 2023.

Ryan McDuffie, Purchasing Agent
Lumpkin County Board of Commissioners
99 Courthouse Hill, Suite D
Dahlonega, GA 30533
ryan.mcduffie@lumpkincounty.gov
Fax: 706-482-2201

No response to inquiries, other than written, will be binding upon the County. Lumpkin County reserves the right to issue written addenda to any inquiries that alter the scope of the RFP. Addenda shall be posted to the county website, www.lumpkincounty.gov, under the Bids & Solicitations tab no later than 5:00 PM, April 6, 2023. A signed copy of any addenda shall accompany submitted proposals. **Contractors are advised to check the website for addenda before submitting their proposals.**

## 1.7 Contract Term

The contract between the County and the contractor shall become effective upon signing and shall remain in force until completion of the project, or until notice of termination, in writing, is given by the other party as provided herein. Lumpkin County reserves the right to terminate the contract at any time if successful contractor fails to meet requirements stated in the proposal.

## 1.8 Bonds

| | |
|---|---|
| Bid Bonds | 5% of total bid amount |
| Performance and Payment Bonds | 100% of total contract price (required of awarded vendor only) |

## 1.9 Exception to RFP

Each contractor shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP. An "exception" is defined as the Proposer's inability or unwillingness to meet a term, condition, specification, or

requirement in the manner specified in the proposal. All exceptions taken **must** be identified and explained in writing in your RFP and must specifically reference the relevant section(s) of this RFP. If the Proposer provides an alternate solution when taking an exception to the requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Proposer's solution must be explained in detail.

The County welcomes innovative suggestions and recommendations from Proposers that will ensure a 100% successful service approach.

## 2.0 SCOPE OF WORK

The Lumpkin County Board of Commissioners is soliciting sealed proposals from qualified professional trail builders to construct approximately 2 miles of natural surface trail, realign a section of the existing trail, construct 2 trailhead kiosks, and construct 4 wayfinding posts at the Yahoola Creek Reservoir/Lake Zwerner in Lumpkin County, Georgia.

This Request for Proposal is a part of a Georgia Department of Natural Resources Recreational Trails Program grant Lumpkin County Government has been awarded. More information on this grant program can be found - https://gadnr.org/RTP.

### 2.1 DESCRIPTION OF PROJECT

Trail Name: Yahoola Creek Reservoir/Lake Zwerner

Project Map: The existing trail, proposed trail, realignment section, trailhead kiosks, and wayfinding posts are included in the KMZ file below and as Attachment 3 of the RFP.
Google Link to folder with KMZ File

Project Overview: Yahoola Creek Reservoir/Lake Zwerner is a recreational reservoir for pedestrians. The property currently has an approximate 3.1-mile loop. The purpose of this project is to construct approximately 2 miles natural surface trail, realign a section of existing trail, construct 2 trailhead kiosks, and construct 4 wayfinding posts.

The goal of the project is to enhance the Yahoola Creek Reservoir/Lake Zwerner property by constructing new trails and trail-related amenities. This project was identified as a result of public input in the development of the Yahoola Creek Reservoir Master Plan adopted by the Lumpkin County Board of Commissioners in 2021.

### 2.2 PROJECT DETAILS

The proposed new miles of trail should comply with best practices for trail building techniques. The new miles should be constructed in a way that will provide the widest range of potential trail users, especially those who are more beginner to intermediate.

Trail work may include, but is not limited to the following: mobilization/demobilization, site cleanup, erosion control measures, repair from ingress/egress, or clearing trees and vegetation, grubbing, excavation, back sloping, deberming, and compacting. The trail shall be sustainable, constructed to minimize erosion and require little maintenance.

The following specifications and standards cannot cover all aspects of trail construction. They are simply intended to relay the intent of the project.

**Item 1**- Contractor will work with Lumpkin County Government staff to finalize the proposed 2-mile section of trail. The final layout will ensure the new trail will maintain proper cross slope drainage, as well as constructed as a full bench with no fill slopes to create a durable and low maintenance tread. There are existing flags marking the new proposed trail, which is a mix of new trail, old road beds, and farm terraces. There is considerable clearing work required on this section of the project. Any hazardous trees will be marked in advance for removal.

**Item 2**- Contractor will work with Lumpkin County Government staff to finalize the proposed Hwy 52 realignment. The intention is to relocate the trail away from the road (Hwy 52) and place it on top of the berm, or further into the wood line. A short boardwalk is also needed for this section due to water coming off Hwy 52 and entering the trail. This boardwalk will be approximately 16' long and will be placed where the trail comes off the berm and joins the dam.

**Item 3**- There is a need for approximately 4 bridges/small boardwalks to safely get users across certain areas of the new 2-mile section. There are three creeks and one short/steep drainage area.

**Item 4**- The RFP calls for the construction and installation of 2 trailhead kiosks and 4 post wayfinding posts.
Kiosk will be constructed using 6"x 6" x 8' recycled plastic posts with 2"x 6"x 30" cross pieces to support the sign. Kiosks will be buried 2' below grade and cemented in with at least 60# of concrete for each leg (Example Attachment 1). Wayfinding posts will be 6"x 6" x 4'. Each post will be buried 1' below grade and cemented in with at least 60# of concrete. The posts will extend 3' above grade (Example Attachment 2).

Additional Construction Details:

- Work shall be completed with hand tools or low impact mechanized equipment with a footprint no wider than the specified trail tread unless approved by the project manager.
- The trail backslope shall transition smoothly to the hillside above.
- All trail tread shall be out sloped 3-5%.
- Grades shall not exceed an overall average of 10%.
- All vegetative/root matter in the trail tread shall be removed except for large feeder roots which shall be covered with soil to raise the trail tread above the roots.
- The trail tread shall have a compacted mineral soil surface. Compaction shall be completed using a mechanized tamper such as a vibrating plate compactor. The trail bed shall be shaped to leave an even, compacted, uniform surface free of indentations or protruding roots and stumps. The grading of trail tread, back slope, and drainage features shall be finished to a smooth, stable surface.
- Excavated material shall be evenly distributed downhill of the trail tread and shall not form a berm on the outer edge of the tread that will restrict the natural flow of water across and off the trail.
- During the construction, the trail should be finished and packed as work is completed. The intention is that as long as it is stabilized during construction, no silt fencing would be required.
- Trail constructed within 100' of streams shall be completed and stabilized in the by the end of each workday.
- Excavated and disturbed soil outside of the trail tread and backslope shall be covered with leaves and other organic debris to resemble the surrounding forest floor. There shall be 50% coverage at a minimum.

Architectural Barriers Act Information:

The project has ***exemption*** from the Trail Accessibility. Exemption was requested based on the following considerations:

- Compliance not practicable due to terrain
- Compliance cannot be accomplished with the prevailing construction practices,
- Compliance would fundamentally alter the function or purpose of the Facility or the setting.

## 3.0 MANDATORY PROPOSAL REQUIREMENTS

**3.1** **Overview:** The proposer shall provide detailed information so as to demonstrate their understanding of the services requested.

**3.2** **Documents:** Lumpkin County, Georgia is not interested in elaborate brochures. All documents will be typewritten on standard 8 ½" x 11" white paper and bound in two volumes (**Volume 1-Qualifications Proposal and Volume II Cost Proposal**). Exceptions would be schematics, exhibits, photographs, or other information necessary to facilitate the County's ability to accurately evaluate the proposal. The County requests 1 original and 3 copies of each volume.

**3.3** **Submission:** The Proposer shall package and seal its proposals so that they will not be damaged in mailing. The County requests 1 original and 3 copies of each volume. **Volumes I and II are to be packaged and sealed separately**. Proposers are reminded that under Georgia law, all opened documents fall under the open records act and are subject to inspection by the public. Proposers are reminded that documents and information in the possession of Lumpkin County will be treated as confidential/proprietary information only to the extent permitted by the Georgia Open Records Act and will be exempt from disclosure to a third party only to the extent permitted by the Georgia Open Records Act. Should you believe that your Proposal contains any trade secrets, you must submit an affidavit, along with the Proposal, that states that specific portions of the Proposal contain trade secrets as defined by Georgia law (Article 27 of Chapter 1 of Title 10 of the Official Code of Georgia). Furthermore, the **affidavit must be detailed, citing specifically (citing paragraphs, articles, provisions, pages, etc.)** the portions of the Proposal containing any trade secrets. Accordingly, proprietary information and/or data cannot be withheld from public inspection. Proposals and supporting documents will be submitted in accordance with the Evaluation and Proposal Submission Section.

A prospective service provider's response shall include, at minimum, the following information. Please note that the proposal should address the requirements in a clear and concise manner in the order stated herein.

Proposals must be tabbed as follows and must include, in the applicable tab, the information/documents specified. Proposals that do not adhere to the following format or include the required information/documents may be considered incomplete and therefore non-responsive.

**VOLUME I- QUALIFICATIONS PROPOSAL**

**TAB 1 – Project Approach (Methodology)**
**TAB 2 – Experience on Similar Projects**
**TAB 3 – Qualifications and Abilities of Professional Personnel**
**TAB 4 – Client References for Similar Projects**

**VOLUME II – COST PROPOSAL**

**TAB 1 – COST PROPOSAL**

Each Proposer is required to submit a cost proposal as part of its response. The cost proposal will be evaluated and scored in accordance with scoring criteria. By submitting a response, the supplier agrees that it has read, understood, and will submit a Proposal by the following instructions/rules:

1. The submitted cost proposal must include all costs of performing pursuant to the resulting contract; and
2. Cost proposals containing a minimum order/ship quantity or dollar value, unless otherwise called for in the RFP, will be treated as non-responsive and may not be considered for award; and
3. In the event there is discrepancy between the Proposer's unit price and extended price, the unit price shall govern;
4. In the event there is a discrepancy between (1) the Proposer's pricing as quoted on the RFP's provided cost worksheet and (2) the Proposer's pricing as quoted by the Proposer in one or more additional documents, the former shall govern; and
5. The prices quoted and listed in the cost proposal shall be firm throughout the term of the resulting contract, unless otherwise noted in the RFP or contract.

The County's intent is to structure the cost format in order to facilitate comparison among all Proposers and foster competition to obtain the best market pricing. Consequently, the County requires that each Proposer's cost be in the format outlined below. Additional alternative cost structures will not be considered. Each supplier is cautioned that failure to comply with the instructions listed below, submission of an incomplete offer, or submission of an offer in a different format than the one requested may result in the rejection of the supplier's proposal.

## 4.0 PROPOSAL EVALUATION FACTORS

It is the County's intent to evaluate the proposals based on technical merit and price. It is the intent of the County to choose the Proposer whose proposal provides the highest value to the County. The County reserves the right to waive any irregularities, reject any and/or all proposals, in whole or in part, when, in the County's opinion, such rejection is in the best interests of the County. The County reserves the right to seek additional/supplemental representation on specific issues as needed.

### 4.1 Technical Evaluation Method

Each proposal will be reviewed by a team of qualified individuals. Their proposal review and evaluation will be subjective; however, the weighting values are established to minimize that subjectivity. The following delineates the value attributed to each section.

| SECTION | WEIGHT |
|---|---|
| **Project Approach (Methodology)** | **20 points** |
| **Experience on Similar Projects** | **20 points** |
| **Qualifications and Abilities of Professional Personnel** | **20 points** |
| **Client References for Similar Projects** | **20 points** |
| **Cost** | **20 points** |
| **Total** | **100 points** |

**Following the evaluation of the proposals, the Team may request the top-ranking firm(s) to make an oral presentation and/or be interviewed. If a determination is made that presentations are necessary, they will take place in Dahlonega, Georgia at a mutually acceptable date and time that will be promulgated by the Purchasing Agent.**

Based on the total score of the Technical and Cost proposals, the Board of Commissioners may choose Proposers with whom to negotiate the final project methodology/scope, fees, and schedules with a view toward entering into a contractual agreement.

***NOTE***: The BOC reserves the right to accept a proposal, as submitted, and enter directly into a contractual agreement with that selected Proposer. Accordingly, it is imperative that all Proposers present their best technical and cost offers in their initial submission.

## 5.0 RFP Amendments

The County reserves the right to amend the RFP prior to the proposal due date. All addenda and additional information will be posted to the County's website www.lumpkincounty.gov under Bids & Solicitations project RFP 2023-003 TRAIL CONSTRUCTION, prior to 5:00 pm, EDT on April 6, 2023. **It is the Proposer's responsibility to check the website for addenda before submitting a proposal. All signed addenda shall be included with the proposal.**

### 5.1 Agreement and Project Forms

The agreement form shall be the Owner's agreement form. The Owner's payment, waiver of lien, and change order form(s) shall be used.

### 5.2 RFP Withdrawal

A submitted RFP may be withdrawn prior to the due date by a signed written request to the Purchasing Agent.

### 5.3 Costs for Preparing RFP

The cost for developing the RFP is the sole responsibility of the contractor. The County will not provide reimbursement for such cost.

## 5.4 Conflict of Interest

If a Proposer has any existing client relationship that involves Lumpkin County, the Proposer must disclose each relationship.

## 5.5 Contractor Selection

Lumpkin County anticipates making a single award; however, it reserves the right to make multiple awards should it deem in the best interest of the County. It is anticipated that such an award, if any, will be accomplished within sixty (60) days (unless otherwise agreed upon by the Proposer(s) and the County) from the proposal opening.

## 5.6 Negotiations and Apparent Winner

Prior to award, the apparent winning proposer will be required to enter into discussions with the County to resolve any contractual differences. These discussions are to be finalized within two (2) weeks of notification unless extending the time period is advantageous to the County. Failure to resolve differences will lead to rejection of the contractor's RFP.

The County reserves the right to negotiate modifications and costs with the successful Proposer, provided that no such modifications affect the specifications set forth herein. The contractor shall commence work only after the transmittal of a fully executed contract and a Notice to Proceed document is received from the County.

## 5.7 Taxes

Lumpkin County is exempt from sales taxes; however, the contractor shall pay all taxes required as stated by law. Lumpkin County cannot exempt others from tax.

## 5.8 Compliance with Laws

The contractor will comply with all State and Federal laws, rules, and regulations.

## 5.9 Non-Collusive Bidding

Contractor shall not prevent or attempt to prevent competition in bidding or proposals by any means whatsoever. Contractor shall not prevent or endeavor to prevent anyone from making a bid or proposal by any means whatsoever, nor shall Contractor cause or induce another to withdraw a bid or proposal for the work. § 36-91-21.

If the contractor is a partnership, all of the partners and any officer, agent, or other person who may have represented or acted for them in bidding for or procuring the contract shall also make the oath. If the contractor is a corporation, all officers, agents, or other persons who may have acted for or represented the corporation in bidding for or procuring the contract shall make the oath. If such oath is false, the contract shall be void, and all sums paid by the governmental entity on the contract may be recovered by appropriate action.

## 5.10 Cancellation

If either party shall refuse, fail, or be unable to perform or observe any of the terms or conditions of the contract for any reason, then the party claiming such failure shall give the other party a written notice of such breach. If within thirty (30) days from such notice, the failure has not been corrected, the injured party may cancel the contract effective thirty (30) days after notice of cancellation.

Lumpkin County reserves the right to terminate the contract immediately in the event that the contractor discontinues or abandons operations, is adjudged bankrupt or is reorganized under any bankruptcy law or fails to keep in force any required insurance policies or bonds.

Failure of the successful Proposer to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by the County without penalty to Lumpkin County. Lumpkin County shall pay for services rendered up to the point of termination.

Notwithstanding anything to the contrary contained in the contract between the County and the successful contractor, the County may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the successful Proposer.

If the termination clause is used by the County, the successful contractor will be paid by the County for all scheduled work completed satisfactorily by the successful contractor up to the termination date set forth in the written termination notice.

## 5.11 Conditions of Materials

It is understood and agreed that materials delivered shall be new, of latest design, and in first quality condition.

## 5.12 Rejection of Submissions/Cancellation of Request for Proposal

Lumpkin County reserves the right to reject any or all RFPs, to waive any irregularity or informality in an RFP, and to accept or reject any item or combination of items, when to do so would be to the advantage of Lumpkin County. It is also within the rights of Lumpkin County to reject RFPs that do not contain all elements and information requested in this document. Lumpkin County reserves the right to cancel this request for proposal at any time. Lumpkin County will not be liable for any cost/losses incurred by the contractors throughout this process.

## 5.13 Non-discrimination

Lumpkin County does not discriminate on the basis of race, religion, color, sex, national origin, age, or disability.

## 5.14 Insurance

The contractor shall be responsible for his/her work and every part thereof and for all materials, tools, equipment, appliances, and properties of any and all description used in connection with this project. The contractor assumes all risks of direct and indirect damage or injury to the property of persons used or employed on or in connection with the work contracted for and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission, or operation under the contract, or in connection in any way whatsoever with the contracted work. The contractor shall, during the continuance of all work under the contract, provide the following:

1. Maintain statutory Worker's Compensation and Employer's Liability insurance in an amount not less than $1,000,000.00 to protect the contractor from any liability or damages for any injuries (including death and disability) to any of its employees, volunteers, or sub-contractors, including any and all liability or damage which may arise by virtue or any statute or law in force within the State of Georgia, or which may be herein after enacted.
2. The Proposer agrees to maintain Comprehensive General Liability Insurance in an amount of not less than $1,000,000.00 per occurrence to protect the contractor, it's sub-contractors, and the interest of the County against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with the contracted work. The General Liability Insurance shall also include the Broad Form Property Damage Liability endorsement, in addition to coverage for explosion, collapse, and underground hazards where required.
3. The contractor agrees to maintain Automobile Liability Insurance in an amount of not less than $500,000 per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles.
4. The contractor further agrees to protect, defend, indemnify, and hold harmless Lumpkin County, its commissioners, officers, agents, and employees from and against any and all liability incurred whatsoever as a result of the work performed pursuant to the terms of this proposal.
5. The contractor shall notify the County in writing sixty (60) days prior to change in insurance or cancellation date. The failure of the contractor to deliver a new certificate shall result in suspension of all payments until the new certificate is furnished. Additionally, contract work may be suspended until the new certificate is furnished to the County.
6. Insurance coverage required in these specifications shall be in force throughout the contract term. Should the contractor fail to provide acceptable evidence of current insurance within five (5) days of written notice at any time during the contract term, the owner shall have the absolute right to terminate the contract without any further obligation to the contractor. Furthermore, the contractor shall be responsible for the cost of procuring the uncompleted portion of the contract at the time of termination.
7. Contractual and other liability insurance provided under the contract shall not contain a supervision, inspection, or engineering services exclusion that would preclude the County from supervising and/or inspecting the project as to the end result. The contractor shall assume all on the job responsibilities as to the control of persons under its direct employment and of the sub-contractors and any persons employed by the sub-contractors.
8. The contractor and all sub-contractors shall comply with the Occupational Safety and Health Act of 1970 and amendments as it may apply to this contract.
9. If the contractor does not meet the insurance requirements of the specifications, alternate insurance coverage satisfactory to the County may be considered. The

contractor shall be responsible for the costs of any and all alternate insurance coverage so obtained.

## 5.15 Project Coordination

The contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The contractor shall designate one such person as a Project Manager, and the Project Manager shall be deemed to be the contractor's authorized representative, who shall be authorized to receive and accept any and all communication from the County.

The contractor hereby agrees to replace any personnel of sub-contractor, at no cost or penalty to the County, if the County reasonably determines that the performance or any sub-contractor or personnel is unsatisfactory.

## 5.16 Accuracy of Work

The contractor shall be responsible for the accuracy of work performed and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the County will not relieve the contractor of the responsibility for subsequent correction of errors, the clarification of any ambiguities, or the costs associated with any additional work caused by negligent acts, errors, or omissions by the contractor or latent defects in the products sold by the contractor.

At any time during the execution of this project or during any phase of work performed by others based on data secured by the contractor under this agreement, the contractor shall confer with the County for the purpose of interpreting the information supplied by the contractor and to correct any errors or omissions. The above consultations, clarifications, and/or corrections shall be made without added compensation to the contractor.

The contractor shall give immediate attention to these changes so there will be minimum delay to others, the contractor shall be responsible for errors and omissions and hold harmless the County and its agents as provided in the agreement.

## 5.17 News Release by Contractor

As a matter of policy, the County does not endorse the products or services of a contractor. News releases concerning any resultant contract from this solicitation shall not be made by a contractor without the proper written approval of the County. All proposed news releases shall be routed to the Lumpkin County Purchasing Agent for review and approval.

## 5.18 Severability

It is understood and agreed by the parties hereto that if any part, term, or provision of this contract is held illegal or in conflict with any law of the State where made or having jurisdiction over any of the parties hereto, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular part term or provisions held to be invalid.

The County and the contractor agree to resolve through negotiation or mediation prior to

filing any cause of action. The venue for any litigation arising from this contract shall be Lumpkin County, Georgia.
The County reserves the right to cancel the contract and discontinue the services with a thirty (30) day written notice as a result of the failure of the contractor to provide acceptable work and services as delineated in the response to this document or if determined that services can be better provided by in-house or other sources.

**5.19 Drug Free Workplace**

By submission of a proposal, the contractor certifies that the provisions of Code Sections 50-24- 1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug Free Workplace Act," have been complied with in full. The Proposer further certifies that:

**5.19.1** A drug free workplace will be provided for the contractor's employees during performance of the contract; and

**5.19.2** Each contractor who hires a sub-contractor to work in a drug free work place shall secure from that sub-contractor the following written certification: as part of the sub-contracting agreement, Sub-Contractor certifies to the contractor that a drug free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of sub-section (b) of Code Section 50-24-3.

**5.19.3** The contractor further certifies that he will not engage in the unlawful manufacture, sale distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of this contract.

**5.20 Assignment of Contractual Rights**

It is agreed that the contractor will not assign, transfer, convey, or otherwise dispose of a contract that may result from this proposal or his right, title, or interest in or to the same, or any part thereof without written consent of the County.

**5.21 Indemnity**

To the fullest extent permitted by law, the contractor will indemnify, defend, and hold Lumpkin County harmless from and against any and all claims, damages, losses, and expenses, including but not limited to, fees and charges of attorneys and court and arbitration costs, arising out of or resulting from negligent acts, negligent omissions, willful misconduct, or reckless misconduct of the Proposer or anyone for whom the contractor is responsible.

