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**PROJECT SERVICES AGREEMENT**

**Job Number:** 18075

**Consulting Firm:** Williams & Associates, Land Planners, P.C.  
 2470 Daniells Bridge Road, Bldg. 100, Suite 161  
 Athens, GA 30606

**Client:** Legal name: Oconee County Board of Commissioners  
 Street address: P.O. Box 145  
 City, State Zip: Watkinsville, GA 30677  
 Phone: 706.769.5120

**Project:** Bishop Farms Parkway Extension  
**Location:** Oconee County, Georgia  
**General type of services:** Roadway Development Plans

This Agreement ("Agreement") entered into and having an effective date of April 8, 2019, by and between: Oconee County Board of Commissioners (herein "Client") and Williams & Associates, Land Planners, P.C., d.b.a. W&A Engineering, an engineering, surveying, and landscape architectural firm, (herein "Consultant"), provides the terms and conditions for the engagement and authorization of services by Consultant for Client. For and in consideration of the sum of one (\$1.00) dollar and the mutual promises contained herein, Client and Consultant agree as follows:

**ARTICLE I: GENERAL INFORMATION**

1.1 General Terms and Conditions and Entire Agreement: This Agreement hereby incorporates by reference Consultant's General terms and conditions that are effective on this date as published and located at [www.gaplanning.com](http://www.gaplanning.com) as though said terms and conditions were fully set forth herein by reference. Client represents warrants and agrees that Client has access to and shall be bound by said terms and conditions. This Agreement and the incorporated terms and conditions constitute the entire and integrated agreement between Client and Consultant and supersede all prior negotiations, proposals, representations, understandings, or agreements, either written or oral. No representation or warranty made by any party which is not contained or expressly referred to herein has been relied on by any party entering into this Agreement.

**1.2 Consultant's Project Manager is:**  
 Name: Michael Greenlee  
 Phone: 706-310-0400  
 Fax: 706-310-0411  
 Title/position: Project Manager

**1.3 Client's Representative for Project:**  
 Name: John Daniell  
 Phone: 706.769.5120  
 Fax: \_\_\_\_\_  
 Title/position: Chairman

**1.4 Bills, Invoices, Payment matters from Consultant to Client shall be sent to:**

Name: John Daniell  
 Street Address: P.O. Box 145  
 City, State, Zip: Watkinsville  
 Phone: 706.769.5120  
 Fax: \_\_\_\_\_  
 Title/position: Chairman

## ARTICLE II: SCOPE OF WORK

Consultant shall perform only the services as set forth, described, and delineated below, (and the category headings below are for organizational and billing purposes only):

### **2.1 Due Diligence/Project Administration/Data Collection**

- 2.1.1 **Professional Services** – Consultant shall provide professional planning, landscape architectural and engineering services, as the same are generally defined by the standards of the industry and more specifically defined herein, in the preparation of the plans for “Bishop Farms Parkway Extension” a proposed parking lot modification plan in Oconee County, Georgia. Consultant shall complete the planning, engineering, and construction plans for the roadway project as further defined in this contract, meeting requirements of the local governing and reviewing authorities.
- 2.1.2 **Sub-Consultant Management** – Consultant shall coordinate services provided for Client by other consultants as required to provide information deemed necessary by Consultant to complete the engineering and construction plans as defined in the Scope of Services and/or as required to satisfy requirements of the reviewing authority. Unless specifically stated otherwise herein, sub-consultant costs are the direct responsibility of Client and are not included in this contract fee. Client shall authorize the hiring of a sub-consultant in writing.
- 2.1.3 **Boundary and As-Built Topography** – Client will provide Consultant with current boundary and topographic information to be used during the engineering phase of this project as section 2.3 of this proposal. Additional survey work may be required by Consultant during the engineering phase of the project. Consultant shall assist Client in obtaining required survey data as outlined in the Sub-Consultant Management section of this contract.
- 2.1.4 **Environmental Analysis** – Flood plains, wetlands, or otherwise environmentally sensitive areas are known to exist on this site. Consultant shall determine through publicly available information and site visitation whether further environmental study is required. The tasks listed in sections 2.4 through 2.7 of this contract are included in the scope of this contract. Further, more detailed analysis and study of potentially sensitive environmental areas shall be performed by a sub-consultant under a separate line item of this contract or as additional services.
- 2.1.5 **Preliminary Meetings** – Consultant shall conduct preliminary meetings with Oconee County staff to evaluate and determine the project’s feasibility, this meeting will result in a memorandum issued to the Client to document the project’s feasibility. If infeasible, the client may cease services without additional obligation.
- 2.1.6 **Conference Calls** – At the request of the Client, the Consultant shall participate in Client led conference calls to coordinate design tasks, project deliverables, and updates to project timelines.

### **2.2 Conceptual Site Plan**

- 2.2.1 **Conceptual Site Plan** – A Conceptual Site Plan will be developed by Consultant to address Client’s requests the Bishop Farms Parkway Extension. Task 2.3 will begin when the owner indicates that the concept plan has been approved. Any changes after this approval will be billed as additional services.

