



4800 Ashford Dunwoody Road
 Dunwoody, Georgia 30338
 dunwoodyga.gov | 678.382.6700

To: Mayor and City Council

From: J. Jay Vinicki, Assistant City Manager

Date: December 9, 2019

Subject: **One Year Extension of Facilities Management Contract Incorporating the North Shallowford Annex**

ITEM DESCRIPTION

One-year extension of current facilities management contract incorporating the North Shallowford Annex along with City Hall.

BACKGROUND

Upon occupation of City Hall in 2018, Dunwoody entered into a facilities management contract with RGRE for \$30,000 annually. RGRE was a previous occupant of the property and had managed it along with other buildings in the area.

The current contract is structured to have RGRE be the 24/7 call for issues with the City Hall property along with being the entity responsible for coordinating third party services, such as custodial, landscaping, etc. All contractual relations concerning the management of City Hall, including third party services, were reviewed in 2019 in conjunction with the North Shallowford Annex opening.

Staff recommends that in the short term (for only 2020), the RGRE firm be retained as building manager for both City Hall and, now, the Annex. This recommendation is because of (a) their familiarity with our current primary building, (b) their understanding of security needs related to the Police Department, and (c) their presence in the community having a building near the Annex. Staff is bringing forward both the contract for building management along with custodial services for Council approval.

However, staff also recommends that an RFP be developed in 2020, for start January 1, 2021, that reflects City Hall, the Annex, and other possible properties owned by the City to be managed in total by one vendor.



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FISCAL IMPACT

This item obligates \$112,073 for FY2020. It will be paid primarily out of 100.522200.1565 (Facilities – Repairs & Maintenance). When the budget was passed \$81,174 was projected to be spent. This item will create no obligations past FY2020. However, a budget transfer from Police (\$15,445) and Parks (\$15,444) operating accounts after the start of the year will be necessary to cover the shortfall.

RECOMMENDED ACTIONS

Approval of a one year extension with RGRE for building management services; approval of a one year service contract with First Impressions / CEGLR for custodial services; approval of a budget amendment transferring \$30,889 from Police (\$15,445) and Parks (\$15,444) to Facilities in FY2020; authorization of the City Manager to enter into subsequent service contracts coordinated through RGRE for facilities operations as long as in aggregate they do not exceed \$50,000. If they do exceed \$50,000, staff will return to Council for authorization.

RESOLUTION 2019-XX-XX

A RESOLUTION AMENDING THE BUDGET FOR THE FISCAL YEAR 2020 FOR EACH FUND OF THE CITY OF DUNWOODY, GEORGIA, PURSUANT TO ARTICLE V, SECTION 5 OF THE CHARTER OF THE CITY, BEGINNING JANUARY 1, 2020, AND ENDING DECEMBER 31, 2020, APPROPRIATING THE AMOUNTS SHOWN IN EACH BUDGET AS EXPENDITURES, ADOPTING THE ITEM OF ANTICIPATED FUNDING SOURCES, PROHIBITING EXPENDITURES TO EXCEED APPROPRIATIONS, AND PROHIBITING EXPENDITURES FROM EXCEEDING ACTUAL FUNDING SOURCES

WHEREAS, a proposed amended budget for each of the various funds of the City has been presented to the Mayor and City Council; and

WHEREAS, the Mayor and City Council have reviewed the proposed amendment; and

WHEREAS, each of the funds has a balanced budget, such that anticipated funding sources equal or exceed proposed expenditures; and

WHEREAS, This Budget Amendment and the Budget Message pursuant to Section 5.03(a) of the City Charter have been filed in the office of the City Clerk and open for public inspection; and

WHEREAS, the Mayor and City Council intend to amend the annual budget for the Fiscal Year 2020.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Dunwoody, pursuant to their authority, as follows:

Section 1. That the City of Dunwoody, Georgia hereby amends the budget for the Fiscal Year 2020, said budget being described below;

Fund	Department	Change
General	Facilities	\$ 30,889
General	Police	\$ (15,445)
General	Parks	\$ (15,444)

Section 2. That any increase or decrease in appropriations or revenue of any fund or for any department; the establishment of new capital projects other than those exceptions provided for herein, shall require approval of the City Council; and

Section 3. That the City Manager and his/her designee may promulgate all necessary internal rules, regulations, and policies to ensure that this Budget Resolution is followed.