**5.22 Appropriation of Funds**

The initial contract and any continuation contract(s) shall terminate immediately and absolutely at any such time as there are no appropriated and otherwise unencumbered funds available to satisfy the County's obligation under said contract(s).

**5.23 Documents Deemed Part of Contract**

All contract documents issued by the owner and executed by both parties through the completion of the project shall be deemed part of the contract. No documentation or

information provided by the contractor, as part of this proposal or otherwise, shall be deemed part of the contract unless and until incorporated into the contract documents issued by the owner.

### 5.24 Georgia Security and Immigration Compliance Act

Proposers submitting a response to this Request for Proposal **must** provide the following information in the package to indicate compliance with the Georgia Security and Immigration Compliance Act. The form is provided for completion.

### 5.25 Gratuities

Lumpkin County acknowledges that, particularly during the holiday season, it may be customary to provide gifts to employees or departments. However, the Lumpkin County Personnel Policy prevents the acceptance of such gifts. Your cooperation in respecting the policy is appreciated.

### 5.26 Contraband

Employees of the successful Proposer shall not enter County Buildings with goods or products that shall be considered contraband, i.e. drugs, drug paraphernalia, tobacco products smokeless or otherwise, etc.

# PROPOSER'S TECHNICAL CHECKLIST PROPOSAL SUBMITTAL PACKET

## (For use with Volume I- Qualifications Proposal)

Company: _____

Please indicate you have completed the following documentation and submit them in the following order:

☐ Proposers Qualification Sheet

☐ Tab 1- Project Approach (Methodology)

☐ Tab 2- Experience on Similar Projects

☐ Tab 3- Qualifications and Abilities for Professional Personnel Projects

☐ Tab 4- Client References for Similar Projects

_____

Authorized Signature Title

_____

Print Name Date

**THIS PAGE MUST BE COMPLETED AND SUBMITTED WITH PROPOSAL**

# PROPOSER'S QUALIFICATION SHEET

All references must include information for whom your company has completed work similar to the Scope of Work in this Proposal. Attach additional page if necessary.

Company Name: _____

Company_____

Street Address _____

City, State & Zip _____

Contact Person Name_____Title _____

Phone_____FAX _____Email _____

Describe Scope of Work and dates of project/service: _____

_____

Company_____

Street Address _____

City, State & Zip _____

Contact Person Name_____Title _____

Phone_____FAX_____Email _____

Describe Scope of Work and dates of project/service: _____

_____

Company_____

Street Address _____

City, State & Zip _____

Contact Person Name_____Title _____

Phone_____FAX_____Email _____

Describe Scope of Work and dates of project/service: _____

_____

**THIS PAGE MUST BE COMPLETED AND SUBMITTED WITH PROPOSAL**

# PROPOSER'S FINANCIAL CHECKLIST AND PROPOSAL SUBMITTAL PACKET
## (For Use with Volume II- Cost Proposal)

Company Name: _____

Please indicate you have completed the following documentation and submit them in the following order:

☐ Proposer's Information

☐ Execution of Proposal

☐ Unit Pricing Table

☐ Proposal Fee Form

☐ Affidavit of Non-Collusion

☐ Acknowledgement of DNR Recreational Trail Program Rules & Regulations

☐ Drug-Free Workplace

☐Addenda Acknowledgement

☐Georgia's Security and Immigration Compliance Act Affidavit

☐Completed W9

☐Proof of Insurance

_____ _____

Authorized Signature Title

_____ _____

Print Name Date

**THIS PAGE MUST BE COMPLETED AND SUBMITTED WITH PROPOSAL**

## PROPOSER'S INFORMATION FORM

1. Legal Business Name_____

2. Street Address _____

3. City, State & Zip_____

4. Type of Business: State of Registration: _____
   (Association, Corporation, Partnership, Limited Liability Company, etc.)

5. Name & Title of Authorized Signer: _____

6. Primary Contact: _____

7. Phone: _____ Fax: _____

8. E-mail _____

9. Company Website_____

10. Has your company ever been debarred from doing business with any federal, state or local agency?

Yes ____ No _____

If yes, please state the agency name, dates and reason for debarment.

_____

_____

_____

**THIS PAGE MUST BE COMPLETED AND SUBMITTED WITH PROPOSAL**

## PROPOSER'S EXECUTION OF PROPOSAL FORM

DATE: _____

The potential Contractor certifies the following by placing an "X" in all blank spaces:

___ That this bid was signed by an authorized representative of the firm.

___ That the potential Contractor has determined the cost and availability of all materials and supplies associated with performing the services outlined herein.

___ That all labor costs associated with this project have been determined, including all direct and indirect costs.

___ That the potential Contractor agrees to the conditions as set forth in this Request for Proposal with no exceptions.

Therefore, in compliance with the foregoing proposal, and subject to all terms and conditions thereof, the undersigned offers and agrees, if this proposal is accepted within sixty (60) days from the date of the opening, to furnish the services for the prices quoted within the timeframe required.

_____

Business Name

_____

Authorized Signature Date

_____

Typed Name & Title

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

# UNIT PRICING TABLE

| **Description of Item 1** | **Units** | **Estimated Quantity** | **Unit Price (Price per LF)** | **Total Price** |
|---|---|---|---|---|
| 2-mile new pedestrian trail *(approximately 3' tread)* | LF | 10,500' | | |
| Details: | Contractor will work with Lumpkin County Government staff to finalize the proposed 2-mile section of trail. The final layout will ensure the new trail will maintain proper cross slope drainage, as well as constructed as a full bench with no fill slopes to create a durable and low maintenance tread.<br><br>There are existing flags marking the new proposed trail, which is a mix of new trail, old road beds, and farm terraces. There is considerable clearing work required on this section of the project. Any hazardous trees will be marked in advance for removal.<br><br>Price should include:<br>• Final re-flagging<br>• Clearing (including any hazardous trees)<br>• Tread construction<br>• Compaction<br>• Finish Work<br>• All tree cutting and clearing | | | |
| | | | | |
| **Description of Item 2** | **Units** | **Estimated Quantity** | **Unit Price (Price per LF)** | **Total Price** |
| 52 Realignment *(approximately 3' tread)* | LF | 500' | | |
| Details: | Contractor will work with Lumpkin County Government staff to finalize the proposed 52 realignment. The intention is to relocate the trail away from road and place it on top of the berm, or further into the wood line.<br><br>A short boardwalk is also needed for this section due to water coming off 52 and entering the trail. This boardwalk will be approximately 16' long and will be placed where the trail comes off the berm and joins the dam.<br><br>Price should include:<br>• Final re-flagging<br>• Clearing (including any hazardous trees)<br>• Tread construction<br>• Compaction<br>• Finish Work<br>• All tree cutting and clearing | | | |

| | | | | |
|---|---|---|---|---|
| **Description of Item 3** | **Units** | **Estimated Quantity** | **Unit Price** | **Total Price** |
| Bridges/boardwalks along 2-mile section | Each | 3 for creek crossings as breakaway boardwalks | | |
| | Each | 1 steep drainage crossing breakaway boardwalk will require a handrail for a portion and a small amount of rock work | | |
| Details: | There is a need for approximately 4 bridges/small boardwalks to safely get users across certain areas. There are three creeks and one short/steep drainage area. | | | |
| | | | | |
| **Description of Item 4** | **Units** | **Estimated Quantity** | **Unit Price** | **Total Price** |
| Kiosks and Wayfinding Posts | Each | 2 Kiosks | | |
| | Each | 4 Wayfinding Posts | | |
| Details: | The RFP calls for the construction and installation of 2 kiosks and 4 post wayfinding posts.<br>• Kiosk will be constructed using 6”x 6” x 8’ recycled plastic posts with 2”x 6”x 30” cross pieces to support the sign. Kiosks will be buried 2’ below grade and cemented in with at least 60# of concrete for each leg (Example Attachment 1)<br>• Wayfinding posts will be 6”x 6” x 4’. Each post will be buried 1’ below grade and cemented in with at least 60# of concrete. The posts will extend 3’ above grade (Example Attachment 2). | | | |

Contractor will provide a statement of understanding and details of how they will accomplish each Item of the RFP.

## PROPOSAL FEE FORM

I have read and understand the requirements of this **RFP # 2023-003 TRAIL CONSTRUCTION** and agree to provide required services in accordance with this proposal and all other attachments, exhibits, etc. I understand that the County will not be responsible for the reimbursement of any costs not specifically set forth in this proposal.

LUMP SUM TOTAL $_____

I hereby certify that this Financial Proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a Proposal for the same services and is in all respects fair and without collusion or fraud. I certify that I am authorized to sign this Financial Proposal.

Company Name_____

Authorized Signature_____

Print Name _____ Date_____

## PROPOSER'S AFFIDAVIT OF NON-COLLUSION

I,_____, certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid/proposal for the same services and is in all respects fair and without collusion or fraud. I understand that collusive bidding is a violation of state and Federal law and can result in fines, prison sentences, and civil damages awards.

I certify that I did not prevent or attempt to prevent competition in bidding or proposals by any means whatsoever. I did not prevent or endeavor to prevent anyone from making a bid or proposal by any means whatever. I did not, nor will I, cause or induce another to withdraw a bid or proposal for the work.

I have not directly or indirectly violated subsection (d) of O.C.G.A § 36-91-21, nor has any officer, representative, agent or other person acting on behalf of my company.

If this oath is false, the contract shall be void, and all sums paid by Lumpkin County on the contract may be recovered by appropriate action.

**COMPANY NAME:** _____

_____

Authorized Representative (Signature) Date

_____

Authorized Representative/Title

_____

(Print or Type)

This affidavit is given this_____day of_____, 2023.

Sworn to and subscribed before me this_____day of_____, 2023.

_____ _____

Notary Public Commission Expires

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

**Acknowledgement of DNR Recreational Trail Program Rules & Regulations**

I _____ (Name of individual submitting RFP) representing

_____ (Name of Company) acknowledge that if awarded the Yahoola Creek Reservoir/Lake Zwerner Trail project by Lumpkin County Government, we agree to comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to implementation of the Project, including without limitation 23 USC 206 and ORS 390.980 which makes funds available for the purposes of Recreational Trail Program.

Key regulations include, but are not limited to:

- 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements
- for Federal Awards2 CFR 1201
- FHWA Recreational Trails Program Interim Guidance
- 23 U.S.C. 206 Recreational Trails Program
- 23 U.S.C. 104 (h), Recreational Trails Program Apportionments
- 23 U.S.C. 106, Project Approval and Oversight
- 23 CFR 1.36, Compliance with other Federal Laws and Regulations
- 23 CFR 771, Environmental Requirements
- 23 CFR 635.410 Buy America
- 49 CFR 29, Suspension and Debarment
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- 23 U.S.C. 114(b), Convict Labor
- 29 CFR 3, Anti-Kickback (Copeland Act)
- 23 U.S.C. 113, Prevailing Wage Rate (Davis Bacon Act)

BY _____ _____

(Company Representative) (Date)

_____

(Witness)

# DRUG FREE WORKPLACE FORM

I hereby certify that I am a principle and duly authorized representative of: _____

_____

whose address is: _____

And it is also that:

1. The provisions of Section § 50.24.1 through § 50.24.6 of the Official Code of Georgia Annotated, relating to the "Drug Free Workplace Act" have been complied with in full; and,

2. A drug free workplace will be provided for the CONTRACTOR'S employees during the performance of the contract; and,

3. Each subcontractor hired by the CONTRACTOR shall be required to ensure that the subcontractor's employees are provided a drug free workplace. The CONTRACTOR shall secure from that subcontractor the following written certification: "As part of the subcontracting agreement with

   _____
   Name of Sub Contractor

   certifies to the CONTRACTOR that a drug free workplace will be provided for the subcontractor's employees during the performance of this contract pursuant to paragraph (7) of subsection (b) of the Official Code of Georgia Annotated Section § 50.24.3"; and,

4. It is certified that the undersigned will not engage in unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.

_____

Signature Date

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

## ADDENDA ACKNOWLEDGEMENT

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

Addendum No. _____

Addendum No. _____

Addendum No. _____

Addendum No. _____

_____ _____

Authorized Representative (Signature) Date

_____

Authorized Representative/Title
(Print or Type)

***Proposers must acknowledge any issued addenda. Bids which fail to acknowledge the Proposer's receipt of any addendum will result in the rejection of the offer if the addendum contained information which substantively changes the Owner's requirements.***

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

# Georgia Security & Immigration Compliance (GSIC) Act Affidavit

As per the Georgia Senate Bill 529 and Senate Bill 447, the Georgia Department of Labor has promulgated new rules for the implementation of Section 2. O.C.G.A. §13-10-91 and Chapter 300-10-01-.02 state that no Georgia Public Employer shall enter into a contract for *the physical performance of services within the State of Georgia* unless the Contractor registers and participates in a federal work authorization program to verify the work eligibility information of all of its new employees.

The Employment Eligibility Verification "E-Verify" site operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security is the electronic federal work authorization program to be utilized for these purposes.

The website is https://e-verify.uscis.gov/enroll/

By executing the attached Contractor Affidavit, Contractor verifies its compliance with O.C.G.A. §13-10-91 stating affirmatively that the individual, firm, or corporation which is contracting with the Lumpkin County Board of Commissioners has registered and is participating in this federal work authorization program in accordance with the applicability provisions and deadlines established in this Statute.

Contractor further agrees that should it employ or contract with any Sub-Contractor(s) for the physical performance of services pursuant to the contract with the Lumpkin County Board of Commissioners, Contractor will secure from the Sub-Contractor(s) verification of compliance with O.C.G.A. §13-10-91 on a Sub-Contractor Affidavit and shall provide a copy of each such verification to the Lumpkin County Board of Commissioners at the time the Sub-Contractor(s) is retained to perform such services.

**PLEASE COMPLETE THE ATTACHED AFFIDAVIT AND RETURN IT TO:**

Ryan McDuffie
Lumpkin County Purchasing Agent
99 Courthouse Hill, Suite D
Dahlonega, GA 30533
Fax: (706) 482-2201
Email: ryan.mcduffie@lumpkincounty.gov

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

# LUMPKIN COUNTY BOARD OF COMMISSIONERS
## SAVE Affidavit
### (Systematic Alien Verification for Entitlements)
***Affidavit for a Public Benefit as required by the Georgia Immigration Reform and Enforcement Act of 2011***

By executing this affidavit under oath, as an applicant for a public benefit as referenced in the Georgia Illegal Immigration Reform and Enforcement Act of 2011 [O.C.G.A. § 50-36-1(e) (2)], I am stating the following:

**_____I am a United States citizen; or**

**_____I am a legal permanent resident of the United States*; or**

**_____I am an otherwise qualified alien or non-immigrant under the Federal Immigration and Nationality Act 18 years of age or older and lawfully present in the United States.***

*****Alien registration number for non-citizens issued by the Department of Homeland Security or other federal immigration agency is:

***At least one secure and verifiable document for identification purposes must be provided as required by O.C.G.A. § 50-36-1 (e) (1). See list on page 2 of this document.***

**********

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of Code Section 16-10-20 of the Official Code of Georgia and face criminal penalties as allowed by such criminal statute.

_____

Applying on behalf/Name of associated business

_____

Signature of Applicant Date

_____

Printed Name

SUBSCRIBED AND SWORN BEFORE ME ON THIS
THE_____DAY OF_____20___

_____ [NOTARY SEAL]

Notary Public
My Commission Expires: _____

***NOTE:** O.C.G.A. 50-36-1(e) (2) requires that aliens under the Federal Immigration and Nationality Act, Title 8 U.S.C., as amended, provides their alien registration number. Because legal permanent residents are included in the Federal definition of "alien," legal permanent residents must also provide their alien registration number. **[Page 1 of 2]**

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

**SECURE AND VERIFIABLE DOCUMENTS UNDER O.C.G.A. §50-36-2**
[Issued August 1, 2011 by the Office of the Attorney General, Georgia]

The following list of secure and verifiable documents, published under the authority of O.C.G.A. §50-36-2, contains documents that are verifiable for identification purposes, and documents on this list may not necessarily be indicative of residency or immigration status.

## INDICATE AND ATTACH A COPY OF THE DOCUMENT (Front and back)

☐ United States passport or passport card
☐ United States military identification card
☐ Merchant Mariner Document or Merchant Mariner Credential issued by the United States Coast Guard
☐ Secure Electronic Network for Travelers Rapid Inspection (SENTRI) card
☐ Driver's license issued by one of the United States, the District of Columbia, the Commonwealth of the Northern Marianas Islands, the United States Virgin Island, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth gender, height, eye color, and address to enable the identification of the bearer.
☐ Identification card issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the United States Virgin Island, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth gender, height, eye color, and address to enable the identification of the bearer.
☐ Tribal identification card issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the United States Virgin Island, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth gender, height, eye color, and address to enable the identification of the bearer.
☐ Passport issued by a foreign government
☐ Free and Secure Trade (FAST) card
☐ NEXUS card
☐ United States Permanent Resident Card or Alien Registration Receipt Card
☐ Employment Authorization Document that contains a photograph of the bearer.
☐ Certificate of Citizenship issued by the United States Department of Citizenship and Immigration Services (USCIS) [Form N-560 or Form N-561]
☐ Certificate of Naturalization issued by the United States Department of Citizenship and Immigration Services (USCIS) [Form N-550 or Form N-570]



**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

**E-Verify Affidavit**

*Georgia Security & Immigration Compliance (GSIC) Act*

**(CONTRACTOR) E-VERIFY AFFIDAVIT AND AGREEMENT**

The Lumpkin County Board of Commissioners and Contractor agree that compliance with the requirements of O.C.G.A. §13-10-91 and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. §13-10-91, *stating affirmatively that the individual, firm, or corporation which is contracting with the Lumpkin County Board of Commissioners has registered with and is participating the federal work authorization program known as "E- Verify", web address https://e-verify.uscis.gov/enroll/* operated by the United States Citizenship and Immigration Services Bureau of the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], *in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91*. The undersigned Contractor also verifies that he/she/it is using and will continue to use the federal work authorization program throughout the contract period.

The undersigned Contractor agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to the contract with the Lumpkin County Board of Commissioners, Contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. §13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees the Contractor will advise the Lumpkin County Board of Commissioners of the hiring a new subcontractor and will provide Lumpkin County Board of Commissioners with a Subcontractor Affidavit attesting to the Subcontractor's name, address, user identification number, and date of authorization to use the Federal Work Authorization Program within five (5) days of the hiring before the Subcontractor begins working on the Project. Contractor also agrees to maintain all records of such compliance for inspection by Lumpkin County Board of Commissioners at any time and to provide a copy of each such verification to the Lumpkin County Board of Commissioners at the time the subcontractor(s) is retained to perform such services.

_____

E-Verify Employment Eligibility Verification User Identification Number

_____

Date of Authorization to Use Federal Work Authorization Program

_____

NAME OF CONTRACTOR

_____

Title of Authorized Officer or Agent of Contractor

_____

Signature and Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE ____DAY OF_____, 20____

_____

Notary Public

My Commission Expires: _____

** As of the effective date of O.C.G.A. §13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA). Authority O.C.G.A. Sec. §13-10-91. Hist**ory:** Original Rule entitled "Contractor Affidavit and Agreement" adopted. F. May 25, 2007; eff. June 18, 2007, as specified by the Agency.*

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

**E-Verify Affidavit**

*Georgia Security & Immigration Compliance (GSIC) Act*

**(SUB-CONTRACTOR) E-VERIFY AFFIDAVIT AND AGREEMENT**

The Lumpkin County Board of Commissioners and Contractor agree that compliance with the requirements of O.C.G.A. §13-10-91 and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services.

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. §13-10-91, *stating affirmatively that the individual, firm, or corporation which is contracting with the Lumpkin County Board of Commissioners has registered with and is participating the federal work authorization program known as "E- Verify", web address https://e-verify.uscis.gov/enroll/* operated by the United States Citizenship and Immigration Services Bureau of the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], *in accordance with the applicability provisions and deadlines established in O.C.G.A. §13-10-91*. The undersigned Contractor also verifies that he/she/it is using and will continue to use the federal work authorization program throughout the contract period.

The undersigned Contractor agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to the contract with the Lumpkin County Board of Commissioners, Contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. §13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees the Contractor will advise the Lumpkin County Board of Commissioners of the hiring a new subcontractor and will provide Lumpkin County Board of Commissioners with a Subcontractor Affidavit attesting to the Subcontractor's name, address, user identification number, and date of authorization to use the Federal Work Authorization Program within five (5) days of the hiring before the Subcontractor begins working on the Project. Contractor also agrees to maintain all records of such compliance for inspection by Lumpkin County Board of Commissioners at any time and to provide a copy of each such verification to the Lumpkin County Board of Commissioners at the time the subcontractor(s) is retained to perform such services.

_____

E-Verify Employment Eligibility Verification User Identification Number

_____

Date of Authorization to Use Federal Work Authorization Program

_____

NAME OF SUB-CONTRACTOR

_____

Title of Authorized Officer or Agent of Sub-Contractor

_____

Signature and Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE ____DAY OF_____, 20____

_____

Notary Public

My Commission Expires: _____

** As of the effective date of O.C.G.A. §13-10-91, the applicable federal work authorization program is the "EEV / Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA). Authority O.C.G.A. Sec. §13-10-91. Hist**ory:** Original Rule entitled "Contractor Affidavit and Agreement" adopted. F. May 25, 2007; eff. June 18, 2007, as specified by the Agency.*

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

**Private Employer Exemption Affidavit Pursuant To O.C.G.A. § 36-60-6(d)**

By executing this affidavit, the undersigned private employer verifies that it is exempt from compliance with O.C.G.A. § 36-60-6, stating affirmatively that the individual, firm or corporation employs fewer than eleven employees and therefore, is not required to register with and/or utilize the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-90.

_____
Signature of Exempt Private Employer

_____
Printed Name of Exempt Private Employer

I hereby declare under penalty of perjury that the foregoing is true and correct. Executed on _____, 20__ in _____(city), __ (state).