### **2.3 Field-Run Survey**

- 2.3.1 **Survey** – Consultant will collect survey data in the areas to be developed/designed within the scope of this project based on the approved concept plan. The survey will include a topographic survey of the roadway corridor, flood study cross sections (up to 10), wetlands and creek locations, and floodplain boundary location.

## **2.4 Geotechnical Site Investigation**

- 2.4.1 **Geotechnical Report** – Consultant will collect up to 15 geotechnical borings with an estimated depth of 15 feet and provide analysis and recommendations for pavement design, compaction, and soil bearing capacity for drainage structures.

## **2.5 Floodplain Hydraulic Analysis**

- 2.5.1 **Floodplain and Floodway Impact Study** – This task includes the following items:

2.5.1.1 Delineation of additional cross sections for the HEC-RAS model as necessary.

2.5.1.2 Development of a "corrected effective" or "pre-development" model.

2.5.1.3 Adjustments of design sections to "post-development" conditions

2.5.1.4 Comparison of pre- to post-development conditions as related to OC development requirements with recommendations on conveyance implementation to accommodate the proposed roadway.

2.5.1.5 Production of a Floodplain and Floodway Impact Study documenting findings and recommendations.

## **2.6 Jurisdictional Waters**

- 2.6.1 **TASK 1**—Jurisdictional waters of the U.S., including open water, streams and wetlands, are defined by 33 CFR Part 328.3 and are protected by Section 404 of the Clean Water Act (33 USC 1344), which is administered and enforced by the USACE. Jurisdictional wetlands will be delineated in the field using the Routine On-Site Determination Method as defined in the 1987 Corps of Engineers Wetlands Delineation Manual<sup>1</sup> and the Eastern Mountains and Piedmont Region Supplement. This technique uses a multi-parameter approach, which requires positive evidence of three criteria:

- Hydrophytic vegetation
- Hydric soil
- Wetland hydrology

Jurisdictional streams will be assessed using a combination of the EPD, Watershed Protection Branch Field Guide for Determining the Presence of State Waters that Require a Buffer, and the North Carolina Division of Water Quality (NCDWQ) Identification Methods for the Origins of Intermittent and Perennial Streams. Perennial and intermittent warm-water streams are considered state waters (as well as U.S. waters) which require a 25-foot protected vegetated buffer by EPD.

Areas exhibiting the above three wetland characteristics, as well as jurisdictional streams and ponds, will be considered waters of the U.S. and marked in the field with plastic survey tape by Corblu (Consultant) personnel. Please note that the jurisdictional boundary lines identified in the field are not an official jurisdictional delineation until verified by the USACE for U.S. waters and EPD or the Local Issuing Authority (i.e., City of Watkinsville) for state waters.

- 2.6.2 **TASK 2**—Consultant personnel will conduct a GPS boundary survey of the federal and state jurisdictional waters within the project site boundaries identified and marked during the field delineation (Task 1). The survey will be conducted during or immediately following the field delineation, and will eliminate the need to have a separate metes-and-bounds survey of the delineated jurisdictional boundaries conducted by a separate contractor. This survey will exhibit sub-meter accuracy, and is acceptable to the USACE/EPD as an accurate location of the boundaries of jurisdictional waters.

Following the GPS survey, Consultant will export the GPS data to Engineer, so that the surveyed jurisdictional areas may be overlaid on site development plans to accurately determine the extent of potential impacts associated with the proposed roadway.

- 2.6.3 **TASK 3**—Following the completion of Tasks 1 and 2, a findings report will be prepared describing the approximate location and type of jurisdictional waters (e.g., stream – perennial, intermittent; wetland; and open water) on the subject site. The report will include a summary of the field assessment methodology, as well as a description of potential USACE permitting and/or EPD buffer variance requirements for the proposed development.

## 2.7 **USACE Permitting**

- 2.7.1 **TASK 1 – Cultural Resources Literature and Records Review** The National Historic Preservation Act of 1996 (NHPA) created the Advisory Council on Historic Preservation, which is required to review and comment upon activities permitted by the federal government which will have an effect upon properties listed in the National Register of Historic Places (NRHP), or eligible for such listing. NRHP listed sites and those sites potentially eligible for listing must be considered by the USACE in evaluating a permit application (i.e., RP No. 34). Consultant will sub-contract the cultural resources literature and records review for the project site to R.S. Webb & Associates (RSWA). RSWA will view historical and archeological files to determine if previously recorded cultural resources are located within the project area. Documents and files to be reviewed include NRHP, Georgia state archeological files, Oconee County historic structures survey files, compliance and research reports, historic maps and early aerial photographs. The literature and records search will be conducted at the appropriate state repositories for cultural resources information in Atlanta and Athens, Georgia. Upon completion of the cultural resources literature review, RSWA will provide a letter report to Consultant documenting the results of the literature review for inclusion in the RP.