**SO RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF
DUNWOODY, GEORGIA** this the 9th day of December 2019.

Approved:

Denis L. Shortal, Mayor

Attest:

Sharon Lowery, City Clerk
Seal

Approved as to Form and Content

City Attorney

THIS AGREEMENT is made as of _____, 2019, between RGRE MANAGEMENT, LLC ("Manager") and City of Dunwoody, GA ("Owner").

BACKGROUND STATEMENT

Owner is the owner of the property which is a development described on Exhibit A attached hereto and by this reference made a part hereof (the "Property").

Owner wishes to engage Manager for the management and leasing of the Property, and Manager has agreed to accept the engagement on the terms and conditions set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the background, the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Manager hereby agree as follows:

ARTICLE 1. ENGAGEMENT AND TERM

1.1 Appointment. Owner hereby appoints Manager, and Manager hereby accepts the appointment, as the sole and exclusive Manager for the Property, subject to and upon the terms and conditions set forth in this Agreement.

1.2 Term. The term ("Term") of this Agreement shall commence on January 1, 2020 (the "Commencement Date") and unless earlier terminated as provided herein shall expire on December 31, 2020 (the "Expiration Date").

1.3 Authority. Manager shall have the authority to enter upon such Property of the Owner and to do such acts as may be necessary to perform its duties and services pursuant to this Agreement and the Annual Business Plan (as defined in Section 3.2.1. hereof).

1.4 Relationship. In the performance of its duties hereunder, Manager shall be an independent contractor and not an agent, employee, partner or joint venture of Owner.

1.5 Competing Activities. Manager may now or hereafter without any notice to Owner have an ownership or other interest in any other business ventures of any nature or description in the vicinity of the Property or any other location, including, without limitation, the development, ownership, operation, management and leasing of real property which may be in competition with the Property. Owner acknowledges the fact that Manager may have such competing interests and agrees not to assert any claim against Manager with respect to Manager's ownership of, or income or

profit from, such competing activities or any effect such activities may now or hereafter have on the Property.

ARTICLE 2. OBLIGATIONS AND REPRESENTATIONS OF OWNER

2.1 Adequate Funds. Not Applicable

2.2 Information and Documents. Owner shall promptly provide to Manager all information and documents reasonably required for the management of the Property.

2.3 Environmental.

2.3.1 Indemnity. To the extent permitted under Georgia law, owner shall hold harmless Manager with respect to: (i) any Hazardous Materials on, in, under or affecting all or any portion of the Property, any surrounding areas, or any other property owned by Owner, regardless of whether or not Hazardous Materials were introduced by or under the control of, Owner; (ii) the violation of any Environmental Laws relating to or affecting the Property or the Owner, whether or not caused by or within the control of Owner; (iii) the violation of any Environmental Laws in connection with other property of Owner which gives or may give rise to any rights whatsoever in any party with respect to the Property by virtue of any Environmental Law(s), including, without limitation, (A) the costs of removal of any and all Hazardous Materials from all or any portion of the Property or any surrounding areas, (B) additional costs required to take necessary precautions to protect against the discharge, spillage, emission, leakage, seepage or Release of Hazardous Materials on, in, under or affecting the Property or into the air, any body of water, any other public domain or any surrounding areas, and (C) costs incurred to comply with the Environmental Laws in connection with all or any portion of the Property or any surrounding areas. For the purpose of this Agreement, "Hazardous Materials" means and includes petroleum products, flammable explosives, radioactive materials, asbestos or any material containing asbestos, polychlorinated biphenyls, and/or any hazardous, toxic or dangerous waste, substance or material defined as such, or as a Hazardous Substance or any similar term, by, in or for the purposes of the Environmental Laws, including, without limitation Section 101(14) of CERCLA, which is in a prohibited or regulated form or in excess of an allowable amount under applicable Environmental Laws. Further, for the purpose of this Agreement "Environmental Laws" shall mean any "Super Fund" or "Super Lien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree, regulating, relating to or imposing liability or standards of conduct concerning any Hazardous Materials as may now or at any time hereafter be in effect, including, without limitation, the following, as the same may be amended or replaced from time to time, and all regulations promulgated thereunder or in connection therewith: the Super Fund Amendments and Reauthorization Act of 1986 ("SARA"); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"); the Clean Air Act ("CAA"); the Clean Water Act ("CWA"); the Toxic Substances Control Act ("TSCA"); the Solid Wastes Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act ("RCRA"); the Hazardous Waste Management System; and the Occupational Safety and Health Act of 1970 ("OSHA").