_____
Signature of Authorized Officer or Agent

_____
Printed Name and Title of Authorized Officer or A g e n t

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

_____
NOTARY PUBLIC

My Commission Expires:_____

**THIS PAGE MUST BE COMPLETED AND SUBMITTED AS A PART OF YOUR PROPOSAL**

Form **W-9**
(Rev. December 2014)
Department of the Treasury
Internal Revenue Service

# Request for Taxpayer Identification Number and Certification

**Give Form to the requester. Do not send to the IRS.**

Print or type
See **Specific Instructions** on page 2.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▸

**Note.** For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

☐ Other (see instructions) ▸

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
Exempt payee code (if any)
Exemption from FATCA reporting code (if any)
*(Applies to accounts maintained outside the U.S.)*

**5** Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

**6** City, state, and ZIP code

**7** List account number(s) here (optional)

## Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Social security number**

– –

**or**

**Employer identification number**

–

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here** **Signature of U.S. person** ▸ **Date** ▸

# General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments**. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at *www.irs.gov/fw9*.

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding.* See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.

2. The treaty article addressing the income.

3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.

4. The type and amount of income that qualifies for the exemption from tax.

5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

***Example.*** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,

2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* above.

## What is FATCA reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of $50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a $500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

# Specific Instructions

## Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account, list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note. ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C Corporation, or S Corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

## Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

## Line 3

Check the appropriate box in line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box in line 3.

**Limited Liability Company (LLC).** If the name on line 1 is an LLC treated as a partnership for U.S. federal tax purposes, check the "Limited Liability Company" box and enter "P" in the space provided. If the LLC has filed Form 8832 or 2553 to be taxed as a corporation, check the "Limited Liability Company" box and in the space provided enter "C" for C corporation or "S" for S corporation. If it is a single-member LLC that is a disregarded entity, do not check the "Limited Liability Company" box; instead check the first box in line 3 "Individual/sole proprietor or single-member LLC."

## Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space in line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a) 11—

A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

| IF the payment is for . . . | THEN the payment is exempt for . . . |
|---|---|
| Interest and dividend payments | All exempt payees except for 7 |
| Broker transactions | Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012. |
| Barter exchange transactions and patronage dividends | Exempt payees 1 through 4 |
| Payments over $600 required to be reported and direct sales over $5,000[1] | Generally, exempt payees 1 through 5[2] |
| Payments made in settlement of payment card or third party network transactions | Exempt payees 1 through 4 |

[1] See Form 1099-MISC, Miscellaneous Income, and its instructions.

[2] However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a) J—

A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note.** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on this page), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at *www.ssa.gov*. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at *www.irs.gov/businesses* and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** *A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.*

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

| For this type of account: | Give name and SSN of: |
|---|---|
| 1. Individual | The individual |
| 2. Two or more individuals (joint account) | The actual owner of the account or, if combined funds, the first individual on the account[1] |
| 3. Custodian account of a minor (Uniform Gift to Minors Act) | The minor[2] |
| 4. a. The usual revocable savings trust (grantor is also trustee)<br>b. So-called trust account that is not a legal or valid trust under state law | The grantor-trustee[1]<br>The actual owner[1] |
| 5. Sole proprietorship or disregarded entity owned by an individual | The owner[3] |
| 6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A)) | The grantor* |
| **For this type of account:** | **Give name and EIN of:** |
| 7. Disregarded entity not owned by an individual | The owner |
| 8. A valid trust, estate, or pension trust | Legal entity[4] |
| 9. Corporation or LLC electing corporate status on Form 8832 or Form 2553 | The corporation |
| 10. Association, club, religious, charitable, educational, or other tax-exempt organization | The organization |
| 11. Partnership or multi-member LLC | The partnership |
| 12. A broker or registered nominee | The broker or nominee |
| 13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments | The public entity |
| 14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B)) | The trust |

[3] You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

[4] List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 2.

***Note.** Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to *phishing@irs.gov.* You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: *spam@uce.gov* or contact them at *www.ftc.gov/idtheft* or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudent information.

THIS PAGE LEFT INTENTIONALLY BLANK

**Attachment 1:**

**Attachment 2:**

**Attachment 3:**

N

150' BUFFER

50' BUFFER

RESOVOIR BOUNDARY

EXISTING TRAIL

PROPOSED TRAIL

100+88

100+00

99+00

98+00

97+00

96+00

95+00

94+00

93+00

92+00

91+00

90+00

89+00

88+00

87+00

86+00

85+00

84+00

83+00

82+00

81+00

80+00

79+00

78+00

77+00

76+00

75+00

FOOT BRIDGE

74+00

73+00

72+00

71+00

70+00

69+00

68+00

67+00

66+00

65+00

64+00

63+00

62+00

61+00

60+00

59+00

58+00

57+00

56+00

55+00

54+00

53+00

52+00

51+00

50+00

49+00

48+00

47+00

46+00

45+00

44+00

43+00

42+00

41+00

40+00

39+00

38+00

37+00

36+00

35+00

34+00

33+00

32+00

31+00

30+00

29+00

28+00

27+00

26+00

25+00

24+00

23+00

22+00

21+00

20+00

19+00

18+00

17+00

16+00

15+00

14+00

13+00

12+00

11+00

10+00

9+00

8+00

7+00

6+00

5+41.19

4+00

3+00

2+00

1+00

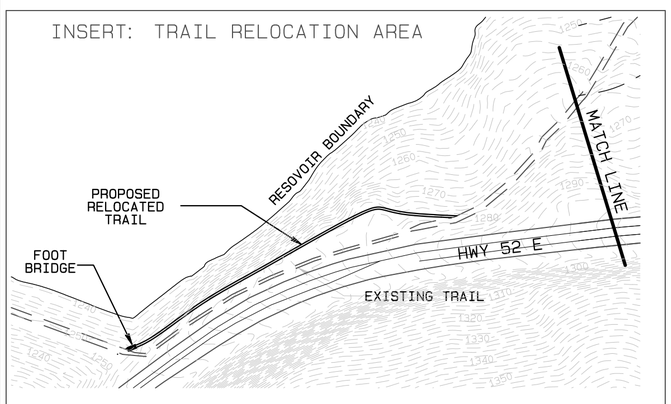
0+00

MATCH LINE

SEE INSERT ABOVE

HWY 52 E

INSERT: TRAIL RELOCATION AREA




CONTOUR INTERVAL = 2 FT.
SCALE 1 INCH = 150 FEET

0' 150' 300' 450' 600'

TRAIL SLOPE ANALYSIS

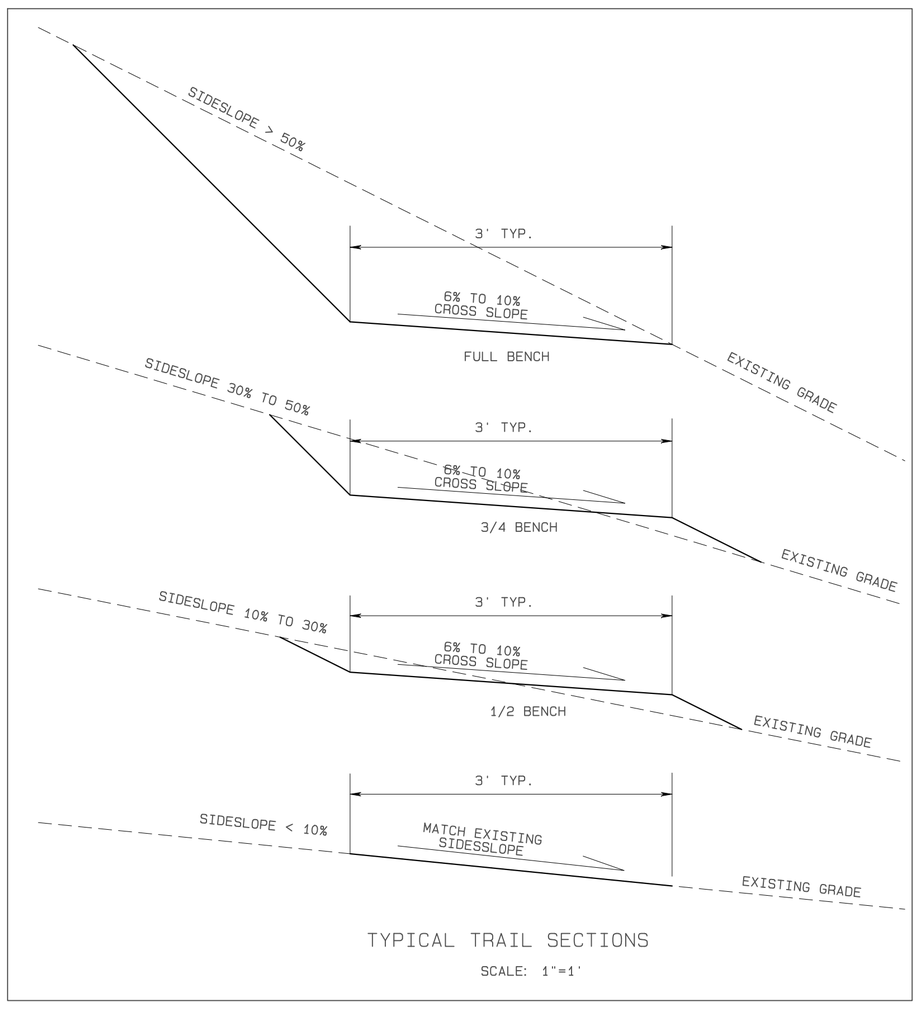
LOWEST TRAIL ELEVATION= 1252' MSL
HIGHEST TRAIL ELEVATION = 1368' MSL

AVERAGE TRAIL SLOPE= 4.6%
MAXIMUM TRAIL SLOPE = 20.5%

LENGTH OF TRAIL WITH SLOPE LESS THAN 5%= 6,988'
LENGTH OF TRAIL WITH SLOPE FROM 5% TO 10%= 1,650'
LENGTH OF TRAIL WITH SLOPE FROM 10% TO 15%= 1,200'
LENGTH OF TRAIL WITH SLOPE FROM 15% TO 20%= 200'
LENGTH OF TRAIL WITH SLOPE GREATER THAN 20%= 50'

TOTAL LENGTH OF PROPOSED TRAIL= 10,088' (1.91 MI.)

AVERAGE WIDTH OF DISTURBED ARE FOR CONSTRUCTION=4'
TOTAL DISTURBED AREA= 0.93 AC.




TYPICAL TRAIL SECTIONS

SCALE: 1"=1'

CONTOUR FROM LIDAR TOPOGRAPHIC SURVEY FOR LUMPKIN COUNTY

CONTOUR INTERVAL = 2 FT.
SCALE 1 INCH = 150 FEET

0' 150' 300' 450' 600'

NOTES:

ALL CREEK CROSSINGS WILL BE CONSTRUCTED OF TIMBER FRAME FOOT BRIDGES

TRAIL CROSS SLOPE WILL BE CONSTRUCTED TO MINIMIZE WATER RUNNING DOWN THE TRIAL

GRADE DIPS AND/OR WATER BARS SHALL BE CONSTRUCTED AT MID SLOPE ON ALL SECTIONS OF TRAIL THAT HAS A CONTINUOUS RUNNING SLOPE GREATER THAN 7% FOR MORE THAN 100' AND AT 100' INTERVALS ALONG THOSE SLOPES. THESE TURN-OUT STRUCTURES SHALL BE CONSTRUCTED PER THE USDA TRAIL CONSTRUCTION AND MAINTENANCE NOTEBOOK SPECIFICATIONS

EROSION CONTROL BMP'S SHALL BE INSTALLED AT ALL AREAS OF CONCENTRATED FLOW COMING FROM DISTURBED AREAS. THESE BMP'S INCLUDE ROCK APRONS, SILT FENCE AND BRUSH BARRICADES. ALL BMP'S TO BE INSTALLED AS PER THE MANUAL FOR EROSION AND SEDIMENT CONTROL IN GEORGIA


Lumpkin County Engineering

1642 Red Oak Flats Rd.
Dahlonega, Ga 30533
Office: 706-864-3122


136

REVISIONS

| DATE | DESCRIPTION |
|---|---|
| | |

DRAWING TITLE

# SITE PLAN

FOR
YAHOOLA CREEK TRAILS
CITY OF DAHLONEGA
LUMPKIN COUNTY GEORGIA

DRAWN BY: LR

DRAWING NO.

DRW NAME: TRAIL SITE PLAN 2-23-22

DATE: 2-23-22

JOB#

SHEET 2 OF 2

# Lumpkin County, Georgia

## Public Works

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-047 2023 TSPLOST Gravel Road Paving Contract - Colditz Trucking<br>*(Special Projects Manager Charles Trammell)* |
| **Item Description:** | This is for consideration of a contract for the paving of 4 county roads. |
| **Facts & Historical Information:** | This year the Commissioners approved the paving of 4 gravel county roads for a total of 2.75 miles. On April 21st of this year we opened bids for these roads. Three bids were received from different contractors and the low bidder was Colditz Trucking and Paving Inc. at $551,569.15. This bid was $75,566.00 lower than the second place bidder and $85,310.85 lower than our estimate for the project. Funding for this work will come from the TSPLOST funds. |
| **Potential Courses Of Action:** | A) Award this contract to Colditz Trucking and Paving Inc. in the amount of the bid<br>B) Do not award the contract. |
| **Budget Impact:** | This will paid from TSPLOST. |
| **Staff Recommendation:** | Staff recommends COA (A). Award the contract to Colditz Trucking and Paving Inc. in the amount of the bid price. |

**CONTRACT**
**FOR**
**GRADED AGGREGATE BASE AND PAVING OF VARIOUS COUNTY ROADS**
**TSPLOST PROJECT 2023-004**

This agreement is made and entered into between the **Lumpkin County Board of Commissioners**, hereinafter referred to as "Lumpkin County", a political subdivision of the State of Georgia, and **Colditz Trucking, Inc.**, hereinafter referred to as "Contractor".

Whereas, in consideration of the mutual benefits accruing to each party, the parties hereby agree as follows:

**A. Summary of Work and Payment:**

1. Contractor shall provide all necessary labor, material and equipment for the preparation of subgrade, addition of graded aggregate base, setting up base, and paving on various county roads listed in the 2023 Bid Item Summary contained in the Invitation to Bid issued by Lumpkin County on March 22, 2023, for TSPLOST Project 2023-004. All work shall be done in accordance with the 2021 State of Georgia Standard Specifications and by the Specifications contained in the Invitation to Bid for this project.

Lumpkin County personnel will be supervising construction of this project and will also be subject to inspections and audits by the Georgia Department of Transportation.

2. Contractor shall be authorized to begin work upon the issuance of a Notice to Proceed from Lumpkin County. All work shall be completed no later than 180 calendar days from the day the Notice to Proceed is issued.

3. The Contractor shall employ and assign only qualified and competent personnel to perform any service or task involved in this project. The Contractor shall designate one such person as a Project Manager, and the Project Manager shall be deemed to be the Contractor's authorized representative, who shall be authorized to receive and accept any and all communications from the County. The County shall name a Project Manager who shall be authorized to generate, receive and accept communication as an authorized representative of the County.

4. The Contractor hereby agrees to replace any personnel or sub-contractor, at no cost or penalty to the County, if the County reasonably determines that the performance of any sub- contractor or personnel is unsatisfactory.

5. Contractor shall be paid for work performed under this Contract on a unit price basis as follows:

| Line No.: | Item Description: | Unit Price: |
|---|---|---|
| 0005 | 150-3110 Traffic Control (Lump Sum) | $24,315.08 |
| 0010 | Subgrade preparation for base and paving (LM) | $11,500.00 |
| 0015 | 310-1101 Graded Aggregate Base (Ton) | $35.89 |
| 0020 | 402-4510 Recycled Asphalt Concrete 12.5 MM Super Pave GP1 only including Bitum Material (Ton) | $111.33 |
| 0025 | 413-0750 Tack Coat (Gallon) | $5.00 |
| 0030 | 652 Solid Traffic Stripe, 5" Yellow (LM) | $3,000.00 |
| 0035 | 653-Thermoplastic Solid Stripe 24" White Stop Bars (LF) | $15.00 |

Payment shall be made according to the terms contained in the Invitation to Bid.

**B. Bonds:**

Contractor shall, prior to commencing work, provide and shall maintain, during the continuance of all work under the Contract, all Bonds required in the Invitation to Bid.

**C. Liability:**

Contractor shall be responsible for his work and every part thereof, and for all materials, tools, equipment, appliances, and properties of any and all description used in connection with this Contract.

Contractor assumes all risks of direct and indirect damage or injury to the property of persons used or employed on or in connection with the work contracted for, and of all damage or injury to any person or property wherever located, resulting from any action, omission, commission or operation under the Contract, or in connection in any way whatsoever with the contracted work.

Contractor shall be liable for any collateral damage (such as broken curbs, crushed sidewalks, broken water meters, etc.) caused as a result of its work under this Contract. Contractor shall restore and/or repair, at Contractor's cost, any and all collateral damage, including, but not limited to, damage to infrastructure, back to its pre-existing condition if the damage was caused by Contractor's activities.

**D. Insurance:**

The Contractor shall, during the continuance of all work under the Contract, provide and maintain all insurance policies required by the Invitation to Bid.

**E. Assignment of Contractual Rights and Subcontracting:**

It is agreed that the Contractor will not assign, transfer, convey, or otherwise dispose of this contract or its right, title, or interest in or to the same, or any part thereof, without written consent of the County.

Contractor shall not subcontract any work without the express written consent of the County. The County must approve all subcontractors.

**F. Indemnity:**

To the fullest extent permitted by law, the Contractor will indemnify, defend, and hold Lumpkin County harmless from and against any and all claims, damages, losses, and expenses, including, but not limited to, fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the negligent acts, negligent omissions, willful misconduct, or reckless misconduct of the Contractor or anyone for whom the Contractor is responsible.

**G. Documents Deemed Part of Contract**:

Unless otherwise modified by this Contract, Lumpkin County's Invitation to Bid issued March 22, 2023, for TSPLOST Project 2023-004, and any addendums issued thereto, and the 2021 State of Georgia Standard Specifications shall be deemed part of the contract. No documentation or information provided by the Contractor shall be deemed part of the contract unless expressly incorporated herein.

**H. Severability**:

It is understood and agreed by the parties hereto that if any part, term, or provision of this Contract is held illegal or in conflict with any law of the State or Georgia, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term, or provisions held to be invalid.

**I. Dispute Resolution:**

Lumpkin County and the Contractor agree to resolve through negotiation or mediation prior to filing any cause of action. The venue for any litigation arising from this contract shall be Lumpkin County, Georgia.

**J. Cancellation:**

Lumpkin County reserves the right to terminate the contract immediately in the event that the Contractor discontinues or abandons operations, is adjudged bankrupt, or is reorganized under any bankruptcy law; or fails to keep in force any required insurance policies or bonds.

Failure of the Contractor to comply with any section or part of the contract will be considered grounds for immediate termination of the contract by the County without penalty to Lumpkin County. Lumpkin County shall pay for services rendered up to the point of termination.

Notwithstanding anything to the contrary contained herein, the County may, without prejudice to any other rights it may have, terminate the contract for convenience and without cause, by giving thirty (30) days written notice to the Contractor.

If the termination clause is used by the County, the Contractor will be paid by the County for all scheduled work completed satisfactorily by the Contractor up to the termination date set forth in the written termination notice.

**K. Safe Working Environment and Drug Free Workplace**

Contractor shall provide a safe working environment.

Contractor certifies that the provisions of Code Sections 5024-1 through 50-24-6 of the Official Code of Georgia Annotated, relating to the "Drug-free Workplace Act", have been complied with in full. The Contractor further certifies that:

1. A drug-free workplace will be provided for the Contractor's employees during performance of the contract; and

2. If Contractor hires a Sub Contractor to work in a drug-free work place, Contractor shall secure from that Sub Contractor the following written certification:

> As part of the subcontracting agreement with (Contractor's name), (Sub Contractor's name) certifies to the Contractor that a drug-free workplace will be provided for the Sub Contractor's employees during the performance of this Contract pursuant to Paragraph (7) of Sub-section (b) of Code Section 50-24-3".

The Contractor further certifies that it will not engage in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana

during the performance of the Contract.

**L. Amendments or Modifications:**

All contract amendments or modifications must be in writing and signed by all parties.

**M. Notices:**

Any notice, order, instruction, claim, or other written communication required or permitted under this contract shall be deemed to have been delivered or received:

1. Upon personal delivery to the Contractor or his authorized representative, which delivery may be accomplished by in person hand delivery, via bona fide overnight express service or telephonic facsimile transmission; or

2. Three (3) days after depositing in the United States mail a letter which is either certified or registered, with return receipt requested, addressed to the Contractor at the following address:

Colditz Trucking, Inc.
Attn: Teresa Colditz
191 Bill Donaldson Circle
Blairsville, GA 30512

and to Lumpkin County at the following address:

Lumpkin County Board of Commissioners
Attn: Alan Ours, County Manager
99 Courthouse Hill, Ste A
Dahlonega, Georgia 30533

This Contract is made and entered into this_____day of May, 2023.