- 2.7.2 **TASK 2 – RP No. 34 PCN** Assuming jurisdictional water impacts will be limited to no more than 2,000 linear feet of stream (up to 1,500 linear feet per crossing) and/or 8 acres of wetland or open water (up to 2 acres per crossing) Consultant will prepare and submit a RP 34 PCN to the USACE, Savannah District (Morrow Office). The PCN will include the results of previously conducted studies (i.e., wetland/stream delineation, protected species habitat assessment, and cultural resources literature and records review), as well as an overlay of proposed construction plans to be provided by you.

These data will be appropriately formatted for submittal to the USACE, and will include supporting USACE wetland data sheets, maps and engineering drawings required and necessary to illustrate points made in the text of the PCN. To complete this task, we will rely on you to provide the site plan and construction details. Services provided under this task include consultation regarding the amount and type (stream and/or wetland) of mitigation credits for jurisdictional waters impacts as required by the USACE. The USACE will require all mitigation needs (stream and wetland) to be met from an existing and USACE approved mitigation bank serving the Upper Oconee River basin; the location of the project.

- 2.7.3 **TASK 3 – Additional Services** This task is for effort extended by Consultant personnel for the completion of additional tasks or meetings requested by you or your representatives. Also included in this task, Consultant will respond to comments received from the USACE during the permitting/variance process, if requested.

## 2.8 **Site Development Design**

- 2.8.1 **Existing Conditions Plan** - This sheet will include and identify the project boundary, existing topographic information, and the existing tree canopy/outline conditions.

- 2.8.2 **Demolition Plan** - This sheet will include and identify the required demolition of the existing items to be cleared, demolished and/or removed prior to construction of the proposed site and facilities improvements.
- 2.8.3 **Site Plan** – This sheet will include the following: roadway geometry; roadway dimensions; landscape dimensions; storm water detention area locations and dimensions; boundary dimensions; signing and marking design including directional signage; traffic signage; directional arrows; and specifications.
- 2.8.4 **Paving, Grading and Drainage Plan** - Consultant shall prepare a plan for the site paving, grading and drainage systems to include: stormwater conveyance design in accordance with the Oconee County stormwater drainage ordinance; flood routing; guardrail; pipe materials and sizing; grate and invert elevations; surface parking including pavement structural section; subgrade treatment; curbs; horizontal control; sidewalks; driveway connections; spot elevations and elevation contours; demolition; and construction details and specifications.
- 2.8.5 **Utility Plans** – Utility Plans are not included in the scope of this project. Should the client determine that water, sewer, or other utility layout and design be included, then those services shall be performed under a separate contract.
- 2.8.6 **Soil Erosion and Sediment Control Plan** – Prepare a three phase soil erosion and sediment control plans to the minimum standards of the NRCS and as required by Oconee County. Demolition, clearing, and tree-protection plans shall be provided if required.
- 2.8.7 **Hydrological Study** – Based on conversations with the Oconee County a hydrology study will be required or prepared to certify post-development runoff does not exceed pre-development runoff and water quality as specified in the Oconee County ordinance and the Georgia Stormwater Management Manual. This service does not include any type of advanced hydrology study or flood modeling as included in section 2.5 such as that required to provide no-rise certification, HEC-2 analysis, or others that may be required to insure existing waterways do not back up onto adjacent properties due to developed conditions.
- 2.8.8 **NPDES** – (National Pollutant Discharge Elimination System Permit) – Due to construction disturbing more than one acre of the site, compliance with the NPDES permit will be required. Williams and Associates will prepare and submit the Notice of Intent (NOI) for the project at least two weeks prior to the beginning of land disturbing activities on the site. Williams & Associates will also provide the first inspection of the soil erosion measures that is required by the permit. **Not** included within this item is the continued daily, weekly, and monthly inspections required by the permit or the monitoring, record keeping and reporting required by the permit. These services can be provided by negotiated contract upon completion of the construction plans. Consultant will prepare and submit Notice of Termination once site is stabilized and Consultant has been notified of stabilization.

**2.9 Plans Approval and Revisions**

- 2.9.1 Plans and Permit Process – Consultant will assist Client in obtaining approval of plans and/or permit(s) for construction. Services include preparing revisions as requested by the permitting agency, meeting with said governing agency, Client, and/or other agent thereof as required to obtain said approvals and/or permit(s). Prepare and submit on the Owner's behalf all required permitting packages for review/approval of construction documents, and attend meetings required to obtain Agency approvals.

**2.10 Bid Services**

- 2.10.1 Bid Package – Consultant will prepare a bid package adequate for the purpose of receiving a competitive bid. The bid services will include advertising, bidding, and letting of the construction package as a single project to a single contractor. The bid package will include but is not limited to the following:

1. Instructions to the bidder
2. Bid form
3. Contract
4. Plans and Specifications
5. Detailed Estimate

- 2.1.7 Consultant shall assist Client in advertising for and obtaining bids or negotiating proposals for the contract for construction, materials, equipment and services; and where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend pre-bid conferences, if any, and receive, process deposits for Bidding Documents.
- 2.1.8 Consultant shall issue Addenda as appropriate to clarify, correct or change the Bidding Documents.
- 2.1.9 Consultant shall attend the Bid Opening, prepare bid tabulation sheets and assist Client in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.
- 2.1.10 The bidding phase will terminate and the services to be performed thereunder will be considered complete upon commencement of the construction phase or execution of the contract with the Contractor.

## **2.11 Construction Observation & Administration**

- 2.11.1 Construction Observation – Consultant will monitor construction of said project on behalf of Client at Client's request or the request of an authorized representative. Services will commence once construction has started on the site. Services will include making visits to the site to monitor the progress and quality of the work being performed on the site to insure that it is being performed in a professional manner and in accordance with the construction plans and the contractor's contractual document between the Client and contractor. Reports will be made at the Client's request. The reports will be in writing to Client and Contractor outlining said project progress and any apparent problems. Consultant shall not be responsible for any errors and/or omissions on the part of Contractor, subcontractor, and/or any employees thereof. Consultant is not responsible for the methods, materials, and/or sequences of construction being performed by Contractor. All construction safety precautions are the responsibility of Contractor and Consultant will not assume or accept any liability for any accidents and/or time lost on the construction site. The services provided under this item do not cover the calculation of quantities.

## **2.12 Additional Services / Exclusions**

- 2.12.1 Additional Services – If authorized by Client, Consultant shall furnish or obtain from other additional sources such items as: soil testing, rock quantities, flood plain investigations or advanced watershed studies, as-built drawings, wetland delineations, reports, permits, any revisions to the approved planned development etc., which shall be paid for by the client at an agreed upon price. Additional services performed by Williams & Associates, P.C. will be invoiced at HOURLY RATES (see attached rates schedule) or may be negotiated in a separate contract.
- 2.12.2 Environmental mitigation credits fees for wetlands and streams.
- 2.12.3 FEMA Conditional Letter of Map Revision (CLOMR) and Letter of Map Revision (LOMR)
- 2.12.4 County Permit fees will be the responsibility of Oconee County.
- 2.12.5 Water, sewer, electrical, communication utility design.
- 2.12.6 Municipal & County submission, review, and permit fees. The Client will pay for these fees within the timeframe required by the reviewing agencies.

- 2.12.7 Any work relative to redesign of the plan due to local, state or federal regulation changes which occur prior to obtaining all necessary plan approvals.
- 2.12.8 Design of retaining wall(s) and provide construction details as required for retaining wall(s) four feet or less in height. For retaining walls greater than four feet in height, Consultant will coordinate the design of the wall(s) with a structural engineer. Retaining wall design will be billed at HOURLY RATES.
- 2.12.9 Preparation off-site traffic improvements including modification to existing traffic signals and intersections.
- 2.12.10 Lighting & photometric design
- 2.12.11 Irrigations plans
- 2.12.12 Tree inventory survey and removal plan
- 2.12.13 Stand-alone specifications
- 2.12.14 LEED applications
- 2.12.15 Offsite utility upgrade design (pump station or line location/upgrades).
- 2.12.16 Preparation of electrical/lighting and wiring diagram design.
- 2.12.17 Preparation off-site traffic improvements including modification to existing traffic signals and intersections.
- 2.12.18 Subsequent services required to identify endangered plants, insects, animals, or historic sites should they be identified.
- 2.12.19 Hydrogeological and geotechnical investigations and reports.
- 2.12.20 Services for identifying, addressing or mitigating any deleterious material that may exist on the site.
- 2.12.21 Landscape Architecture – Landscape architecture and design above the minimum code compliant landscaping design is not included in this proposal. Consultant will work with owner to develop a separate proposal for landscape architecture at a later date based on desired features and budget.
- 2.12.22 Construction meeting attendance, observation, stakeout, as-built drawings, bidding assistance, specification preparation (other than technical specifications for the site items), shop drawing review, any transfer of drawings to contractors or third parties will be billed on an hourly basis.
- 2.12.23 Preparation of any stand-alone easement exhibit drawings or legal descriptions not includes in the scope of services.
- 2.12.24 Neighborhood workshops or meetings as required by the County, including cost for advertisements, postage for mailings, room rental, etc.
- 2.12.25 Certification – Consultant will complete the necessary certification required by lenders and others. Services under this item will be invoiced at HOURLY RATES (see attached rate schedule).
- 2.12.26 Preliminary Plat.
- 2.12.27 Final Plat.

- 2.12.28 Neighborhood workshops or meetings as required by the City, including cost for advertisements, postage for mailings, room rental, etc.
- 2.12.29 Legal assistance and support for attorney.
- 2.12.30 **Insurance** - Consultant shall obtain and maintain insurance coverage as illustrated on the document attached hereto and incorporated by reference as Exhibit A until three (3) years after Substantial Completion of the Project. The commercial general liability and excess liability policies shall name Client Lender as additional named insured.
- 2.12.31 **License** - Consultant agrees that Client is hereby granted a non-exclusive, irrevocable and royalty-free license to use and reproduce the instruments of service (as defined and described in Paragraph 4.3 below) for the purpose of constructing the Project and for the use, maintenance, protection and improvement of the Project.