**Lumpkin County:**

_____
Chris Dockery, Chairman
Lumpkin County Board of Commissioners

Attest:

_____
Melissa Z. Witcher
Lumpkin County Clerk

**Contractor:**

**Colditz Trucking, Inc.**

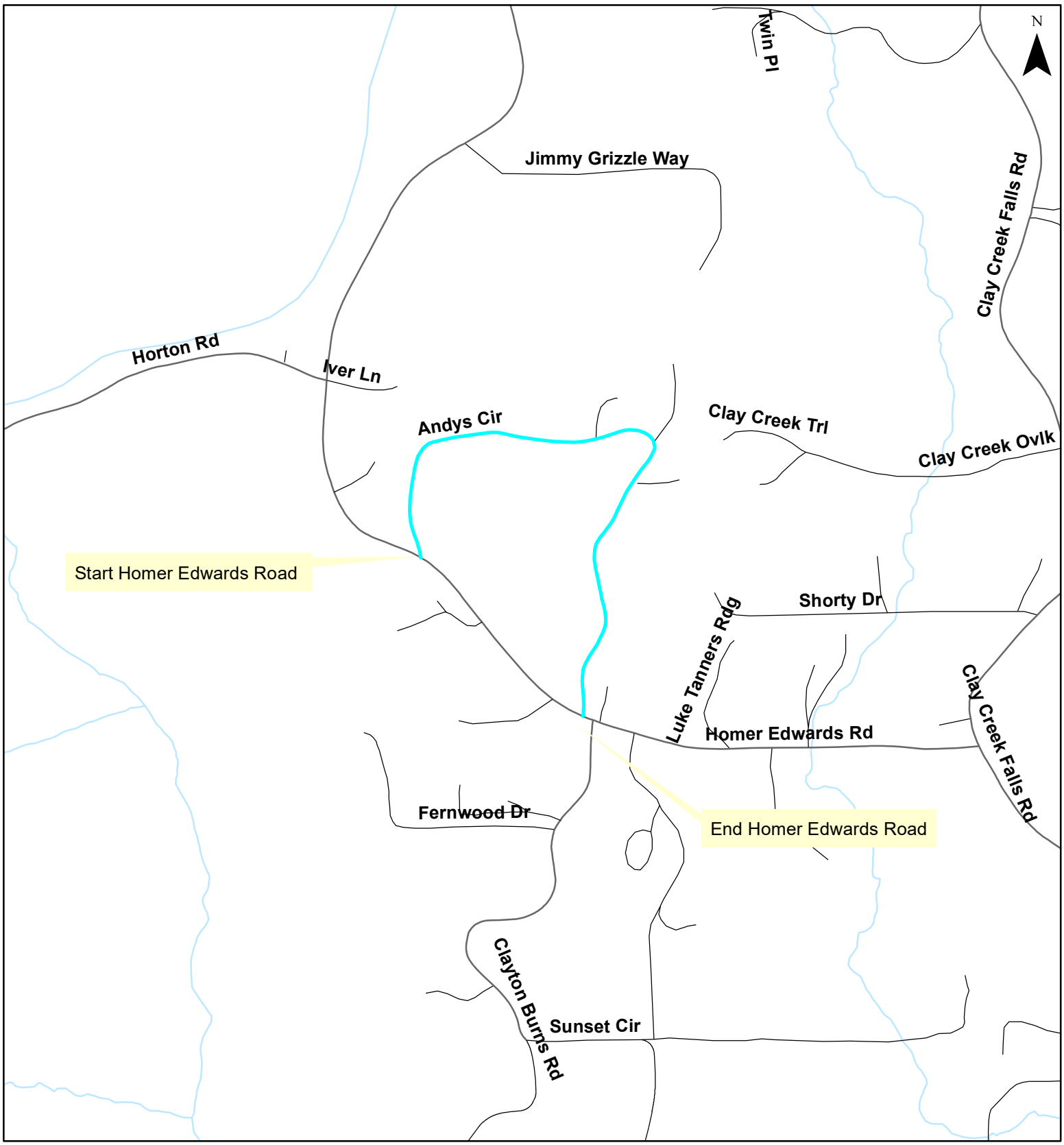
By:

_____
Teresa Colditz, President

# Lumpkin County 2023 TSPLOST Gravel Paving

| FUNDS | ROAD NAME | 2023 SCORE | START | END | WIDTH (ft) | LENGTH (Mi.) | 12.5 mm tons | total cost | cumulative cost |
|---|---|---|---|---|---|---|---|---|---|
| TSPLOST | Lawrence Rd | Gravel | Castleberry Bridge Rd | Culdesac | 18 | 1.75 | 2032.00 | $409,216 | $409,216 |
| TSPLOST | Eastwood Ter | Gravel | Hwy 52 | To end | 15 | 0.38 | 363.00 | $76,109 | $485,325 |
| TSPLOST | Chestatee River Ridge | Gravel | Coppermines Rd | Culdasec | 18 | 0.17 | 198.00 | $43,274 | $528,599 |
| TSPLOST | Andys Circle | Gravel | Homer Edwards Rd. | Homer Edwards Rd. | 16 | 0.45 | 464.00 | $108,281 | $636,880 |

# Andy Circle




Bid Map
Andys Circle
Mileage 0.45mi

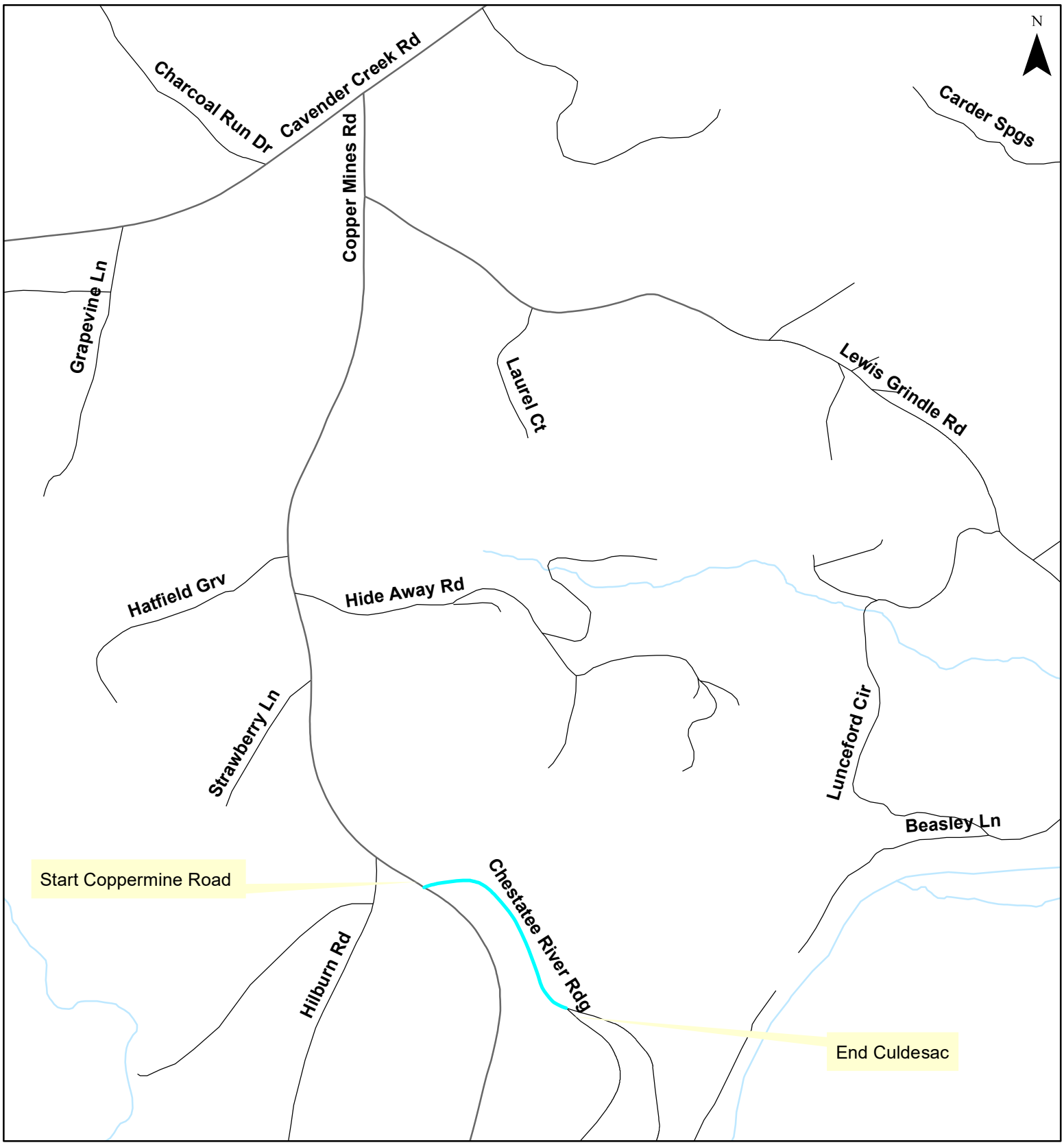
0 0.04 0.08 0.16 Miles

1 inch = 500 feet

Date: 3/21/2023

Legend
STREAM
LumpkinCoBo

# Chestatee River Ridge




## Bid Map
## Chestatee River Ridge
## Mileage 0.17mi

0 0.04 0.08 0.16 Miles

1 inch = 500 feet

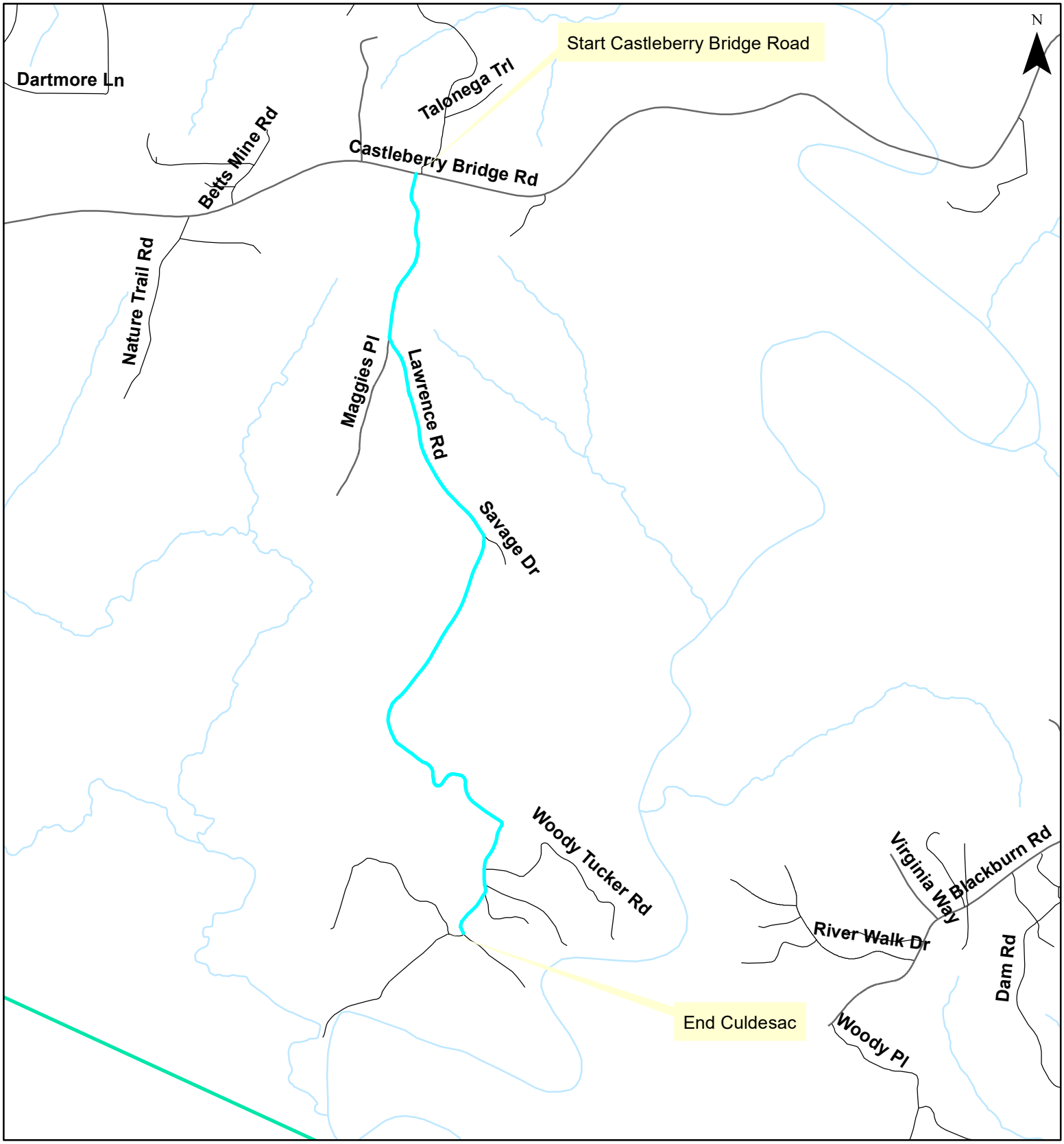
Date: 3/21/2023

**Legend**

STREAM

LumpkinCoBo

# Lawrence Road




Bid Map
Lawrence Road
Mileage 1.75mi

0 0.1 0.2 0.4 Miles

1 inch = 1,250 feet

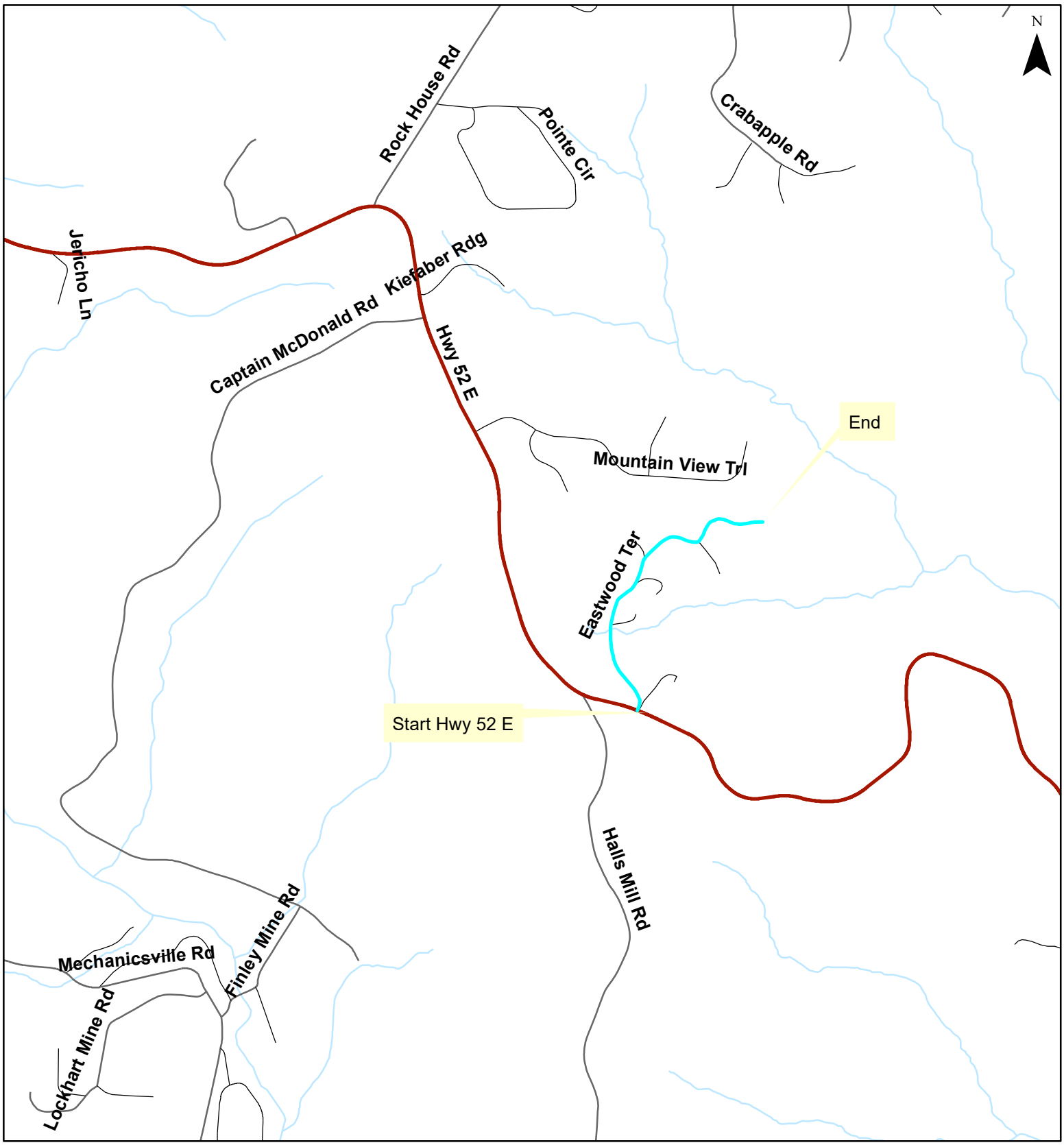
Date: 3/21/2023

**Legend**

STREAM

LumpkinCoBo

# Eastwood Terrace




## Bid Map
## Eastwood Terrace
## Mileage 0.38mi

0 0.05 0.1 0.2 Miles

1 inch = 845 feet

Date: 3/21/2023

**Legend**

STREAM

LumpkinCoBo

# Lumpkin County, Georgia

## Senior Center

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-048 Legacy Link Addendum #2 FY-2023 *(Senior Center Manager Linda Kirkpatrick)* |
| **Item Description:** | This request amends the contract that Lumpkin County Board of Commissioners entered into with Legacy Link, Inc. (Contract #2022-020-A-S approved on August 15, 2022) for the Lumpkin County Senior Center to provide nutrition and wellness services, nutrition screening and support services, and Transportation for senior adults in Lumpkin County. |
| **Facts & Historical Information:** | Historically, funding for the Lumpkin County Senior Center (including cost of meals and operation of the Center) has largely been from federal grants appropriated through the Older American Act enacted in 1965, state grants and local sources. The appropriations to the Center come through eight (8) different fund sources.<br>Legacy Link, Inc. is the Area Agency on Aging that manages federal and state funding allocations for the region that includes Lumpkin County.<br><br>This 2nd revision to Lumpkin County's allocation includes an increase for Center operation and home-delivered meal cost. This increase is a result of the Tax Check-Off option available on state tax return forms from the previous tax year.<br><br>The total amount of the increase is $586.00 There is no cash match requirement. |
| **Potential Courses Of Action:** | A. Submit an approved, signed Addendum #2 Contract.<br>B. Do not submit an approved, signed Addendum #2 Contract.<br><br>If Course A is chosen, Lumpkin County will receive the increased allocation of $586.00<br>If Course B is chosen, Lumpkin County risks losing the allocation increase of $586.00 |
| **Budget Impact:** | The increase in the allocation will have a positive impact on the budget. The increased allocation means that the burden to the general fund will be reduced by $586.00. |
| **Staff Recommendation:** | It is recommended that the approved, signed Addendum #2 Contract be submitted to Legacy Link, Inc. |

**ADDENDUM NO. 2**
**TO**
**AGREEMENT**

BETWEEN THE LEGACY LINK, INC., AND LUMPKIN COUNTY BOARD OF COMMISSIONERS FOR THE PROVISION OF Nutrition program and entered into on the first day of July, 2022.

Said agreement is amended to read as follows.

**W I T N E S S E T H:**

2. Description of Services.

(b) for a total of 32,000 units of home-delivered nutrition services to 125 elderly persons

(c) Provide 1,527 Wellness units to 75 people.

5. Compensation.

(b) The total compensation paid by the Legacy to the Contractor for nutrition site operation pursuant to this Agreement shall not exceed One Hundred Thirty Eight Thousand Seven Hundred Forty Five Dollars ($138,745.00).

(c) The Legacy agrees to provide federal and state funds for home-delivered meals in the amount of Eighty Thousand Six Hundred Eighteen Dollars ($80,618.00).

6. Non-Federal Funds.

(b) The minimum cash requirement for the term of the Agreement being Sixty Three Thousand Three Hundred Eighty Two Dollars ($63,382) for home-delivered meals.

The Contractor shall provide the necessary non-match local resources required for the provision of the services listed in Paragraph two (2) of this contract, this amount being One Hundred Eighty Two Thousand Two Hundred Eighty Five Dollars ($182,285.00).

All other terms and conditions of this agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals the day and year first above written.

THE LEGACY LINK, INC.

By:_____
Chief Executive Officer/AAA Director

Subscribed and sworn to
in our presence:

_____
Notary Public

CONTRACTOR:
LUMPKIN COUNTY BOARD OF COMMISSIONERS

By:_____
Chairman

Subscribed and sworn to
in our presence:

_____
Notary Public

# Lumpkin County, Georgia

## Election & Voter Registration

**Date:** May 16, 2023

**Agenda Item:** 2023-049 2023 Municipal General Election IGA with City of Dahlonega *(Elections Supervisor Robin McIntosh)*

**Item Description:** IGA with the City of Dahlonega for the conduct of the 2023 Municipal General Election

**Facts & Historical Information:**

O.C.G.A 21-2-45 states that the governing authority of any municipality may authorize any county within which that municipality wholly or partially lies to conduct any or all elections for the municipality.

O.C.G.A 21-2-45 also states that the municipality shall pay the county all costs incurred in performing those functions which the municipality has requested the county to perform.

The City of Dahlonega contacted the Board of Elections to request the Lumpkin County Board of Elections conduct the 2023 Municipal Election. The Board of Elections will be responsible for election activities to include poll worker training, advance voting, election day voting, all election notices, tabulation of votes, and certification. The City will be responsible for all candidate qualifying and ethics reporting.

The City of Dahlonega voted to approve the IGA and authorize the Lumpkin County Board of Elections to conduct their 2023 Municipal Election on April 21, 2023.

Conducting the 2023 Municipal Election will impact the daily tasks and responsibilities of the Elections office as well as the non-election year projects and election preparations for 2024 that are currently underway. Adjustments will have to be made by the Elections Office to conduct this election however, there should be no cost or financial burden placed on the County.

**Potential Courses Of Action:**

A. Approve the IGA with the City of Dahlonega for conducting the 2023 Municipal General Election.
B. Do not approve the IGA with the City of Dahlonega for conducting the 2023 Municipal General Election.
C. Request modifications to the IGA with the City of Dahlonega for conducting the 2023 Municipal General Election.

**Budget Impact:** There will be no impact to the County Budget. The County will be reimbursed for actual costs incurred for conducting the election.

**Staff Recommendation:** Approve the IGA with the City of Dahlonega for conducting the Municipal General Election

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

STATE OF GEORGIA
COUNTY OF LUMPKIN

**INTERGOVERNMENTAL AGREEMENT BETWEEN LUMPKIN COUNTY AND THE CITY OF DAHLONEGA RELATING TO THE 2023 MUNICIPAL ELECTION FOR THE CITY OF DAHLONEGA**

THIS AGREEMENT TO CONDUCT MUNICIPAL ELECTIONS PURSUANT TO GEORGIA ELECTION CODE SECTION 21-2-45(c) (the "Agreement") is made and entered into by and between **CITY OF DAHLONEGA, GEORGIA**, a municipal corporation organized and existing under the laws of the State of Georgia (hereinafter referred to as the "City"), and **LUMPKIN COUNTY, GEORGIA**, a political subdivision of the State of Georgia (hereinafter referred to as the "County"). This Agreement is joined by the Lumpkin County Board of Elections and Registration to the fullest extent required by the laws of the State of Georgia.