**ARTICLE III: COMPENSATION**

3.1 Retainer Fee: A retainer of \$ 0 will be required on this Project, to be applied at the end of the Project, or along the way at any time Consultant sees fit. The retainer is not and shall not be deemed to be trust funds.

3.2 Compensation for Services: For the Scope of Work set forth in this Agreement; Client shall pay Consultant the Total Contract Price of \$ 225,000. Billing shall be on the following schedule.

**Description of Work**

2.1	Due Diligence/Project Administration/Data Collection.....	\$ Hourly
2.2	Conceptual Site Plan.....	\$ 10,000
2.3	Field-Run Survey .....	\$ 21,000
2.4	Geotechnical Site Investigation .....	\$ 10,000
2.5	Floodplain Hydraulic Analysis .....	\$ 13,000
2.6	Jurisdictional Waters .....	\$ 7,000
2.7	USACE Permitting .....	\$ 20,000
2.8	Site Development Design .....	\$ 94,000
2.9	Plans Approval and Revisions.....	\$ 24,000
2.10	Bid Services .....	\$ 8,000
2.11	Construction Observation & Administration.....	\$ 18,000
2.12	Additional Services / Exclusions .....	\$ Hourly
<b>Total Contract Price</b>		<b>\$ <u>225,000</u></b>

3.3 The Total Contract Price excludes (i) all items not specifically provided for in this Agreement, and all items for which this Agreement specifically clarifies that the service is "not included," and (ii) any and all Additional Services, Reimbursable Expenses, travel time and expenses including use of airplane, or work for which an hourly limit is allocated and thereafter exceeded for a particular category. This contract and the Total Contract Price, although categorized in increments for billing administration purposes only, is not several but is rather a whole and entire agreement.

3.4 For any service or work not specified above as being done within the total price or on a lump sum or flat fee basis, hourly billing rates will be utilized by Consultant. Consultant will track and bill time by specific task in minimum fifteen minute intervals (.25 hrs.). The following is a summary of the current billing rates by employee classification on the left with hourly rates listed to the right of each category:

Hourly Rates: July 1, 2018 thru June 30, 2019

Principal	\$215.00	Engineer In Training (2)	\$90.00
Partner / Director	\$160.00	Engineer In Training (1)	\$80.00
Director	\$150.00	Certified Planner	\$100.00
Director of Surveying	\$135.00	Senior Planner	\$100.00
Survey (Robot)	\$140.00	Planner	\$90.00
Survey (2-man crew)	\$160.00	Landscape Architect (3)	\$120.00
Survey (3-man crew)	\$175.00	Landscape Architect (2)	\$100.00
Survey (GPS)	\$200.00	Landscape Architect (1)	\$90.00
Environmental/Soil Specialist	\$90.00	Design Associate (5)	\$120.00
Project Manager (3)	\$150.00	Design Associate (4)	\$100.00
Project Manager (2)	\$135.00	Design Associate (3)	\$90.00
Project Manager (1)	\$120.00	Design Associate (2)	\$80.00
Civil Engineer (4)	\$145.00	Design Associate (1)	\$70.00
Civil Engineer (3)	\$135.00	Technician (4)	\$90.00
Civil Engineer (2)	\$125.00	Technician (3)	\$80.00
Civil Engineer (1)	\$115.00	Technician (2)	\$70.00
Engineer In Training (5)	\$120.00	Technician (1)	\$60.00
Engineer In Training (4)	\$110.00	Admin	\$60.00
Engineer In Training (3)	\$100.00	Certified Economic Developer	\$100.00
Expert Witness Testimony	\$250.00		

Consultant shall have the right to adjust the hourly billing rates on a yearly basis and Client agrees to pay according to the new across the board hourly rate increases. Rates will be reviewed in May of each year and new rates will be applied beginning on July 1<sup>st</sup>, changes will be reflected on the June bills for each project. Rates cannot be changed solely for this Agreement, but must be an across the board hourly rate increase. In no event shall the annual across the board hourly rate increase be greater than a 7.5% or \$10.00 increase per hour, whichever is greater, per employee category in a single year. Changes will be posted on or after July 1<sup>st</sup> at [www.gaplanning.com](http://www.gaplanning.com).

#### **ARTICLE IV: OTHER TERMS AND CONDITIONS**

4.1 Client shall cooperate and to give all reasonable assistance to Consultant in furnishing all project information and access to resources for expediting services on this project. Client shall provide Consultant with a program that sets forth Client's objectives, schedule, a project budget, and other criteria necessary for Consultant to perform its services. Client has designated and shall maintain a representative to act on Client's behalf and make decisions during the process, and Client shall indemnify and hold harmless Consultant from any claim that said representative does not or did not have authority to act in said capacity in this Project. Client shall engage the services of all specialty consultants and engineers deemed necessary by Consultant for the completion of the professional services. Client shall provide for testing or provide existing evidence that the site is clear of hazardous materials. Client shall be responsible for furnishing to Consultant any changes in said project information of which Client becomes aware or which are made by the Client as the work progresses.