**W I T N E S S E T H:**

**WHEREAS,** under the provisions of the Georgia Election Code, particularly Section 21-2-45(c) thereof, the City may by ordinance authorize the County to conduct such elections as the City deems necessary and expedient, and the City has previously adopted such an ordinance; and

**WHEREAS**, the City desires to contract with County, subject to the approval of the Lumpkin County Board of Elections and Registration, to conduct the 2023 General Municipal Election to be held on November 7th, 2023; and

**WHEREAS**, the City has authorized the Mayor and Clerk to enter into this Agreement with the County, and the County has agreed to conduct and supervise the 2023 General Municipal Election to be held on November 7th, 2023 for the City upon the terms and conditions hereinafter set forth; and

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

**WHEREAS**, this Agreement was presented and approved at meetings of the governing authorities of both the County and the City pursuant to lawful and duly given notice as required by O.C.G.A. 50-14-1 et seq.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and undertakings of the parties hereto the City and County agree as follows:

**1.**

With respect to the 2023 Municipal General Election to be held November 7th, 2023, the Lumpkin County Board of Elections and Registration shall conduct the election for the City at the Office of the Lumpkin County Board of Elections and Registration as the fixed polling place as determined by the Lumpkin County Board of Elections and Registration.

**2.**

The Lumpkin County Board of Elections and Registration shall perform all duties as set forth and labeled as "County" in Exhibit A attached hereto and incorporated herein by reference. The Lumpkin County Board of Elections and Registration shall determine the procedures and mechanisms used in carrying out all duties established in Exhibit A and labeled as "County". The City shall perform all duties as set forth and labeled as "City" in Exhibit A attached hereto and incorporated herein by reference. The City shall determine the procedures and mechanisms used in carrying out all duties established in Exhibit A and labeled as "City."

**3.**

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

The City shall reimburse the County for the expenses incurred by the County and its Board of Elections and Registration associated with the 2023 Municipal General Election and to be held on November 7th, 2023, including, without limitation, the compensation of time and required trainings of the County Elections Manager, the Elections Technician, Board of Elections Members, and all poll workers, and the cost of materials and supplies needed to conduct said election. Such expenses shall be submitted to the City within sixty (60) days of the conclusion of the election covered by this agreement, and such expenses shall be paid by the City within thirty (30) days of the date of such invoice.

**4.**

As a part of the duties of the Lumpkin County Board of Elections and Registration, it shall perform all duties as superintendent of elections for the City during the term of this agreement; provided however, that the Lumpkin County Board of Elections and Registration shall have no responsibility hereunder with respect to the matters specifically reserved to the City in Exhibit A.

**5.**

The County shall not be responsible for the furnishing of any legal services in the form of legal opinion or defenses in any litigation arising by reason of the 2023 General Municipal Election; all such services shall be furnished by the City at no cost to the County. Notwithstanding the foregoing, in the event that the Board of Elections and Registration is required to hear any challenge(s) regarding the November General Municipal Election of whatever kind (e.g. challenge to candidacy or to electors, etc.), the Board of Elections and Registration shall have the right to be advised and represented by its legal counsel, and the City

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

shall, within thirty (30) days of request from the Board of Elections and Registration, fully reimburse the County any and all legal fees and other costs and expenses incurred by it (through its Board of Elections and Registration) in connection with all such challenge(s). It is additionally understood and agreed that the City shall be solely responsible for obtaining preclearance, if any, required by law from the U.S. Department of Justice in connection with the 2023 General Municipal Election.

In the event the County or its Board of Elections and Registration is named in any complaint or lawsuit involving the 2023 General Municipal Election, the County or its Board of Elections and Registration shall have the right to be advised and represented by its own legal counsel, and the City shall, within thirty (30) days of request from the County or its Board of Elections and Registration, fully reimburse the County for any and all legal fees and other costs and expenses incurred by the County and its Board of Elections and Registration in connection with all such complaint or lawsuit.

**6.**

The Contract may be terminated by either party by giving notice to the other party, in writing, of its intent to terminate this Contract no fewer than ninety (90) days prior to the effective date of such termination. In the event of termination, any funds due to the County by the City for work performed by the Board of Elections and Registration through the date of termination shall be paid by the City no later than thirty (30) days following the date of termination of the Contract.

**7.**

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

In all events, all elections conducted for the City by the Lumpkin County Board of Elections and Registration shall be conducted in accordance with the provisions of Title 1 and Title 21 of the Official Code of Georgia Annotated and all other applicable laws.

**8.**

This Agreement is made between and limited to the County and City, and is not intended, and shall in no event be construed to be, for the benefit of any person or entity other than the County (and its Board of Elections and Registration) and City, and no other person or entity shall be considered a third-party beneficiary by virtue of this Agreement or otherwise entitled to enforce the terms of this Agreement for any reason whatsoever.

**9.**

If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall ever be held to be invalid or enforceable, then in each such event the remainder of this Agreement or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument to be effective as of the day and year first written above.

| **LUMPKIN COUNTY, GEORGIA** | **ATTEST:** |
|---|---|
| **By: _____** | **_____** |
| Chris Dockery, Chairman<br>Lumpkin County Board of Commissioners | Melissa Witcher, County Clerk<br>Lumpkin County |

DocuSign Envelope ID: 3B9C153A-C5E1-4B5F-BDD2-56752BFE0231

**CITY OF DAHLONEGA**

DocuSigned by:
Mayor JoAnne Taylor
51BAA48D7790497...

**By:** _____

JoAnne Taylor, Mayor
City of Dahlonega

**ATTEST:**

DocuSigned by:
Mary Csukas
6EGFF407BF6G4A7...

_____

Mary Csukas, City Clerk
City of Dahlonega

**LUMPKIN COUNTY BOARD OF ELECTIONS AND REGISTRATION**

**By:** _____

John Webb, Chairperson
Lumpkin County Board of Elections

**ATTEST:**

_____

Robin McIntosh, Supervisor of Elections
Lumpkin County Board of Elections

DocuSign

## Certificate Of Completion

Envelope Id: 3B9C153AC5E14B5FBDD256752BFE0231
Status: Completed
Subject: Complete with DocuSign: IGA 2023 Muni Election.DRAFT[34649].pdf
Source Envelope:
Document Pages: 6
Signatures: 2
Envelope Originator:
Certificate Pages: 5
Initials: 0
Mary Csukas
AutoNav: Enabled
mcsukas@dahlonega.gov
EnvelopeId Stamping: Enabled
IP Address: 107.215.60.215
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

## Record Tracking

Status: Original
4/19/2023 9:12:39 AM
Holder: Mary Csukas
mcsukas@dahlonega.gov
Location: DocuSign
Security Appliance Status: Connected
Pool: StateLocal
Storage Appliance Status: Connected
Pool: City of Dahlonega
Location: DocuSign

| Signer Events | Signature | Timestamp |
|---|---|---|
| Mayor JoAnne Taylor<br>jtaylor@dahlonega.gov<br>Mayor<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Mayor JoAnne Taylor<br>51BAA48D7790497...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 162.142.83.98 | Sent: 4/19/2023 9:16:51 AM<br>Viewed: 4/19/2023 10:59:35 AM<br>Signed: 4/19/2023 11:11:32 AM |
| **Electronic Record and Signature Disclosure:**<br>Accepted: 4/19/2023 10:59:35 AM<br>ID: cfb80216-e146-4514-8593-4dc7424c8b54 | | |
| Mary Csukas<br>mcsukas@dahlonega.gov<br>City Clerk / Downtown Dahlonega Director<br>City of Dahlonega<br>Security Level: Email, Account Authentication (None) | DocuSigned by:<br>Mary Csukas<br>6ECFF497BF5C4A7...<br>Signature Adoption: Pre-selected Style<br>Using IP Address: 172.56.65.191<br>Signed using mobile | Sent: 4/19/2023 11:11:33 AM<br>Viewed: 4/20/2023 6:51:00 AM<br>Signed: 4/20/2023 6:51:16 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |

| In Person Signer Events | Signature | Timestamp |
|---|---|---|

| Editor Delivery Events | Status | Timestamp |
|---|---|---|

| Agent Delivery Events | Status | Timestamp |
|---|---|---|

| Intermediary Delivery Events | Status | Timestamp |
|---|---|---|

| Certified Delivery Events | Status | Timestamp |
|---|---|---|

| Carbon Copy Events | Status | Timestamp |
|---|---|---|
| Melissa Witcher<br>Melissa.Witcher@LumpkinCounty.gov<br>Security Level: Email, Account Authentication (None) | COPIED | Sent: 4/20/2023 6:51:18 AM<br>Viewed: 4/20/2023 7:14:07 AM |
| **Electronic Record and Signature Disclosure:**<br>Not Offered via DocuSign | | |

| Witness Events | Signature | Timestamp |
|---|---|---|

| Notary Events | Signature | Timestamp |
|---|---|---|

| Envelope Summary Events | Status | Timestamps |
|---|---|---|
| Envelope Sent | Hashed/Encrypted | 4/19/2023 9:16:51 AM |
| Certified Delivered | Security Checked | 4/20/2023 6:51:00 AM |
| Signing Complete | Security Checked | 4/20/2023 6:51:16 AM |
| Completed | Security Checked | 4/20/2023 6:51:18 AM |

| Payment Events | Status | Timestamps |
|---|---|---|

| Electronic Record and Signature Disclosure |
|---|

## ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, City of Dahlonega (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a $0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

**How to contact City of Dahlonega:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:
To contact us by email send messages to: mcsukas@dahlonega.gov

**To advise City of Dahlonega of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at mcsukas@dahlonega.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

**To request paper copies from City of Dahlonega**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to mcsukas@dahlonega.gov and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

**To withdraw your consent with City of Dahlonega**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;

ii. send us an email to mcsukas@dahlonega.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

**Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: https://support.docusign.com/guides/signer-guide-signing-system-requirements.

**Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify City of Dahlonega as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by City of Dahlonega during the course of your relationship with City of Dahlonega.

# MUNICIPAL ELECTION STRUCTURE

| PERSONNEL | AFFILIATION | DUTIES |
|---|---|---|
| **CITY QUALIFYING OFFICER:** | City | Advertise All Required Qualifying Notices |
| **CITY ATTORNEY:** | City | Advertise Call for Special Election to be Held in Conjunction with General Election |
| **CITY ATTORNEY:** | City | DOJ approval for Special Election (if applicable) |
| **CITY QUALIFYING OFFICER:** | City | Candidate Qualification: All candidate qualification and Ethics/Financial Filings will be the responsibility of the City. The City will provide the Board of Elections a list of all qualified candidates to be placed on the ballot. |
| **COUNTY ELECTION SUPERINTENDENT:** | County | Absentee Inventory/Election Supplies |
| | County | Design Ballot |
| | County | Create Ballot Database |
| | County | Print OS Ballots; Absentee/Provisional/Challenged |
| **COUNTY ELECTION SUPERINTENDENT/POLL WORKER:** | County | Election Management System:<br>Upload Database & Memory Cards<br>Voting Equipment:<br>Logic & Accuracy Procedure (L&A) |
| **COUNTY ELECTION SUPERINTENDENT** | County | Publish Logic & Accuracy Notice |
| **COUNTY ELECTION SUPERINTENDENT** | County | Publish Sample Ballot |
| **COUNTY ELECTION SUPERINTENDENT** | County | Order Municipal Electors List |
| **COUNTY ELECTION SUPERINTENDENT** | County | Publish Notice of Election/ Advance Voting Dates and Location |
| **COUNTY ELECTION SUPERINTENDENT** | County | Publish Notice of Computation |
| **COUNTY ELECTION SUPERINTENDENT**<br>**COUNTY ELECTION TECHNICIAN:**<br>County - Chief Manager<br>County - Assistant Manager (2) | County | Advance Voting: Mail |
| | | Advance Voting: In Person<br><br>(County will conduct all required Poll Worker Training) |
| **COUNTY ELECTION SUPERINTENDENT**<br>**COUNTY ELECTION TECHNICIAN:**<br>County – Chief Manager<br>County – Assistant Managers (2) | County | Conduct Election Day Voting – 7 A.M. – 7 P.M.<br><br>(County will conduct all required Poll Worker Training) |

# Exhibit A

| | | |
|---|---|---|
| **COUNTY ELECTION SUPERINTENDENT**<br>**COUNTY ELECTION TECHNICIAN**<br>**VOTE REVIEW PANEL:**<br>County – Chief Manager<br>County – Assistant Managers (2) | County | Tabulate votes – OS & In Person Voting equipment |
| **COUNTY ELECTION SUPERINTENDENT** | County | Elections Management System:<br>Download Election Results |
| **PROVISIONAL BALLOT PROCESSING (if applicable)** | County | Verify eligibility; process and count- include w/certification |
| **COUNTY ELECTION SUPERINTENDENT** | County | Election Consolidation / Certification/Notice to Appropriate Entity of all Special Election Results |

# Exhibit A

# Lumpkin County, Georgia

## Parks & Recreation

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-050 UNG Swimming Pool Facilities Use Agreement *(Park & Rec Manager Joseph Daugherty)* |
| **Item Description:** | This is a facilities use agreement between the University System of Georgia and Lumpkin County Parks & Recreation for the use of the UNG pool to conduct swim team practices. |
| **Facts & Historical Information:** | UNG has the only publicly accessible pool in the area, and we utilized this facility to conduct Lumpkin County Parks & Recreation swim team conditioning and practices. We anticipate 60 local youth will compete on this year's swim team. This is essentially the same agreement as last year with a slight change in fees, dates and times. |
| **Potential Courses Of Action:** | 1. Approve the contract with UNG.<br>2. Choose to not offer swim team. |
| **Budget Impact:** | County expense for usage fee will be $1,655. Projected county revenue for offering swim team is $6,000. |
| **Staff Recommendation:** | Staff recommends approving the contract with UNG. |

UNG UNIVERSITY of NORTH GEORGIA
CAMPUS RECREATION AND WELLNESS

**License/Facilities Use Agreement**
**(For Use of Campus Facilities with No Overnight Lodging)**

This License/Facilities Use Agreement (Agreement) is between the Board of Regents of the University System of Georgia, on behalf of University of North Georgia, a unit of the University System of Georgia (Owner) and Lumpkin County Parks and Recreation (Permit Holder). Derek Leonard will serve as your primary contact and can be reached at 706-864-1622 or by e-mail at derek.leonard@ung.edu.

Permit Holder: Lumpkin County Parks and Recreation Department (LCPRD)
Permit Holder Physical Address: 365 Riley Road, Dahlonega, GA 30533
Permit Holder Billing Address: 365 Riley Road, Dahlonega, GA 30533
Permit Holder Contact Person: Joseph Daugherty
Cell Number/Email: 706.482.2504/ joseph.daugherty@lumpkincounty.gov
Alternate Contact Person/Cell Number:

Name of "Event": **LCPRD Summer Swim Lessons** and **Summer Swim Team**

Date/Time of Event: **Swim Team**- 6:30-8:30 PM from May 8, 2023 to July 20, 2023. Please note pool will be closed for all official university holidays. This includes the following: Monday May 29th, Monday June 19th, & Tuesday July 4th.

Estimated Number of Attendees**: Swim Team** – varies, one lifeguard for every 25 swimmers is required.

Does this Event Involve Minors: Yes

Area/Room Reserved: Memorial Hall Pool

Special Requirements:

- LCPRD acknowledges that these programs involve minors and that as a requirement of this contract, LCPRD must abide by all UNG policies and procedures regarding minors on campus, including background checks of all staff and volunteers.
- LCPRD will maintain a 1:3 staff/child ratio.
- LCPRD agrees to provide one lifeguard for every 25 swimmers during swim team practice.
- LCPRD will require parents to stay in the pool area during their child's swim team practice. The dropping off of children without a parent or guardian remaining on premises is not allowed. Any child that is dropped off without a parent/guardian present will be unable to participate in programming for that day.
- LCPRD is responsible for providing lifeguards, instructors, and any other staff as well as any compensation for such.
- LCPRD will provide all equipment associated with swim lessons and swim team.
- LCPRD will be unable to use the pool during any dates that UNG is closed.
- LCPRD will provide parking permits to participants. Parking is limited to Lot 16 behind Memorial Hall and participants will not park in any restricted spaces.
- LCPRD understands that on a rare occasion there may be a conflict between practice/lessons and a UNG camp. Should this occur UNG will provide LCPRD at least one week notice and LCPRD activities will be canceled that day.
- UNG may close the pool for maintenance or other unforeseen circumstances. In the event of a closure, LCPRD is responsible for any refunds to participants associated with that closure. UNG will only be responsible for refunding LCPRD any amounts paid to UNG.

- UNG will use reasonable efforts to maintain the pool temperature between 80-81 degrees.
- UNG Campus Recreation & Wellness will provide a UNG staff member to unlock and lock facilities and assist LCPRD in monitoring locker rooms to ensure that only individuals associated with swim lessons or swim team are allowed in locker rooms during their scheduled times. **However**, LCPRD is ultimately liable for who is in the locker rooms and pool area during their programs and for monitoring activity to ensure the safety of LCPRD staff and participants.
- UNG will unlock facilities 15 minutes prior to the start of lessons and practice and will secure and lock the building 30 minutes after the activity's scheduled time. All participants, parents, and LCPRD staff must vacate the facility within that timeframe.

UNG Personnel Services required: UNG will staff a worker to lock/unlock facilities and assist LCPR in monitoring access.

Permit Holder agrees to pay Owner the sum of usage fees as outlined below:

| | | |
|---|---|---|
| Facilities: | UNG Memorial Hall Pool and locker rooms | |
| | Pool chemicals | $700.00 |
| Equipment: Provided by LCPRD | | NA |
| Additional Special Services: UNG staffing @ $11.25/hour | | |
| • 8 hours per week x 11 weeks x $11.25/hour- 3 days (UNG closed) | | $955.50 |

**Total: $1655.50 Required by: May 18, 2023; Payment made to UNG Campus Recreation & Wellness**

Agreement may be canceled by Permit Holder up to 2 weeks prior to the event. If Permit Holder cancels within 2 weeks of event start date, Permit Holder is responsible for payment in full for the event.

Owner may not be able to accommodate additional Permit Holder requests that are not included in Agreement after execution of this document. Additional requests, if able to be accommodated by Owner, may incur additional fees.

Owner encourages thorough planning by Permit Holder ahead of time.

Permit Holder is restricted to use only those facilities outlined in Agreement.

Indemnification Clause: Permit Holder indemnifies and holds harmless the Owner, the Institution and the State of Georgia and all of their respective officers, members, employees and directors (hereinafter collectively referred to as the "Indemnitees") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees, from the Permit Holder's use of the space licensed herein, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from this Agreement or any act or omission on the part of the Permit Holder, its invitees, agents, employees or others working or enjoying the Licensed Premises on behalf of the Permit Holder, or due to any breach of this Agreement by the Permit Holder, or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification extends to the successors and assigns of the Permit Holder. This indemnification obligation survives the termination of the contract and the dissolution or, to the extent allowed by law, the bankruptcy of the Permit Holder. If and to the extent such damage or loss (including costs and expenses) as covered by this indemnification is paid by the State Tort Claims Trust Fund, the State Authority Liability Trust Fund, the State Employee Broad Form Liability Fund, the State Insurance and Hazard Reserve Fund, and other self-insured funds (all such funds hereinafter collectively referred to as the "Funds") established and maintained by the State of Georgia Department of Administrative Services Risk Management Division (hereinafter "DOAS") the Permit Holder shall reimburse the Funds for such monies paid out by the Funds.

Insurance: Permit Holder shall, at its own cost and expense, obtain and maintain Commercial General Liability Insurance (2013 ISO Occurrence Form or equivalent) not inconsistent with the policies and requirements of O.C.G.A. § 50-21-37, which shall include, but not be limited to, coverage for personal and advertising and contractual liability. The Commercial General Liability Insurance shall provide the following limits:

| Coverage | Limit |
|---|---|
| Personal Injury and Advertising | $1,000,000 per Occurrence Contractual $1,000,000 per Occurrence |
| Damage to Rented Premises | $1,000,000 per Occurrence |
| General Aggregate | $2,000,000 |

Permit Holder shall also provide a Commercial Umbrella Liability Insurance Policy to provide excess coverage above the Commercial General Liability (CGL) coverage with minimum limits of $2,000,000 per occurrence. The policies cover the period of Permit Holder's occupancy and use of the premises, such insurance to be obtained from an insurance company legally licensed and authorized to transact business in the State of Georgia, and name "the officers, agents and employees of University of North Georgia and the Board of Regents" as additional insureds, but only with respect to claims that are not covered by the Georgia Tort Claims Act (O.C.G.A. Section 50-21-20 et seq.).

**Permit Holder shall furnish Owner with a copy of Certificate of Insurance at least ten working days prior to occupancy and use of the premises and said policy shall have a clause showing that the insurance is in force and non-cancelable prior to the occupancy and use of the premises by the Permit Holder. Permit Holder's failure to obtain and furnish evidence of the required insurance shall constitute default of this Agreement.**

At times campus premises or facilities may be closed due to unforeseen circumstances such as fire or severe weather predictions. In these instances, all activities scheduled to be held on a particular campus or facility that is closed are cancelled, including facility use by Permit Holder. In these cases, deposit received by Owner will be refunded. Owner will not be liable to Permit Holder for any damages or losses as a result of such cancellation.

The terms and conditions contained in Exhibit A General Provisions and Exhibit B Programs Serving Minors and attached hereto are wholly incorporated into this Agreement and expressly understood and mutually agreed upon by Owner and Permit Holder.

This agreement made by Owner and Permit Holder, executed through UNG Division of Professional and Continuing Education on behalf of Owner, is binding on both parties and constitutes the full complete understanding thereof. Additional agreements, oral or otherwise, must be written and signed by both parties in order to be binding.

| **Permit Holder** | **University of North Georgia (Owner)** |
|---|---|
| Signature:_____ | Signature:_____ |
| Date:_____ | Date:_____ |
| Name:_____ | Name: ____Mac McConnell_____ |
| Title: _____ | Title: ___Sr. VP Business and Finance_____ |

**Exhibit A General Provisions**

1. Licensed Premises. Permit Holder accepts facilities provided by Owner "as is, where is, and with all faults." Permit Holder will be responsible for simple housekeeping of the areas that they occupy. All facilities used shall be left in a condition acceptable to the Owner. Permit Holder shall reimburse Owner for any such damage or injury caused by Permit Holder, its employees, agents, or any other person admitted to the premises by Permit Holder, its agents, or employees.

2. Failure to Pay. Permit Holder agrees that if it fails to pay the charges or any part thereof in accordance with Agreement, or if Permit Holder violates any other provision of Agreement, all remaining obligations of Owner under Agreement shall, at the option of Owner, cease and be terminated upon written notice to Permit Holder.
3. Food and Beverage. Permit Holder is prohibited from bringing food/beverages onto Owner premises. Owner contracted catering services will be happy to provide refreshments and meals for your event. If catering/food services/concessions are required, Permit Holder should contact catering service directly and will enter into a separate agreement with caterer for food services. Caterer contact is: Aramark Catering, 706-864-1765 or aramarkcatering@ung.edu
4. Event Staffing. Permit Holder shall provide all necessary personnel and labor in order to hold their event, including ticket sellers, security, custodial staff, A/V technicians, and grounds clean-up crew. Some staff must be procured through Owner, such as security and building attendant, while other staff may be procured outside of UNG. If such staff is procured through Owner, such staff shall nevertheless be employees of Permit Holder and not Owner, and shall be paid by Permit Holder.
5. Advertising. No print or electronic advertisement, social media post or other public statement should include the Owner's name or logo in connection with any non-university organization, business, or person in any manner that implies that Owner supports, approves, or endorses any product, service, interest, position or ideology of that organization, business or person. The Owner's name and address may only be used as a reference for event location. All promotional materials must be approved by the Director of Professional and Continuing Education prior to production and distribution. Failure to comply with this provision shall be considered automatic grounds for termination of Agreement by Owner.
6. Owner Access. Owner shall have access to the premises at all times during which Permit Holder is permitted to occupy, use, and enjoy the premises as outlined above.
7. Owner's Right to Remove. Owner reserves the right to remove any objectionable person or persons from the premises and Permit Holder expressly waives any right to damages for such removal.
8. Permit Holder Property Liability. All property brought onto the premises by Permit Holder, its members, participants, and invitees, shall be at the sole risk of Permit Holder. Owner shall not be responsible for such property nor liable for any damages or injury to Permit Holder, its members, participants, invitees, agents, or employees.
9. No Alterations or Improvements. Permit Holder shall make no alterations in or additions to Owner premises.
10. Parking. Permit Holder understands and agrees that parking facilities adjacent to or near the premises are limited. Event staff and participants may not park in faculty/staff spaces.
11. Alcohol Policy. Alcohol consumption or sales is prohibited on all Owner premises and properties unless prior written approval is granted and incorporated herein.
12. Tobacco Policy. The use of all forms of tobacco products on property owned, leased, rented, in the possession of, or in any way used by the University System of Georgia or its affiliates is expressly prohibited. "Tobacco Products" is defined as cigarettes, cigars, pipes, all forms of smokeless tobacco, clove cigarettes, and any other smoking devices that use tobacco such as hookahs or simulate the use of tobacco such as electronic cigarettes.
13. Compliance With Programs Serving Minors Policy. Permit Holders that operate events that provide for the care, custody, or control of minors shall take precautions to assure the safety and well-being of minors and Owner's property and release Owner from any liability in conjunction with the use of the facility. Owner has made available a copy of such policy and compliance provisions at https://ung.edu/programs-serving-nonenrolled-minors. At any time, Owner may request, and must be promptly provided with, copies of all pre-screening and training verification.
14. Compliance With Fire Safety Standards. In accordance with accepted standards for fire safety, Permit Holder agrees to ensure that all exits are unlocked and that access thereto is free from all obstructions at all times during occupancy. If applicable, Permit Holder further agrees to ensure that all aisles will be kept clear, that no seating in the aisles will be permitted and that every exit light is burning at all times during the Event(s). Permit Holder shall not obstruct any sidewalks, entries, passages, vestibules, hallways, elevators, doors, skylights, stairways, hallways, corridors, passageways, radiators, house lighting attachments and all openings or ways of access to public utilities of the premises.
15. Compliance with All Applicable Laws, Rules, and Regulations. Permit Holder agrees that every member connected with Event shall abide by and comply with all laws, rules, and regulations of the United States, State of Georgia, and Local Government.
16. Assignment. Use and occupancy of Owner premises cannot be assigned by Permit Holder to any other organization, person, or other entity, unless written permission is provided by Owner.
17. Governing Law. This Agreement shall be governed by the laws of the State of Georgia.

## Exhibit B Programs Serving Minors

1. Institutional Policy. If Permit Holder operates a program or activity that provides for the care, custody, or control of minors, Permit Holder shall be governed by and comply with all requirements of Owner's policy on programs serving minors. Such

requirements include but are not necessarily limited to those listed below. A copy of Owner's policy and compliance provisions can be found at https://ung.edu/programs-serving-nonenrolled-minors.

2. Duty of Care. Permit Holder shall operate such Event in a safe manner.
3. Forms. Permit Holder shall use all appropriate forms related the operation of the Event, which may include but are not necessarily limited to parental consent forms, participant conduct agreement forms, medical information and release forms, medical authorization treatment forms, medical authorization to administer medication forms, media release, pickup authorization forms and others.
4. Criminal Background Checks. Permit Holder shall properly screen and conduct criminal history background checks, including the National Sex Offender Registry, on all employees, volunteers, counselors, chaperones and others who are reasonably anticipated to have direct contact or interaction with minor program participants. Personnel in charge of screening volunteers should be aware of the inherent limitations of background checks and should seek to utilize other screening methods, when possible, in addition to background checks to include in-person interviews and reference checks.
5. Supervision. Every minor participant must be properly supervised at all times in the immediate presence of at least one authorized adult while participating in the Event. Permit Holder certifies that there will be appropriate supervision and that there will be an appropriate participant-to-supervisor ratio, which may vary depending on the age of the participants, the nature of the activity, and whether the program has an overnight component.
6. Training. Permit Holder shall provide training to all employees, volunteers and others assisting with the Event that addresses mandatory reporting requirements, appropriate contact with minors, safety and security procedures, and response protocols for injury or illness, and staff or participant misconduct.
7. Safety and Security. Permit Holder agrees to ensure the safety and protection of program participants and to establish protocols for reporting injuries, staff misconduct, participant misconduct, and procedures for secure pickup and drop-off of program participants. Permit Holder agrees to establish security measures (e.g., where to meet and where to go if lost, responses and protocols for weather alerts, accidents, missing persons, etc.), and to communicate those measures to program participants.
8. Reporting Obligations. Criminal activity should be reported immediately to the Owner's Department of Public Safety who can assess the situation and determine what other notifications or actions are necessary.
9. Known or Suspected Abuse or Neglect of Minors. If Permit Holder and/or any of its employees, volunteers, or other agents or any other authorized adult present at the program/activity know, suspect, or receive information providing reasonable cause to believe that a minor has been abused or neglected, or if Permit Holder or such other individuals have other concerns regarding a minor's safety, Permit Holder or such other individual must report the situation immediately to the Owner's Department of Public Safety and to the Georgia Department of Human Services (and/or the Division of Children and Family Services) by calling 1-855-GACHILD (422-4453), as required by Georgia law. Permit Holder hereby acknowledges its understanding of this reporting requirement for known or suspected abuse or neglect of minors.

# Lumpkin County, Georgia

## Senior Center

| | |
|---|---|
| **Date:** | May 16, 2023 |
| **Agenda Item:** | 2023-053 Accessible Solutions, Inc. - Software as a Service (SaaS) Services Agreement Subscription Renewal *(Senior Center Manager Linda Kirkpatrick)* |
| **Item Description:** | The Lumpkin County Senior Center is requesting that the Lumpkin County Board of Commissioners renew its subscription with Accessible Solutions, Inc. for use of the ServTracker program software which automates tracking for the Meals on Wheels and Congregate programs. |
| **Facts & Historical Information:** | In September, 2021, the Board of Commissioners entered into an agreement with Accessible Solutions, Inc. to use its ServTracker software. The Senior Center has greatly benefitted from the streamlined tracking system for the Meals on Wheels and Congregate programs, saving staff time to attend to other related important tasks and reducing the potential for error. Additionally, the acquisition postponed a request for additional staff in the near future.<br><br>Accessible Solutions Pricing Table is attached. |
| **Potential Courses Of Action:** | A. Requesting submittal of an approved and signed Subscription Renewal.<br>B. Do not submit an approved and signed Subscription Renewal<br><br>Comparison: If Course A is chosen, Lumpkin County Senior Center will continue to successfully utilize the ServTracker program software to automate the Meals on Wheels and Congregate programs.<br><br>If Course B is chosen, Lumpkin County Senior Center will have to revert to tracking the Meals on Wheels and Congregate programs manually which is labor intensive, time consuming and the potential for errors is very high. |
| **Budget Impact:** | There will be no impact to the budget. The Subscription Fee is included in the FY2023 Senior Center approved budget. The Subscription Fees for FY2024, FY2025 and FY2026 will be included in the Senior Center's budget requests for those years. |
| **Staff Recommendation:** | It is recommended that Course A be chosen - Submit an approved and signed Subscription Renewal.to Accessible Solutions, Inc. The benefit for the Senior Center is a streamlined tracking system for the Meals on Wheels and Congregate programs, saving staff time to attend to other related important tasks and reducing the potential for error. Additionally, this renewal postpones a request for additional staff in the near future. |

**ACCESSIBLE SOLUTIONS PRICING TABLE:**

| ServTracker™ Budget Line Items | Unit Price | Months | Qty | Year 1 | Year 2 | Year 3 |
|---|---|---|---|---|---|---|
| Annual Licensing Fees* | | | | | | |
| | $ 63.50 | 12 | 3 | $2,286.00 | $2,377.44 | $2,472.54 |
| Discount User License Yr 1** | | | | (-$ 126.00) | | |
| Mobile Meals App (1-10 Routes) | $ 5.25 | 12 | 9 | $ 567.00 | $ 589.68 | $ 613.27 |
| Annual Licensing Fees Total by Year | | | | **$2,727.00** | **$2,967.12** | **$3,085.80** |
| *ASI increases annual Subscription Fees by ~ 4% to account for rising costs of doing business | | | | | | |
| ** Discounted user fee | | | | | | |

## SaaS Services Agreement

This Software as a Service (SaaS) Services Agreement (the "**Agreement**") dated effective as of the date signed by both parties below (the "**Effective Date**") is between Accessible Solutions, LLC., with a principal address at 840 North Cocoa Blvd., Suite D. Cocoa, Florida, 32922("**Accessible Solutions"**) and, Lumpkin County Board of Commissioners, with a principal address at 266 Mechanicsville Rd, Dahlonega, GA 30533 "**Customer**").

Customer desires to subscribe to access certain Accessible Solutions software, and Accessible Solutions desires to provide such access to Customer, subject to the terms and conditions of this Agreement. Therefore, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Accessible Solutions and Customer agree as follows:

**AGREEMENTS:**

1. Definitions.

   (a) "**Confidential Information**" means the Software, Customer Data, either party's non-public business and technology information, trade secrets, Accessible Solutions' pricing, any written materials marked as confidential and any other information which is clearly identified as confidential or proprietary at the time of disclosure or that the receiving party reasonably should understand to be confidential. Confidential Information excludes information that the receiving party can document: (i) is or becomes generally available to the public without fault of the receiving party; (ii) was rightfully in the receiving party's possession prior to its disclosure by the other party; (iii) is independently developed without the use of any Confidential Information of the disclosing party; or (iv) is obtained without obligation of confidentiality from a third party who has the right to disclose it. The receiving party also may disclose Confidential Information to the extent required under a judicial or legislative order or proceeding or as necessary to comply with open records laws; provided that it gives the disclosing party, if legally permissible, reasonable prior notice and an opportunity to respond or object to the disclosure.

   (b) "**Customer Data**" means any content, materials, data, and information that Users enter into the Software or that Customer derives from its use of the Software (e.g., Customer-specific reports), including protected health information ("**PHI**") and other personal information of individuals. Customer Data and its derivatives will not include Accessible Solutions' Confidential Information or intellectual property, such as report templates.

   (c) "**Documentation**" means Accessible Solutions' then-current user documentation for the Software, whether in electronic, printed or other form.

   (d) "**Order Form**" or "**Schedule A**" shall mean Accessible Solutions' Schedule A – Order Form specifying the price to Customer for the Software and/or other Services specified therein. An Order Form will often include an SOW and its various terms and conditions. Order Forms shall be governed by the terms of this Agreement. In case of

a contradiction between the terms of this Agreement and the terms of an Order Form, the terms of the Order Form will have priority.

(e) "**Services**" means technical support, Software maintenance, consulting, training, professional services, and other services offered by Accessible Solutions to its customers as part of or in connection with the Software, including services for which Accessible Solutions may charge a separate fee.

(f) "**Software**" means Accessible Solutions' software provided as a subscription service and any associated online or downloadable software or components, as listed in Customer's Order Form, including Documentation and Software updates. Except as otherwise provided in this Agreement, "Software" includes Third-Party Software provided by Accessible Solutions as part of the Software.

(g) "**Third-Party Software**" means any third-party applications and software, whether open source or commercial, that are owned by entities or individuals other than Accessible Solutions and that may be incorporated into or interoperate with the Software.

(h) "**Users**" means individual employees and personnel of Customer and its affiliates who are authorized by Customer to use the Software. Users may also include consultants or contractors of Customer who are using the Software solely for Customer's internal business purposes but shall not include competitors of Accessible Solutions.

2. Grant of Rights. Accessible Solutions grants Customer a non-exclusive, non-transferable right to access and use the Software during the Term, solely for use by Customer's authorized Users, subject to the terms of the applicable Order Form. Accessible Solutions will provide Customer and its Users with online access to the Software and any related products and Services offered by Accessible Solutions that are made available online as part of the Software. The Software will be hosted either on Accessible Solutions' servers or the servers of a third party that is in the business of hosting web- or cloud-based applications. Use of the Software is subject to the following terms and limitations:

(a) Use of Software. Use of the Software is limited to Customer's own internal business. Customer is granted the right to authorize Users to access and use the Software and related materials that Accessible Solutions makes available as part of the Software. Customer and Users are authorized to use the Software only as part of the Software, except as otherwise specifically set forth in this Agreement.

(b) Updates. Customer acknowledges and agrees that the Software and other materials made available by Accessible Solutions as part of its Services may be updated and modified from time to time by Accessible Solutions, in Accessible Solutions' sole discretion.

(c) Restrictions. Customer will not reverse engineer, disassemble, decompile, or otherwise attempt to derive source code, trade secrets, algorithms, programming methods or Confidential Information from the Software. Customer will not modify or create derivative works of the Software or use it to build a competitive product or service, or copy any features, functions or graphics of the Software or Accessible Solutions' website. If any affiliates of Customer are using the Software pursuant to this

Agreement, Customer is responsible for ensuring its affiliates' compliance with the terms of this Agreement.

(d) Users. Customer is responsible for ensuring that its Users comply with the applicable terms and limitations in this Agreement.

(e) Third-Party Software. Any open source components of the Software are subject to the applicable third-party license or subscription terms; Accessible Solutions will use reasonable efforts to provide a list of such open source components and license terms to Customer upon request. Other Third-Party Software that is embedded in the Software or is provided by Accessible Solutions as an integrated part of the Software, is provided by Accessible Solutions to Customer pursuant to the applicable terms of this Agreement, unless a separate third-party license or subscription agreement for such Third-Party Software is provided to Customer in advance. Third-Party Software is authorized only for use in connection with the Software, unless otherwise permitted under an open source license.

3. Other Services.

(a) Technical Support and Maintenance. Accessible Solutions will provide Customer with technical support and maintenance Services to assist Customer in utilizing the Software, in accordance with Accessible Solutions' then-current support policies [and the SLA].

(b) Professional Services. Upon Customer's request and subject to a separate written Statement of Work ("**SOW**") or Order Form between the parties, Customer may purchase training, consulting services, or other professional Services from Accessible Solutions. All such Services are subject to the terms and conditions set forth in the applicable SOW or Order Form as well as the terms and limitations of this Agreement, to the extent not conflicting with such SOW or Order Form.

4. Ownership.

(a) Accessible Solutions Ownership. Accessible Solutions owns and retains all right, title and interest in and to the Software, including the Software and Documentation, text, graphics, logos and images, Accessible Solutions' trademarks and service marks, website and its contents, any custom developments, Software updates, training and other written or electronic documents and materials produced by Accessible Solutions that relate to the Software, and all intellectual property rights in the foregoing. The Software and any other materials made available to Customer by Accessible Solutions may be used by Customer and Users only for the purposes described in this Agreement. Any rights not expressly granted herein are reserved to Accessible Solutions.

(b) Customer Ownership. As between the parties, Customer owns and shall retain all right, title and interest in and to all Customer Data, as well as the contents of any reports or forms generated by the Software that are specific to Customer. Accessible Solutions has the right to use, process and disclose Customer Data as necessary to provide the Services to Customer, to comply with legal obligations, and exercise its legal rights.

(c) Usage Data. The Software tracks metadata and other statistical and usage data related to Customer's and Users' use of the Software ("**Usage Data**") and provides such data to Accessible Solutions. Accessible Solutions shall own such Usage Data, provided that any Customer Data used in creating the Usage Data is included only in aggregated and/or anonymized form so that it is not identifiable as to Customer or any individual person. Accessible Solutions may collect, aggregate, use, distribute and sell such Usage Data for any legal purpose, including without limitation for the purposes of providing services and improving the Software and Accessible Solutions' products and services generally.

(d) Feedback. Accessible Solutions shall have a royalty-free, worldwide, irrevocable, perpetual license to use Customer's and Users' recommendations and other feedback and incorporate it into Accessible Solutions' software, products and services. Accessible Solutions shall exclusively own all right, title and interest in and to all software and intellectual property developed by it, regardless of whether it is based on or incorporates any such feedback.

5. Fees.

(a) Fees. Customer's fees for access to the Software and for other services are set forth in the applicable Order Form and/or SOW (collectively, the "**Fees**").

(b) Past Due Amounts. If any amounts owed by Customer are 30 or more days overdue, Accessible Solutions may, without limiting its other rights and remedies: (i) charge interest at the rate of 1% per month or the highest rate permitted by law, whichever is less, on the past due amounts; (ii) terminate this Agreement under Section 6(b) and accelerate Customer's unpaid fee obligations so that all such obligations become immediately due and payable, and/or (iii) suspend Customer's and its Users' access to the Software until such amounts are paid in full.

(c) Disputed Amounts. Customer will not withhold any undisputed portion of any amounts payable hereunder but may withhold disputed amounts upon written notice of a dispute. Customer must notify Accessible Solutions of a disputed invoice within 60 days of the date of such invoice, or the right to dispute it will be waived.

(d) Taxes. Customer is responsible for any applicable sales, use or other taxes or duties associated with this Agreement, other than taxes on Accessible Solutions' net income. If Customer is a tax-exempt entity, Customer must provide a tax-exemption certificate to Accessible Solutions.

(e) Other. All amounts paid under this Agreement are payable in U.S. dollars. All payments are non-refundable, other than as expressly set forth in this Agreement.

6. Term and Termination; Suspension.

(a) Term. This initial term of this Agreement is as stated in the applicable Order Form, subject to prior termination as set forth below. After such initial term, this Agreement will automatically renew for additional 12 month renewal terms. Customer must notify Accessible Solutions of its intention not to renew at least 30 days prior to the expiration of the then-current initial or renewal term. Accessible Solutions must notify

Customer of its intention not to renew at least three (3) months prior to the expiration of the then-current initial or renewal term.

(b) Termination for Cause. Either party will have the right to terminate this Agreement for cause at any time, upon written notice, in the event of (i) any material breach of this Agreement by the other party, subject to 30 days prior written notice and opportunity to cure such breach; or (ii) the other party's dissolution, distribution of a substantial portion of its assets, or cessation of all or substantially all of its normal business affairs.

(c) Effect of Termination. Upon the effective date of expiration or termination of the Agreement: (i) Customer's right to use the Software and all Accessible Solutions Confidential Information will end; (ii) Confidential Information of the disclosing party will be returned or destroyed as required by the Agreement; and (iii) any SOW not fully completed at the time of termination shall terminate automatically, unless otherwise agreed by the parties in writing. Termination shall not relieve Customer of its obligation to pay all charges that accrued prior to such termination. Sections 2(c), 2(d), 4, 5, 6(c), 7, 8, 11, 12 and 15 will survive termination of this Agreement, together with such other sections or terms as by their meaning or intent should survive termination.

(d) Suspension of Software Access. Accessible Solutions may suspend Customer's and its Users' access to the Software if Customer is in material breach of this Agreement, including any non-payment of fees, subject to 7 days' prior written notice and opportunity to cure such breach. Accessible Solutions may also immediately suspend Customer's or a User's access to the Software, without prior notice, if continued use creates a substantial risk to the security or integrity of the Software or may result in material harm to the Software, Accessible Solutions, or other customers of Accessible Solutions. Accessible Solutions will promptly notify Customer of the suspension. Accessible Solutions will limit the suspension in time and scope as reasonably necessary under the circumstances. Accessible Solutions shall have the right to monitor use of the Software to verify compliance with the Agreement.

7. Confidential Information. The receiving party of Confidential Information (i) shall not disclose Confidential Information or any information derived therefrom to any person, other than employees and independent contractors with a need to know such information and who are obligated to keep such information confidential; or (ii) use the Confidential Information for any purpose, except as expressly permitted by this Agreement. The receiving party shall give Confidential Information at least the same level of protection as it gives its own information of similar sensitivity, but not less than a reasonable level of protection.