4.2 Client Supplied Project information and Reliance By Consultant: Owner shall provide any and all data for the Project to Consultant, including, but not limited to, title opinions, surveys, environmental, hydrological and geotechnical information, easements, structures, power lines or poles, utilities, transmission lines or poles, rights of way, licenses, and boundaries. This shall be the Owner's obligation and responsibility irrespective of whether Consultant coordinates, contacts, hires, schedules, or advances payment to any such contractor or other consultant so as to facilitate Client in furnishing this information to Consultant for use in the Project for Owner. Consultant recommends an ALTA land title survey, a/k/a ALTA/ACSM Land Title Survey, with title opinion, in all cases. Client may choose to proceed without said ALTA land title survey and title opinion, but in so doing, Client assumes any and all risks caused or associated therewith. Consultant will adhere to project information provided to Consultant by Client. However, Client agrees that Consultant will not be responsible for any negative or adverse outcome, damage, cause, loss, injury or claim which relates to or arises out of Consultant's reliance on and adherence to that project information. Consultant shall not be liable or responsible for any such negative or adverse

outcome, damage, cause, loss, injury or claim and Client will defend, hold harmless and indemnify Consultant from and against all losses, costs, expenses and damages associated or related to such information supplied by or on behalf of Client, including any and all attorney's fees and costs incurred.

4.3 Ownership of Documents: All sketches, drawings, tracings, computations, notes, reports, plans, and other original documents are instruments of service and shall remain the property of Consultant subject to requirements of public agencies. These instruments of service are to be used solely for this specific project. Consultant shall retain all legal rights and use of the instruments of service and shall retain full protection under United States copyright law. At Client's additional expenses, Client may contain reproducible copies of all plans for their file, provided all fees associated with the requested material have been paid and all bills are current. Client agrees that any work furnished to Client or Client's agents, for which full payment has not been made to Williams & Associates, will be returned to Williams & Associates upon demand and will not be used by Client for any purpose whatsoever or disseminated to any third parties by Client. Consultant reserves the right to refuse to stamp, sign, countersign, seal, print, copy, reissue, transmit, disseminate, or release any design documents, plans, specifications, etc., unless and until Client's account is completely paid current and all outstanding invoices, statements, and reimbursable expenses have been paid in full.

4.4 Consultants' responsibilities in performing services hereunder shall be limited to the scope of services to be performed solely for Client as set forth in the Agreement. Consultant, its agents and/or employees, shall have no liability of any kind to Client, its agent or any persons having express or implied contractual, business, or financial relationship with Client for any acts, errors, and omissions of Consultant which does not fall within the scope of work. Client hereby covenants and agrees that the total limit of Consultant's liability to Client from a claim caused in whole or in part from Consultants' negligent acts, errors, or omissions, shall not exceed the total price associated for that category of design services as set forth in Article III of this Agreement, and in the event there is no

specific category of design services for which an error and omission falls within, the total liability of Consultant shall not exceed the price actually paid or to be paid Consultant under the Agreement.

- 4.5 Statements will be issued every four (4) weeks, and are due and payable upon receipt and shall be deemed delinquent if payment is not received in hand before the 10<sup>th</sup> of the month following the invoice date. Accounts with unpaid balances on the 10<sup>th</sup> of the month will accrue finance charges at a rate of 1.5 percent per month (annual percentage rate of 18 percent; 18 % APR) from the delinquency date until paid in full. All payments received shall first be credited to the payment of delinquent interest and then to the principal balance due.
- 4.6 Reimbursable expenses: Client shall pay the cost of all reimbursable items such as charges, fees, permits, bond premiums, delivery charges, postage, fax transmissions, long-distance telephone calls, reproductions and copies, photographic enlargements and reductions, film processing and supplies, mileage, and any other charges and expenses not specifically covered by the foregoing. In the event that such reimbursable items are paid directly by Consultant, then the charges and expenses shall be invoiced at the direct cost plus 10 percent for handling. Sub-consultant and testing services arranged for, managed by, and paid by Consultant will also be invoiced at the direct cost plus 10 percent. Client shall pay the cost of all expenses incurred for in-town and out-of-town travel required to perform the services in this agreement. Expenses shall be invoiced at their direct cost to Consultant. Automobile mileage shall be invoiced at fifty-five cents (\$.55) per mile. Out-of-town travel shall be made at the request or concurrence of Client. Mileage expenses will be reviewed and adjusted as necessary. Travel expenses through use of the private plane shall be invoiced at the rate of \$350 per flight hour, plus pilot services and expenses at the direct cost plus 15%.
- 4.7 Prompt payment: Client shall promptly review invoices and notify Consultant of any objection thereto. In the event Client fails to notify Consultant of any objection, in writing, within ten (10) calendar days of receipt of the invoice at issue, the invoice shall be deemed accepted by Client as stated. Notwithstanding any other rights and remedies Consultant may have at law or equity, and without waiving same, Consultant

shall have the right to cease work and services, without terminating this Agreement, if and when payment is thirty (30) calendar days past due. In addition to Consultant's right to cease work or terminate the Agreement, and without waiving any rights, if the account is past due Consultant shall have the right to request and receive commercially reasonable, objectively verifiable adequate assurances of Client's ability to pay past and present amounts owed or to be owed under the Agreement.