8. Customer Data and PHI.

(a) Customer Data. Customer is responsible for entering Customer Data into the Software and ensuring such Customer Data is complete and accurate and that Customer has the legal right to share the Customer Data (including PHI and personal data) with Accessible Solutions. Customer grants to Accessible Solutions a non-exclusive right to

process Customer Data solely to provide Services to Customer and support the Software. Customer owns its data hosted by Accessible Solutions.

(b) Personal Data and PHI. Customer will collect and maintain all personal data and PHI contained in the Customer Data in compliance with applicable data privacy and protection laws and regulations. Accessible Solutions will protect PHI in accordance with the terms of the BAA attached as Schedule B or such other BAA as the parties may agree to in writing.

(c) Reasonable Safeguards. Each party will maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data in its control, including Personal Data. Customer will also maintain commercially reasonable safeguards and standards for the security of access to the Software and Users' passwords.

9. Customer's Warranties. Customer represents and warrants to Accessible Solutions that:

(a) the Customer Data and any other materials or information provided by Customer to Accessible Solutions in connection with this Agreement will not violate any third party's privacy or intellectual property rights; and that Customer has all necessary rights and consents required to upload all Customer Data, including Personal Data and PHI, into the Software and provide such Customer Data to Accessible Solutions; and

(b) Customer and its Authorized Users will use the Software only in a manner that does not violate any law or regulation.

10. Accessible Solutions Warranties and Disclaimers.

(a) Accessible Solutions Warranties. Accessible Solutions warrants to Customer as follows:

(i) during the Term, the Software, when used properly and in accordance with its Documentation and this Agreement, will comply in all material respects with its Documentation; and

(ii) Accessible Solutions will: (i) perform the Services in a professional manner consistent with the standards of Accessible Solutions' industry using appropriately trained and qualified personnel; and (ii) perform the Services in compliance and in accordance with the provisions of this Agreement and the applicable SOW(s) and Schedule(s) in all material respects. Customer must report any breach of warranty to Accessible Solutions in writing within 60 days of the earlier of Accessible Solutions' completion of the Services or Customer's discovery of the defect in the Services. Customer's sole and exclusive remedies and Accessible Solutions' entire liability for breach of this warranty will be: (i) to re-perform the defective Services; or (ii) if such re-performance does not occur or does not cure the breach, to refund the amounts paid by Customer for the defective Services.

(b) Exclusions. Accessible Solutions' warranty under Section 10(a)(i) will not apply if (i) the Software is not used in accordance with this Agreement or any applicable

Documentation; (ii) any non-conformity is caused by Customer, or by any product or service not provided by Accessible Solutions; (iii) without the direct involvement of Accessible Solutions personnel, the Software or parts of the Software are configured solely by Customer or a third party; (iv) Customer is not on a version of the Software for which Accessible Solutions provides maintenance and support; or (v) the Software was provided for no fee.

(c) Remedies. In the event of a breach of the warranty in Section 10(a)(i), Customer shall contact Accessible Solutions' designated support personnel within 30 days of Customer's discovery of the breach. Customer's sole and exclusive remedies and Accessible Solutions' entire liability for breach of this warranty will be: (i) at Accessible Solutions' option, to repair any material, reproducible deficient functionality of the Software, or to replace such defective functionality with reasonably equivalent functionality; or (ii) if Accessible Solutions is unable or fails to cure the warranty breach within a reasonable time, Accessible Solutions or Customer may terminate this Agreement upon 15 days' prior written notice and Accessible Solutions shall refund Customer's prepaid subscription fees, from the date the Software was unable to perform as warranted. Any such termination by Customer must occur within three months of the initial occurrence of the warranty breach.

(d) Limitation of Warranties. **Except as expressly set forth herein or agreed in writing by an authorized official of Accessible Solutions, the Software and all other Accessible Solutions products and Services are provided "AS IS". Open source copyright holders have no liability to Customer for any reason. ACCESSIBLE SOLUTIONS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR ANY PARTICULAR PURPOSE OR USE, whether arising by law, by reason of custom or usage of trade, or by course of dealing. Accessible Solutions does not warrant that the Software or its Services are error-free. Accessible Solutions is not responsible or liable for any problems or interruptions in access to the Software due to issues with third-party hosting services or Internet service providers. Hardware, Third-Party Software, and hosting services are covered only by the manufacturers or third-party software or service provider's warranty or service level agreement (SLA). Warranties are not transferable to a third party, other than in connection with assignment of this entire Agreement under Section 14.**

11. Indemnification.

(a) Accessible Solutions Indemnity. Accessible Solutions shall defend Customer against or settle at its option any suit or proceeding alleging that the Software infringes any third party copyright or patent that has issued as of the Effective Date, and indemnify Customer against and pay any liabilities, damages, costs and expenses (including reasonable attorneys' fees) finally awarded therein or paid in settlement. If the Software is finally held or believed by Accessible Solutions to infringe or its use by Customer is enjoined, Accessible Solutions may obtain a license or grant of rights under the rights that have been infringed, modify the Software so it is noninfringing or provide to Customer a substitute Software that is noninfringing. If the foregoing

options are not commercially reasonable, Accessible Solutions may terminate the right to access the affected Software upon written notice to Customer, and in such event shall refund any prepaid and unearned fees. Accessible Solutions shall have no liability for infringement based upon (i) modification of the Software by any party other than Accessible Solutions, (ii) infringement by any Third-Party Software or other third-party product (even if integrated into the Software or otherwise provided to Customer by Accessible Solutions), (iii) the combination or use of the Software with any other software, product, equipment, or process not furnished by Accessible Solutions (including any materials provided by Customer), (iv) arising out of Accessible Solutions' compliance with Customer's designs, specifications or instructions, or (v) use of the Software in a manner for which it was not designed or that violates the terms of this Agreement. **THIS SECTION STATES ACCESSIBLE SOLUTIONS'S ENTIRE OBLIGATION WITH RESPECT TO ANY CLAIM FOR INFRINGEMENT OR MISAPPROPRIATION OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. ACCESSIBLE SOLUTIONS IS NOT RESPONSIBLE FOR THE COSTS OF OBTAINING A SUBSTITUTE SERVICE OR PRODUCT.**

(b) Customer Indemnity. Customer shall defend Accessible Solutions against or settle at its option any suit or proceeding alleging that the Customer Data infringes any third party privacy or intellectual property rights, or that Customer has violated any law or regulation in the manner in which it has used the Software, and indemnify Accessible Solutions against and pay any liabilities, damages, costs and expenses (including reasonable attorneys' fees) finally awarded therein or paid in settlement.

(c) Indemnification Procedure. A party must (i) promptly notify the other party of any claim for which it believes it is entitled to be indemnified, (ii) grant the indemnifying party sole control of the defense of the claim and all related settlement negotiations, and (iii) provide the indemnifying party with the assistance, information and authority necessary to perform the above, at the indemnifying party's expense. The indemnified party may, at its option and expense, be represented by separate counsel in any such action.

12. Limitations of Liability. **IN NO EVENT SHALL EITHER PARTY, OR ACCESSIBLE SOLUTIONS'S LICENSORS OR AFFILIATES, BE LIABLE FOR LOST PROFITS, LOST DATA, INTERRUPTIONS OF BUSINESS, OR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR USE OF THE SOFTWARE OR SERVICES, INCLUDING WHERE SUCH TYPES OF DAMAGES RELATE TO THE ACCIDENTAL OR UNLAWFUL DESTRUCTION, LOSS, ALTERATION, UNAUTHORIZED DISCLOSURE OF, OR ACCESS TO PERSONAL DATA, REGARDLESS OF WHETHER SUCH PARTY HAS NOTICE OF THE POTENTIAL FOR SUCH LOSS OR DAMAGE, AND REGARDLESS OF THE THEORY OF LIABILITY. ACCESSIBLE SOLUTIONS'S AND ITS LICENSORS' AND AFFILIATES' TOTAL AGGREGATE LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED (i) IN THE CASE OF CLAIMS ARISING OUT OF OR RELATED TO PROFESSIONAL SERVICES, THE TOTAL AMOUNTS PAID FOR THE SERVICES IN QUESTION; AND (ii) FOR ALL OTHER CLAIMS OR DAMAGES, THE AMOUNT OF SUBSCRIPTION FEES CUSTOMER HAS PAID TO ACCESSIBLE SOLUTIONS DURING THE 12 MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE CLAIM. Accessible Solutions will not be liable for any damages caused by or relating to any**

**Software or Services provided for no fee. The Agreement allocates the risks between Accessible Solutions and Customer, and the fees for the Software and Services reflect this allocation of risk and limitations of liability. These limitations shall apply notwithstanding the failure of the essential purpose of any limited remedy. The above limitations may be superseded by law in some jurisdictions.**

13. Publicity. Neither party will use the name of the other party in publicity activities without the prior written consent of the other, except that Customer agrees that Accessible Solutions may use Customer's name in customer listings or calls with its investors or affiliates, or at times mutually agreeable to the parties, as part of Accessible Solutions' marketing efforts (including reference calls and stories, press testimonials, site visits, and various conferences participation).

14. Assignment. Customer may not assign or transfer this Agreement or any of its rights or duties hereunder to any third party without prior written consent of Accessible Solutions. This Agreement shall inure to the benefit and be binding upon the successors and permitted assigns of the parties.

15. General.

    (a) Entire Agreement; Amendment. This Agreement, including the attached schedules and any related Order Forms and SOWs, constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior or oral agreements or understandings with respect thereto. Any preprinted terms in a purchase order submitted by Customer to Accessible Solutions are expressly agreed to be of no force or effect. This Agreement may not be amended except by a writing signed by authorized representatives of both parties.

    (b) No Waiver. Any waiver by either party of a default or obligation under this Agreement will be effective only if in writing. Such a waiver does not constitute a waiver of any subsequent breach or default. No failure to exercise any right or power under this Agreement or to insist on strict compliance by the other party will constitute a waiver of the right in the future to exercise such right or power or to insist on strict compliance.

    (c) Governing Law. This Agreement shall be construed in accordance with the laws of the State of Utah, excluding conflicts of law's provisions. If any dispute arises concerning this Agreement and/or Accessible Solutions' products or services, venue shall be laid in Salt Lake County, Utah. Utah state and federal courts shall have exclusive jurisdiction over any such dispute, and the parties hereby consent to the jurisdiction and venue of such courts. In lieu of resolving the dispute in a competent court in Utah, the parties, through written agreement, may agree to submit the dispute to binding arbitration by a single arbitrator, who must be a licensed attorney familiar with Utah law as well as software-related law, with the American Arbitration Association (AAA), in accordance with its relevant industry rules, if any. The arbitration will be held in Utah or may be held via a teleconference upon request of either of the parties. The arbitrator will have the authority to grant injunctive relief and specific performance to enforce the terms of this Agreement. Judgment on any award rendered by the arbitrator may be entered in any Court of competent jurisdiction. Either party must

initiate a cause of action for any claim(s) relating to the Agreement and its subject matter within one year from the date when the party knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

(d) Severability. If any provision of this Agreement is deemed invalid or unenforceable by a court or governmental authority, that provision shall be modified, if possible, to the minimum extent necessary to make it valid and enforceable, or if it cannot be so modified, then severed, and the remainder of this Agreement shall remain in full force and effect.

(e) Export Compliance. Customer may not use, export or re-export any of the Software's data, software, content or materials in any form in connection with this Agreement in violation of U.S. export laws and regulations, or without first obtaining the appropriate authorizations.

(f) Notices. All notices required under this Agreement will be in writing and will be delivered personally, mailed by registered or certified mail with a return receipt requested, sent by commercial overnight delivery service with provisions for a receipt, or sent by e-mail, to the address of the receiving party first set forth above or such other address a party may specify by written notice. Notices shall be presumed to have been received by the other party (i) upon receipt if sent by hand delivery, registered or certified mail, or delivery service; or (ii) if sent by email, upon confirmation of receipt by non-automated means.

(g) Independent Contractors. The parties are independent contractors. Customer is not an agent of Accessible Solutions and will not represent to any third party that it is an employee or agent of Accessible Solutions. Customer shall have no authority to enter into any contract on behalf of Accessible Solutions.

(h) Injunctive Relief. Each party acknowledges that the other party's intellectual property and Confidential Information is highly valuable to the other party, that any breach of such party's obligations with respect to confidentiality and/or use of the other party's intellectual property may severely damage the other party, the extent of which damage would be difficult to ascertain and, therefore, that the other party is entitled to seek, among other remedies, temporary and permanent injunctive relief and other equitable relief for any such breach, without the necessity of posting bond or other security, to the extent permitted by law.

(i) Force Majeure. A party shall be excused from delays or failure to perform its duties (other than payment obligations) to the extent such delays or failures result from acts of nature, riots, war, acts of public enemies, fires, epidemics, labor disputes, or any other causes beyond its reasonable control. The parties will promptly inform and consult with each other as to any of the above causes that in their judgment may or could be the cause of a substantial delay in the performance of this Agreement. The affected party shall resume performance as soon as is reasonably feasible.

(j) Non-Solicitation. During the term of this Agreement and for a period of 12 months after the termination of this Agreement, unless Accessible Solutions gives its prior written consent, neither Customer nor any of its affiliates shall directly or indirectly solicit for

employment or offer employment to any individual who is then employed or engaged by Accessible Solutions or was so employed or engaged by Accessible Solutions within the prior 6 months. However, this Section shall not prohibit the use of any public and open job postings or advertisements not specifically directed to an employee of Accessible Solutions.

(k) Electronic Signatures and Delivery; Signature Authority. This Agreement and any other documents to be delivered in connection herewith may be electronically signed and delivered. The person signing this Agreement and any related contract documents on behalf of Customer represents that he or she has the authority to bind Customer.

| **Lumpkin County Board of Commissioners** | **Accessible Solutions, LLC** |
|---|---|
| By:_____ Signature | By:_____ Signature |
| Title:_____ | Title:_____ |
| Date:_____ | Date:_____ |

# ACCESSIBLE SOLUTIONS SCHEDULE A – ORDER FORM AND STATEMENT OF WORK

Accessible Solutions Reference No.: LUMPKINCOUNTY052023v2

Order Form and Statement of Work for Accessible Solutions Application(s) Subscription Service and Professional Services

**Between**
Accessible Solutions, LLC.
840 North Cocoa Blvd., Suite D
Cocoa, Florida 32922
("**Accessible Solutions**")
**And**
Lumpkin County Board of Commissioners
266 Mechanicsville Rd
Dahlonega, GA 30533 ("**Customer**")

## 1.ORDER FORM AND AGREEMENT TABLE OF DOCUMENTS:

This Schedule A - Order Form and Statement of Work (the "**Order Form**") is an offer by Accessible Solutions. When signed and returned to Accessible Solutions by Customer on or prior to the offer expiration date below, it becomes a binding agreement for the Accessible Solutions Subscription Service and applicable Professional Services listed in this Order Form and is effective on the Effective Date designated in the SaaS Agreement.

Offer Expiration Date: May 31, 2023

This Order Form is governed by and is incorporated into the Agreement between the Parties, which consists of the following documents. However, if any terms and conditions of any of the other Agreement documents conflict with the terms and conditions of this Order Form, this Order Form will control. All documents listed in the following table are collectively referred to as the "**Agreement**."

| AGREEMENT DOCUMENTS | PURPOSE |
|---|---|
| **Schedule A - Order Form and Statement of Work (SOW) (collectively, "Order Form")** | Defines what Customer has purchased from Accessible Solutions, whether the Subscription Service or Professional Services or both, and some of the various terms and conditions for those purchases, particularly financial terms and Subscription Term dates for the Subscription Service. The SOW portion defines the applicable Professional Services ("**Services**") that Accessible Solutions shall provide to Customer that are subject to the terms and conditions of the Agreement. |

| | |
|---|---|
| **SaaS Services Agreement (the "SaaS Agreement")** | Defines the general terms and conditions applicable to the Subscription Service as well as the terms and conditions for all applicable Professional Services that Accessible Solutions shall perform for Customer. |
| **Exhibit A Service Level Agreement (SLA)** | Defines the service level agreements for the Subscription Service, including Application(s) maintenance and support offerings. |
| **Exhibit B – Business Associate Agreement (BAA)** | Defines the terms and conditions for how Accessible Solutions will handle all PHI that Accessible Solutions may receive or access from Customer, subject to HIPAA. |

Customer has had the opportunity to review the referenced Agreement documents prior to executing this Order Form. All capitalized terms used and not defined in this Order Form have the same meanings as stated in the SaaS Agreement.

## 2. ACCESSIBLE SOLUTIONS APPLICATION(S) AND PROFESSIONAL SERVICES:

**2.1 AUTHORIZED ADMINISTRATORS AND CUSTOMER LOCATION:** Customer will specify system administrator contacts for system notices as stated in the Agreement, as well as a contact for order confirmation. Customer has provided its primary access location as the one listed in the Signatures page herein. This is the primary (but not the only) location from which Customer and its Authorized Users will access the Application(s). If Customer does not provide a primary access location, Accessible Solutions will incorporate a default primary access location to Customer's sold-to address. The primary access location is used by Accessible Solutions for the determination of any applicable taxes.

**2.2 ACCESSIBLE SOLUTIONS APPLICATION(S) ORDER:** The Accessible Solutions Pricing Table within Section 2.5 herein provides the purchased Application Subscription Service(s), Usage Metrics, Subscription Term, and fees.

(A) For the SaaS services, the initial term of Customer's SaaS Agreement (the initial term together with any renewal terms is referred to as the "**Subscription Term**") will begin on the start date and will be effective until the end date specified below, unless otherwise renewed or terminated as set forth in the SaaS Agreement.

(i) Customer's Subscription Term Start Date: **7/1/2023**
(ii) Customer's Subscription Term End Date: **6/30/2026**

(B) The Subscription Term will automatically renew for one year renewal terms unless (i) Customer notifies Accessible Solutions of its intention not to renew at least one month in advance of the expiration of the then-current Subscription Term, or (ii) Accessible Solutions notifies Customer of its intention not to renew at least three months prior to the expiration of the then-current Subscription Term.

**2.3 EXCESS USE:** The Subscription Service and Customer's use of the Application(s) are subject to the terms and conditions of the Agreement, including the Usage Metrics stated herein. Any use of the Application(s) that exceeds the Usage Metrics will be subject to additional fees. Fees accrue from the date the excess use began. Customer will execute an additional Order Form

to document subscriptions for additional Usage Metrics. Accessible Solutions may invoice and Customer will pay for excess use based on the applicable pricing specified in an Order Form.

**2.4 ACCESSIBLE SOLUTIONS PROFESSIONAL SERVICES:** When applicable, the Accessible Solutions Pricing Table in Section 2.5 on the following page shows the purchased Subscription Service(s), non-recurring Services, and fees. Accessible Solutions will provide the Services subject to the terms of this Order Form and the Agreement. Accessible Solutions' obligation to provide the Subscription Service and other Services will end upon expiration of the Subscription Term unless otherwise stated herein or within the Agreement.

**2.5 ACCESSIBLE SOLUTIONS PRICING TABLE:**

| ServTracker™ Budget Line Items | Unit Price | Months | Qty | Year 1 | Year 2 | Year 3 |
|---|---|---|---|---|---|---|
| Annual Licensing Fees* | | | | | | |
| ServTracker - Opt One Pricing (1-10 users) | $ 63.50 | 12 | 3 | $2,286.00 | $2,377.44 | $2,472.54 |
| Discount User license Yr 1** | | | | ($126.00) | | |
| Mobile Meals App (1-10 routes) | $ 5.25 | 12 | 9 | $567.00 | $589.68 | $613.27 |
| Mobile Meals Dashboard | $ - | 12 | 1 | $0.00 | $0.00 | $0.00 |
| Annual Licensing Fees Total | | | | $2,727.00 | $2,967.12 | $3,085.80 |
| Contract Total by Year | | | | **$2,727.00** | **$2,967.12** | **$3,085.80** |
| | | | | | | |

* Accessible Solutions, LLC. increases annual Subscription Fees by about 4% each year to account for the rising costs of doing business.
** Discounted user fee.

## 3. PAYMENT AND INVOICES

**3.1 FEES AND INVOICING:** Unless this Order Form states otherwise, when applicable, annual fees for the Application(s) Subscription Service following the first year of the Subscription Term will be invoiced by Accessible Solutions and paid by Customer per year in advance on a Net-30 payment schedule. Fees for all Services will be invoiced by Accessible Solutions and shall be paid by Customer within thirty (30) days of the date of the invoice, unless otherwise stated herein. Customer purchase orders are for administrative convenience and are not a condition of payment. Unless otherwise stated herein, payment for Subscription Service(s) fees is not dependent upon completion of any Services. Customer may not withhold any amounts due hereunder and Accessible Solutions reserves the right to cease work without penalty if amounts are not paid when due. Any late payment will be subject to any costs of collection and will bear interest at the rate of one (1) percent per month or a fraction thereof until paid. Accessible Solutions may provide invoices to an email address provided by Customer. Unless otherwise negotiated by the Parties, except for fee increases applied under Section 3.2, Subscription Service fees for renewal terms will be equal to the fees for the immediately preceding term for the same Application(s) and Usage Metrics. Pursuant to IRS guidelines, Customer will reimburse Accessible Solutions for all pre-approved (by Customer) and appropriately-documented travel costs and related expenses incurred by Accessible Solutions in performing any Services. Prices quoted for Services for implementations may include two visits to Customer location(s); however, onsite visits may not be necessary for other types of Services. Onsite meetings will require reimbursement to Accessible Solutions for its reasonable and necessary costs of travel, which is generally $1,500 (flat rate) for each visit, and out-of-pocket costs for photocopying, overnight courier, unusual long-distance

telephone calls, and the like. All non-local trips must be approved by Customer before commencing. Any applicable sales tax is to be paid by Customer.