- 4.8 Collections and Attorney fees: Consultant shall have the right to utilize and consult with its attorney for past due amounts, and if the services of an attorney at law are used to consult with an attorney, demand, notify of claim, begin collecting, or to collect past due amounts ("collection"), Client shall be liable and responsible for all fees and costs of collection, including, but not limited to, attorney fees, which attorney fees shall be the actual attorney's fees incurred or a fee of 15 percent of the total outstanding balance of Client whichever is greater.
- 4.9 Governmental or Regulatory changes. In the event any governing agency or entity, including local, state, federal agencies or regulatory bodies, amend, change or alter any rule, law, ordinance, statute, or requirement, or any interpretation or application of same as applied to the Project, after services have begun, the compensation quoted in the Agreement will be subject to renegotiation for additional services caused or related to such change, and in the event the parties cannot agree on an increase, Consultant shall be entitled to an equitable adjustment that fairly reflects the time and costs associated with and incurred by such change.
- 4.10 Termination: This agreement may be terminated by either party for cause if either party (i) substantially fails to honor a material obligation of the Agreement, or (ii) declares bankruptcy or is otherwise insolvent. In the event a party intends to terminate for cause, the party shall provide written *notice of intent to terminate*, which notice shall specify with particularity the reason(s) for the intent to terminate, and the other party shall have seven (7) calendar days after receipt of the notice in which to respond in writing to the notice of intent to terminate and in which to cure any alleged deficiency. Payments past due by more than 60 days, for any amount, shall be deemed to be cause for Consultant to terminate the Agreement

for cause, or at Consultant's option, to cease work under the Agreement. In the event of a termination by Client for Convenience or in the event Consultant terminates for cause, Consultant shall be paid for services rendered and costs incurred hereunder through the date of termination, all expenses, fees, and costs through the date of the termination, plus estimated anticipated profit on the remaining balance of work that was to be performed under the Agreement along with all costs, expert fees, and attorney fees actually incurred in relation to the claim. If Client cancels and/or terminates this Project without cause before Client or Consultant receives approval from the appropriate governing agency, Client agrees to pay the remaining balance on all work started and/or completed through the date of cancellation or termination plus Consultant's estimated anticipated profit on the remaining balance of work that was to be performed under the Agreement and all costs and attorney fees actually incurred in relation to the claim.

4.11 Waiver of consequential damages: Both parties waive consequential and indirect damages that may flow from, relate to, or arise from any claim for breach of contract and/or a claim for negligence of the other party in relation to this Agreement.

4.12 Warranties: Consultant makes no representation, guarantee or warranty, express or implied, as to soil conditions unless specifically included in this Agreement, and Consultant is not liable or responsible for the accuracy of any information or data furnished by Client, its agents, or other persons with whom Client has contracted or hired, including but not limited to plans, specifications, reports, or any other data. regardless of whether Consultant was involved in coordinating, engaging, or advancing payment to the person supplying the information or data for Client. Consultant warrants that its services will be performed with the standard of care applicable to the actual services to be rendered by landscape architects and engineers as the case may be if said service is deemed to be a professional service or otherwise with reasonable and due care. No other warranty or representation, either expressed or implied, is included or intended in this Agreement, or in Consultant's proposals, letters, communications, contracts, plans, surveys, or reports, either written or oral.

4.13 Construction Cost estimates: In the event Consultant has already supplied or does hereafter provide any opinion of the possible construction costs, Client understands that Consultant has no control over the contractor's method or amount of pricing, or the cost of labor, equipment, or materials, and that such opinion is made without warranty, express or implied, as to the accuracy of its opinion or probable construction costs, or in relation to whether bids or actual costs shall approximate same. Consultant shall not be held liable for any harm, damages, claims, or costs to Client or others by any error in providing the cost estimate unless shown by clear and convincing evidence to have been done by Consultant willfully and in bad faith.

4.14 Earthwork estimates: In the event Consultant has already provided or does hereafter provide any opinion as to any earthwork estimates, such as estimates concerning a balance of cut and fill on the site, Client acknowledges that the accuracy of the estimate is dependent on many factors that are highly variable, and Consultant therefore makes no warranty, expressed or implied, as to the accuracy of these estimates. Consultant shall not be held liable for any harm, damages, claims, or costs to Client or others by any error in providing the earthwork estimate unless shown by clear and convincing evidence to have been done by Consultant willfully and in bad faith.

4.15 Severability: Any provision that shall prove to be invalid, void, or illegal shall in no way effect, impair, or invalidate any other provision of this Agreement, and such other provisions shall remain in full force and effect.

4.16 Mediation: In the event a dispute arises out of or in relation to the Agreement, the parties will use good faith to attempt to resolve the dispute by mediation pursuant to the AAA Construction Industry Mediation Rules, although notwithstanding anything above to the contrary, the parties agree that the mediation need not proceed within the jurisdiction of AAA. The parties agree that any mediation proceedings will be held in Watkinsville, Georgia. Mediation shall not be a condition precedent to the institution of litigation, but the fact finder, judge or jury in any forum for litigation shall be allowed to consider the efforts and attempts of each party to mediate the dispute in determining

whether and in what amount to award attorney fees in any litigation instituted.

4.17 Choice of Law and Venue: This Agreement and any and all litigation and legal actions concerning its validity, interpretation, performance, and/or enforcement shall be governed by the laws of the State of Georgia, without regard to the conflict of law rules utilized by courts in the State of Georgia. In the event of any dispute arises related to or arising out of this Agreement or based on the services performed under or in connection with this Agreement, the exclusive jurisdiction and venue for any such claim or suit shall be the Superior Court in and for Oconee County, Georgia.

4.18 Any claims, demands, lawsuits, or causes of action by Client against Consultant related to or arising out of the services performed under this Agreement, or for acts, error and omissions arising out of or relating to this Agreement, shall be filed and served within 12 months from the date services were last performed by Consultant for the Client under this Agreement. Failure to comply with this time limitation shall be an absolute bar to any such claim, demand, suit, or cause of action, right of action Client has or may have against Consultant.

4.19 Non-assignment, No Third Party Beneficiary status, and No right of Third Party to rely on services performed: Neither party may delegate, assign, sublet or transfer its duties under or interest in this agreement without the prior written consent of the non-assigning party. Services are performed by Consultant solely for the named Client to this Agreement, and there is no consent, intent or agreement by Consultant for any third party to be deemed a beneficiary of this Agreement, or for any third party to rely upon any seal, stamp, signature, certification, or service performed by Consultant in any way whatsoever. No third party not in privity of contract with Consultant for this Agreement shall rely on any information or services performed under this Agreement, and if third party does so rely it is unjustified reliance, at his or her own risk, and he or she assumes any and all risk associated with the information not being accurate or correct. Consultant shall have no liability to any third party not in privity of contract. In addition to the above limitation, and not in derogation thereof, in no event shall Consultant have any liability to any third party unless that third party is actually known to Consultant and intended by Consultant to be a direct recipient of

the information or service and who Consultant has actual particular knowledge that said third party will be directly relying on said information or service prior to or at the time of performance of the service, and Consultant has consented in writing that said party shall be entitled to rely on this information or services prior to the information or services being rendered by Consultant.

4.20 Authority to sign: Each signer to this Agreement represents by signing this agreement that said person has the capacity, competency, and authority to enter into the same and bind each and every party, their heirs, successors, assigns, fellow beneficiaries in trust, and/or partners, to the terms and conditions as herein set forth. If Client is a corporation, company, partnership, or joint venture, the signer shall clearly indicate the full legal name of the corporation, company, partnership, joint venture, or entity for which he is signing and specify his capacity in signing, otherwise the signer is signing in his or her individual capacity.

4.21 Ownership of Property to which services relate: These services are for Client, but also to the extent they are services related to the real property at issue, Consultant has a right to be kept informed as to the true and rightful owner, whether of record or based on unrecorded deeds, at all times during the Project or while Consultant is performing services for the Client in connection with the Project or Property. Unless otherwise noted, Client is the sole owner of the Property at for which these services are being provided. If the Owner is a different entity, Client shall so specify by identifying below, and Client shall truthfully and accurately provide an Owner Authorization upon request. Client hereby indemnifies and holds harmless Consultant for any claim or cause of action in any way related to the lack of authority or permission or consent of the Owner of record for Consultant to perform services for or in relation to the property, including but not to any claim of trespass to property if Client in fact is not the owner of record and the owner of record asserts that these services were done without its knowledge or consent. Client shall upon request specify the factual relationship and internal ownership and management by, between and among Client and the Owner of record in the event Client is not the Owner of record. If Property is owned by another entity other than Client, Client shall so indicate or attach a copy of

the Deed for the property at issue, revealing the identity of the Owner:

Oconee County Board of Commissioners  
(insert Owner's full name).

conditions set forth at www.gaplanning.com, the terms and conditions set forth in this Document shall control, except any hourly rate increases after this Agreement shall control and shall not be considered to be a conflict.

4.22 Publicity: Client agrees to include Consultant's name on the job sign at the construction site and in any publication or press coverage relating to Consultant's work.

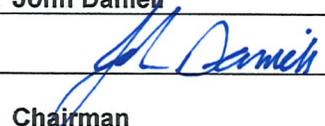
4.23 In the event that there is any actual and direct conflict between the terms and conditions of this Document, and the general terms and

4.24 Time of Performance: The services of Consultant are to commence as soon as reasonably practical after the execution of this Agreement and shall be undertaken and completed in a commercially reasonable time period, unless specified more particularly as follows: \_\_\_\_\_

IN WITNESS WHEREOF, Client and Consultant have executed this Agreement by signing below:

CLIENT: Oconee County Board of Commissioners

Name: John Daniell

Signed By: 

Date: 5/7/19  
~~As of 4/8/2019~~

Title: Chairman

CONSULTANT: Williams & Associates, Land Planners, P.C.

Signed By: 

Date: As of 4/8/2019

Title: Director of Engineering, Partner