**3.2 FEE INCREASES:** At the beginning of each renewal term, which follows the initial Subscription Term provided in Section 2.2(A) above, Accessible Solutions may increase fees to reflect annual increases in consumer and business prices or costs. This increase will not exceed 4.0% per annum unless Accessible Solutions provides at least sixty (60) days of notice of an increase exceeding 4.0% per annum before the next annual period of the Subscription Term begins. The increase is applied on a cumulative, year-over-year basis beginning on either the start of the preceding term or date of last increase, whichever is later. Not raising fees is not a waiver of Accessible Solutions' right to do so at a later date.

**3.3 PRICE AND INVOICES:** The first-year (a.k.a., "**Y1**") contract amount, pursuant to this Order Form is:

**$2,727.00 – Due at Contract Execution**

Years two and beyond will be billed in one annual payment per year in advance, pursuant to the pricing provided within this order form. As part of the contract process, Customer will supply Accessible Solutions a copy of its sales and use tax exemption certificate, when applicable. First-year contract fees will be invoiced according to the following payment schedule:

Year 1 User Licenses & Set-Up Fees: **$2,727.00**

## 4. STATEMENT OF WORK FOR IN-SCOPE PROFESSIONAL SERVICES

**4.1 SCOPE OF WORK PREAMBLE:** This Section 4 lists the contracted project Services associated with the Accessible Solutions product(s) that are in scope for Customer. For each of the Services listed in Section 4.2 and its subsections (if applicable), Accessible Solutions has estimated a number of Services hours. The total amount of Services hours for the project may not be exceeded without a change order and its associated pricing being mutually approved by the Parties as set forth in Sec. 4.5. For each of the Services provided, the hours may increase or decrease, based upon the requirements of the project engagement, but the total amount of hours quoted will not increase or decrease without a mutually-approved change order. When the total amount of pre-ordered Service hours for the project have been exhausted, Accessible Solutions will cease all Services work unless a mutually-approved change order is executed by the Parties for Accessible Solutions to provide additional Services. If Accessible Solutions has satisfactorily completed all project tasks without exhausting the total amount of Services hours for the project, Customer will receive a credit or refund (when applicable) for those remaining hours, or Customer will not be invoiced for those remaining hours.

Customer is required to promptly communicate with Accessible Solutions regarding project implementation matters. Customer's failure to do so may result in Customer being billed for the remaining Service hours contracted for by Customer, as set forth in Section 3.3 of the SaaS Agreement.

Accessible Solutions' Services process may involve formal scoping and discovery work with Customer that may result in the drafting of a requirements document or project plan or both,

as mutually approved by the Parties. Upon approval of a requirements document or project plan, this Order Form shall be amended, if appropriate, to ensure consistency with the requirements document or project plan or both. The Services to be delivered by Accessible Solutions for this engagement are provided in Section 4.2 below.

**4.2 SCOPE OF PROFESSIONAL SERVICES:**

N/A

**4.2.1 PROJECT MANAGEMENT SCOPE:**

**PLANNING:** Accessible Solutions project management responsibilities may include the following activities throughout the project life cycle:

- Creation of a Dropbox or SharePoint secure site to store data transfer information, discovery documentation, project plans, Customer workflows, forms and reports, and the like.
- Defining and clarifying project scope;
- Creating a risk assessment strategy to identify project risks and their mitigation plans;
- Developing and managing the overall project plan;
- Identifying key milestones; and
- Establishing project governance structure to review project progress and channel escalations.

**ORGANIZING:** With Customer's structure in mind, Accessible Solutions project management may organize the project by:

- Working with Customer to define the organizational structure of the project team;
- Identifying roles and responsibilities;
- Identifying services to be provided by external companies and vendors;
- Working with Customer to staff project positions; and
- Procuring sign-off documents, including:
  - Configuration sign-off: Accessible Solutions sign-off required before final Customer testing begins;
  - Testing sign-off: Accessible Solutions sign-off required before Accessible Solutions can migrate to *Production;* and
  - Production readiness sign-off.

**LEADING:** Accessible Solutions project management will work with Customer's project team to provide clear and consistent communication, with activities to drive the project, which may include:

- Managing conflict resolution and triaging project escalations; and
- Setting team direction:
  - Coordinating activities across different organizational functions; and

- Assigning resources appropriately.

**CONSULTING:** Accessible Solutions project management may incorporate measuring, evaluating, and correcting project progress throughout the project timeline by:

- Developing weekly status reports to summarize progress, high-lighting risks and issues, and defining next steps and Customer action items;
- Conducting weekly status meetings to discuss action items and tasks scheduled for completion in the upcoming weeks;
- Conducting weekly configuration/functional calls that may be driven by an Accessible Solutions project manager (PM) with Customer's PM receiving feedback on issues/risks/action items;
- Having internal stakeholder meetings that will be driven by Customer's PM with the Accessible Solutions PM receiving feedback on the outcome of the meeting and status on action items/risks; and
- Ensuring that Customer's PM facilitate meetings with third-party vendors as needed.

### 4.2.2 DATA CONVERSION (EXTRACT, TRANSFORM, AND LOAD) SERVICES:

1. It is Customer's responsibility to map the data from its source system to Accessible Solutions' specifications. Accessible Solutions will not fix, map, or modify any incoming data.
2. Customer will choose one of three formatting options for the incoming data (Excel, SQL staging, or SQL target). Once the Extract, Transform, and Load ("**ETL**") process has begun, the format cannot be changed. Requests for format changes after the ETL process has begun may be subject to additional charges via a change order (the form of which is provided herein).
3. The task of validating the data is the responsibility of Customer. Accessible Solutions will provide import results and guidance to assist with the validation, but the actual validation must be conducted by Customer.
4. Once Customer's system has gone live, Accessible Solutions will consider the ETL to be complete. Any request for imports to occur after go-live may be subject to additional charges.
5. Customer should communicate with the ETL team via the project manager, who is primarily responsible for answering Customer questions and monitoring the time spent on the project overall.
6. Any scheduled meeting time specifically dedicated to the ETL project should be reserved for questions and/or troubleshooting that requires the attention of Accessible Solutions' resources. Customer is responsible for having internal discussions, as much as possible, outside of these scheduled meeting times.

### 4.3 HIGH-LEVEL PROJECT ATTRIBUTES AND ASSUMPTIONS:

- Application(s) will be deployed in U.S. English only.
- Accessible Solutions did not conduct a detailed scoping session to determine project scope; Accessible Solutions is assuming that the proposed project scope will meet Customer's requirements.

- Application(s) will be configured in *Test, Train,* and *Production* databases only.
- Customer will identify a small number of system administrators to support the software after the project described in this Order Form is complete; they will be responsible for ongoing employee data uploads and general user-support questions.
- When necessary, Customer's project manager ("**PM**") will work with Accessible Solutions to establish a project plan and manage issues and action items throughout the project.
- Customer will ensure its staff has the appropriate skills and experience to complete assigned project tasks. If any Customer personnel fail to perform as required, Customer will provide suitable additional or alternative staff.
- Unless otherwise stated within this Order Form, for any Services work that involves field-mapping for reports, whether reports customizations or configurations or SSRS MS report training within the Accessible Solutions Application(s), Customer is responsible for that field-mapping.
- Customer is responsible for all decommissioning activities to legacy applications and services.
- Customer will be responsible for communicating the vision, goals, and business case of the program to applicable employees; Accessible Solutions does not provide change management services.
- This Order Form is based on current Application(s) features only; configuration of future enhancements or enhancements released during the duration of the project are not included.

**4.4 MUTUAL COOPERATION:** Customer acknowledges that its Cooperation, as described in Section 12.10(b) of the Agreement, is essential to Accessible Solutions' timely performance of its Services. In the event of a suspension of this project for failure to provide Cooperation, Customer will have the option to engage Accessible Solutions to complete the project upon the execution of a mutually-approved Order Form and SOW subject to Accessible Solutions' then-current Services rates.

**4.5. PROJECT CHANGE CONTROL AND CHANGE ORDERS:** Throughout this project, new information may surface that may necessitate a change in business requirements or a change in the technical environment. These changes may result in a change in project scope and therefore affect the estimated level of effort, project timeline, or software features. Any such changes will require a change order, which either Customer or an Accessible Solutions team member will complete, using Accessible Solutions' change order form unless otherwise mutually agreed. Change orders may result in additional fees. Accessible Solutions may also charge for the time required to scope complex requests. Accessible Solutions will advise Customer of the price estimate if a charge will apply.

If Customer initiates a change order request, Customer is required to complete the change order request and submit such change order request to Accessible Solutions for review. Accessible Solutions will not be responsible for drafting change order requests if Customer's employees, contractors, or agents orally communicate a change order request to Accessible Solutions.

A completed change order form includes the requested change, the impact on the current engagement, and the estimated resources, time, and fees to implement the change order. A Party will submit the completed change order form to the other Party for review and approval. If either Party submits a change order to the other Party and the other Party does not approve the change order form in writing within ten (10) business days, the change order form will automatically expire unless the Party providing the proposed change order has extended the period of acceptance in writing. Upon written approval, the Accessible Solutions team will begin work on the requested change according to the agreed-upon schedule.

**4.6 ISSUE MANAGEMENT:** The goal of issue management is to prevent issues from having an adverse effect on the project. The resolution of an issue could affect any aspect of the project including scope, costs, benefits, risks, project organization, and schedule. It is critical to identify and document issues as early as possible, assign ownership, define follow-up dates, and track issue resolution. Accessible Solutions will track issues using a project issues log. High-impact issues could have an adverse impact on project schedule and overall success. The team should track high-impact issues closely. If an issue is categorized as high impact, the team should escalate it within the project structure so that it is visible to executive management and every effort is made to resolve it.

# SIGNATURE PAGE

The Parties agree that a facsimile of this Order Form shall be considered as the original, and that such facsimile, when counter-signed by the other Party, and any copy thereof, shall be as legally binding as the original.

AGREED AND ACCEPTED:

| **Lumpkin County Board of Commissioners** | **ACCESSIBLE SOLUTIONS, LLC.** |
|---|---|
| By:_____ | By:_____ |
| Name:_____ | Name:_____ |
| Title:_____ | Title:_____ |
| Date:_____ | Date:_____ |
| Lumpkin County Board of Commissioners | Accessible Solutions, LLC. |
| 266 Mechanicsville Rd | 840 North Cocoa Blvd., Suite D |
| Dahlonega, GA 30533 | Cocoa, Florida 32922 |

**SCHEDULE B**

BUSINESS ASSOCIATE ADDENDUM

The parties to the Agreement, Accessible Solutions, LLC. (herein "Business Associate") and the Customer identified in the Agreement (herein "Covered Entity"), are committed to complying with applicable federal statutory and regulatory requirements relating to the access, use and disclosure of Protected Health Information (or "PHI"), including, without limitation, the Standards for Privacy of Individually Identifiable Health Information, and the Security Standards, collectively codified at 45 C.F.R. Parts 160, 162 and 164 (respectively the "Privacy Standards" and "Security Standards" ) under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act, as set forth in Subtitle D of the American Recovery and Reinvestment Act of 2009 ("HITECH").

To ensure such compliance, this Business Associate Addendum (or "BAA") sets forth the terms and conditions pursuant to which Protected Health Information ("PHI") that is provided to, or created or received by, Business Associate from or on behalf of Covered Entity will be handled. Unless otherwise defined in this BAA, all capitalized words, like PHI, have the meanings set forth in the HIPAA Privacy and Security Rules, 45 C.F.R. Parts 160, 162 and 164, as modified from time to time.

**1. Definitions.**

a. "Electronic Health Record" shall have the same meaning as the term "electronic health record" in the American Recovery and Reinvestment Act of 2009, § 13400(5).

b. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 and regulations issued thereunder, as may be expanded by HITECH.

c. "Protected Health Information" or "PHI" has the meaning given to Protected Health Information in the HIPAA Rules. For purposes of this BAA, "PHI" is limited to PHI that is provided, created, exchanged or received by or between Business Associate and Covered Entity.

d. Other Terms. The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information (or "Electronic PHI"), Electronic Transactions Rule, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Required by Law, Secretary, Security Incident, Subcontractor, Transaction, Unsecured Protected Health Information, and Use.

e. Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as then in effect or as amended.

**2. Scope.** This BAA sets forth the terms and conditions pursuant to which any and all PHI will be handled. Business Associate and Covered Entity will comply with all applicable laws, including those governing the creation, use, disclosure, access, storage, and maintenance of PHI.

**3. Duties and Responsibilities of Business Associate:** Business Associate agrees to:

a. Use and Disclosure of PHI. Not Use or Disclose PHI other than as permitted or required by this BAA, as set forth in Section 4.a below, or as required by applicable law;

b. Safeguards. Use reasonable and appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 and HITECH with respect to electronic PHI, to protect the security of all PHI against Security Incidents, prohibited Uses or Disclosures of PHI or other misuse of PHI, as required by the HIPAA Rules;

c. Required Reporting. Report to Covered Entity, within thirty (30) days, any prohibited Use or Disclosure of PHI of which Business Associate becomes aware, by Business Associate, any of its employees, Subcontractors or agents, or any third party receiving or obtaining such PHI from or through Business Associate, including Breaches of Unsecured Protected Health Information, in addition to any other reporting obligations of Business Associate under the HIPAA Rules, as well as any Security Incident of which it becomes aware; provided, however, that the parties acknowledge and agree that from time to time Unsuccessful Security Incidents may occur, that this section constitutes notice to Covered Entity with respect to such incidents, and that no additional notice to Covered Entity is required for such incidents. "Unsuccessful Security Incidents" means any pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and/or comparable attacks or attempts, as long as no such incident results in unauthorized access, Use or Disclosure of PHI. Such reports will include a description of the PHI used or disclosed and the nature of the Use or Disclosure, to the extent such information is known by Business Associate;

d. Subcontractors. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit PHI or Electronic PHI on behalf of Business Associate agree to same restrictions, conditions, and requirements that apply to Business Associate with respect to such PHI or Electronic PHI; including the obligation to report to Business Associate any instances of which it is aware of violation of the agreement with respect to PHI or Electronic PHI;

e. Individual and Third Party Requests. If Business Associate receives a request from an Individual or any third party to inspect, obtain a copy of, or amend PHI, Business Associate will forward such request in writing to Covered Entity within five (5) business days of receiving the request. Covered Entity will be responsible for making all determinations regarding the third party request for PHI; Business Associate will neither make such determinations nor release PHI to a third party pursuant to such a request, except if and to the extent required by the HIPAA Rules;

f. Designated Record Sets. If Business Associate's services under the Agreement require it to maintain a Designated Record Set, then:

(i) within ten (10) business days of Covered Entity's request to Business Associate for a copy of PHI, Business Associate will provide the requested PHI to Covered Entity, as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524; and

(ii) Business Associate will make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526;

g. Accounting of Disclosures. Maintain and, within thirty (30) days of receiving a request, or sooner if Required by Law, make available the information required to provide an accounting of disclosures to either Covered Entity or the Individual as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528, for a period of at least six (6) years following the date of termination of this BAA;

h. Comply with Applicable Obligations of Covered Entity. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s);

i. Books and Records. Make its internal practices, books, and records relating to the Use and Disclosure of PHI available to the Secretary for purposes of determining compliance with the HIPAA Rules. Neither Business Associate nor Covered Entity waives any attorney-client, accountant-client, or other legal privilege or confidentiality as a result of this Section 3.i; and

j. Training. Business Associate will require each employee who will have access to PHI of Covered Entity, to comply with the restrictions and conditions applicable to Business Associate herein. Business Associate will train its employees who may have access to PHI regarding the terms and conditions of this BAA and their obligations under the HIPAA Rules.

k. Electronic PHI. Business Associate will comply with the Security Standards and will use appropriate administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI that Business Associate creates, receives, maintains, or transmits on Covered Entity's behalf, as required by the Security Standards. Business Associate shall review and modify the security measures implemented in accordance with the above as needed to continue provision of reasonable and appropriate protection of Electronic PHI. Business Associate shall update documentation of such security measures in accordance with 45 C.F.R. § 164.316(b)(2)(iii) and shall designate a security officer and undertake appropriate training of its personnel in accordance with the Security Standards.

l. Compliance with Electronic Transactions Rule. If Business Associate conducts in whole or part electronic Transactions on behalf of Covered Entity for which the Department of Health and Human Services has established standards, Business Associate shall comply, and will require any Subcontractor it involves with the conduct of such

Transactions to comply, with each applicable requirement of the Electronic Transactions Rule.

**4. Permitted Uses and Disclosures by Business Associate.**

a. Permitted Uses and Disclosures. Business Associate may only Use or Disclose PHI:

(i) as required to perform services for Covered Entity as specified under the Agreement or other agreement between the parties;

(ii) for Business Associate's proper management and administration (including improving its services), or to carry out the legal responsibilities of Business Associate, provided the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached;

(iii) to provide Data Aggregation services relating to the Health Care Operations of Covered Entity, if so provided under the Agreement or otherwise agreed in writing by the parties; and/or

(iv) to create de-identified information, in accordance with the standards set forth in 45 CFR 164.514(a)-(c), and to use and disclose such de-identified information for any purpose permitted by law.

b. Required Uses and Disclosures. Business Associate shall disclose PHI (i) when required by the Secretary of HHS under 45 C.F.R. Part 160, Subpart C to investigate or determine Business Associate' compliance with Subchapter C of 45 C.F.R., Subtitle A, and (ii) to Covered Entity, the individual or the individual's designee, as necessary to satisfy Covered Entity's obligations under 45 C.F.R. § 164.524(c)(2)(ii) and (3)(ii) with respect to the individual's request for an electronic copy of his or her PHI.

c. Access. Business Associate will make available PHI in accordance with 45 C.F.R. § 164.524, upon request from Covered Entity, so that Covered Entity may meet its access obligations under 45 C.F.R. § 164.524.

d. Minimum Necessary. Business Associate will, in its performance of the functions, activities, services, and operations specified above, make reasonable efforts to use, to disclose, and to request only the minimum amount of the PHI reasonably necessary to accomplish the intended purpose of the use, disclosure or request, except that Business Associate will not be obligated to comply with this minimum-necessary limitation of 45 C.F.R. § 164.502(b) if neither Business Associate nor Covered Entity is required to limit its use, disclosure or request to the minimum necessary. Business Associate and Covered Entity acknowledge that the phrase "minimum necessary" shall be interpreted in accordance with 45 C.F.R. § 164.502(b).

e. Subpart E. Business Associate may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Section 4.a.

**5. Obligations of Covered Entity.**

a. Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in the Notice of Privacy Practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

b. Notice of Changes in Consent. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to Use or Disclose his or her PHI, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

c. Notice of Restrictions. Covered Entity shall notify Business Associate of any restriction on the Use or Disclosure of PHI that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

d. Permitted Requests. Covered Entity will not request or require Business Associate to Use or Disclose PHI in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity.

**6. Term and Termination.**

a. Term. The term of this BAA shall begin upon the effective date of the Agreement and shall continue in effect until terminated as provided herein and until Business Associate returns or destroys all PHI of Covered Entity.

b. Termination at End of Business Association. This BAA will automatically terminate without further action of the parties upon the termination or expiration of the Agreement or the business association between Business Associate and Covered Entity.

c. Termination for Cause. If either party materially breaches this BAA, the other party may terminate this BAA and, at its election, the underlying Agreement, subject to thirty (30) days prior written notice and opportunity to cure the breach.

d. Effect of Termination. Within thirty (30) days of the termination of this BAA, Business Associate will either return to Covered Entity or, if agreed to by Covered Entity, destroy all PHI that Business Associate still maintains in any form (including any information in the possession of any employee, Subcontractor or other agent of Business Associate). Upon request of Covered Entity, Business Associate will provide a certificate to Covered Entity acknowledging such destruction. Business Associate will thereafter retain no written, digital, back-up or other copies of any PHI of Covered Entity. Notwithstanding the foregoing, if the return or destruction of PHI upon termination is not feasible, Business Associate shall so inform Covered Entity and will continue to maintain the security and

privacy of such Protected Health Information in a manner consistent with the obligations of this BAA and as required by applicable law, for so long as Business Associate is in possession of such information. Business Associate will return or destroy such retained PHI as soon as is reasonably feasible. Business Associate may retain all de-identified information created prior to the date of termination of this BAA. The obligations of Business Associate under this Section 6 shall survive the termination of this BAA.

**7. Ownership.** As between the parties, all PHI is and will remain the property of Covered Entity.

**8. Miscellaneous.** The general terms of the Agreement, including Sections 9, 11 and 12, are incorporated into this BAA by reference. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.

# Lumpkin County, Georgia

## Public Works

**Date:** May 16, 2023

**Agenda Item:** 2023-054 GDOT 5311 FY2024 Transit Grant Award *(Fleet & Transit Division Manager Randy Allison)*

**Item Description:** Lumpkin County Board of Commissioners is required to submit an application each year to the Georgia Department of Transportation (GDOT) for continuation of funding for the 5311 Rural Transit program. The deadline for the application submission is November 2, 2022.

**Facts & Historical Information:** Lumpkin County's Transit Program was created in 1993. Lumpkin County Transit has historically provided over 5,000 one-way passenger trips annually to the citizens of Lumpkin County per year. Transportation is provided for medical appointments, shopping, personal errands, employment, and school.

**Potential Courses Of Action:**

A. Submit a signed application.
B. Amend and submit a signed application.
C. Do not submit an application.

If Course A or B is chosen, the funding will be secured to continue to operate the transportation for the period July 1, 2023 through June 30, 2024.

If Course C is chosen, the funding will not be secured and the operation of the transportation program will be suspended at the end of the current funding cycle (June 30, 2023).

**Budget Impact:** The local portion of the 5311 Transit program is included in the FY23 Budget at the current FY23 Contract rate of $40,500 per 6 months. If the requested FY2024 application is awarded as requested, an additional $11,167.50 will be needed to fund 07/01/23-12/31/23, assuming expenses are the maximum expected on the application budget. The local portion for the 01/01/24-06/30/24 part of this application will be included in the FY2024 budget.

| | Total | Federal | State | Local Matc |
|---|---|---|---|---|
| Operating Budget Total | $206,670 | $103,335 | | $103,335 |

**Staff Recommendation:** It is recommended that Course A be chosen – Submit the signed application. The transportation program is valuable to many citizens of Lumpkin County who otherwise would have no viable means of affordable transportation.