2.3.2 Environmental Reports, Asbestos Survey. Owner has delivered to Manager a copy of each environmental assessment, report, study or opinion and any asbestos study in the possession of Owner or reasonably obtainable by Owner with respect to the Property (the "Environmental Reports"), and Owner has no knowledge of any facts or circumstances regarding the environmental status of the Property or presence of asbestos which are not referenced or described in the Environmental Reports. Owner authorizes Manager to contact the party or parties who prepared all or any of the Environmental Reports and at Manager's expense to cause such Environmental Reports to be addressed to or for the benefit of Manager.

2.3.3 Notice of Environmental Matters. If at any time during the term, Owner becomes aware of a Release or the existence of Hazardous Materials on or within the Property, Owner shall immediately provide a notice to Manager explaining the nature and extent of such Hazardous Materials or Release, and, as and when available, any reports relating thereto.

2.3.4 Termination for Environmental Matters. In the event that Manager becomes aware of any Release with respect to the Property or that any representation of Owner with respect to the environmental status of the Property is incorrect and such circumstance is not remedied or steps undertaken to Manager's satisfaction so to remedy such circumstance within five (5) days of the effective date of a notice from Manager describing such circumstance, then Manager may terminate this Agreement whether or not the Expiration Date has occurred.

2.3.5 Manager's Responsibility. Manager shall not cause any Hazardous Materials to be introduced to the Property and shall use reasonable care to monitor the actions of tenants and other third parties to prevent the introduction of Hazardous Materials to the Property. In all other respects, Owner shall be solely responsible for compliance with Environmental Laws which apply to the Property.

2.4 Office and Other Space. Not applicable.

2.5 Owner's Representations and Warranties. Owner hereby represents and warrants to, and agrees with, Manager as follows:

(a) Owner has delivered to Manager all loan documents with respect to any loan which are necessary for the performance of Manager's duties hereunder.

(b) Owner has the requisite power and authority to enter into this Agreement, and the parties who have executed this Agreement are Authorized Representatives (as listed on Exhibit A) of the Owner. Owner has supplied Manager with a copy of each covenant or other matter affecting the title to, or the use of the Property, which could or does relate to the performance of the Manager's duties hereunder.

ARTICLE 3. DUTIES AND SERVICES OF MANAGER

3.1 General Standard. Manager shall manage the Property in a good, efficient manner using such care and diligence as managers of projects like the Property are expected to use

within the industry (the "Operating Standard"). Manager shall perform its duties hereunder in a diligent and careful manner so as to achieve the Operating Standard. Manager shall consult with other members of its organization and affiliates from time to time as it deems necessary to efficiently and completely provide the services of Manager contemplated herein.

3.2 Specific Duties and Services. Manager shall perform the following specific duties and services (the "Ordinary Services") and Manager's compensation therefor shall be included within the Management Fee (as defined in Section 4.1)

3.2.1 Ordinary Services. Manager shall perform the following:

- (i) Maintain a 24 hours a day / 7 days a week contact number to handle emergency issues on the property.
- (ii) Oversee contractors who perform custodial, maintenance, and similar efforts on the property on behalf of the Owner. This oversight will also include soliciting bids or price quotes, as necessary to ensure a competitive price. Owner has the right to request a review of current pricing at any time, along with adhering to the same standard procurement methods the Owner uses. Owner has a right to request a specific vendor or deny the same from use.
- (iii) Suggest to Owner best practices for all life and safety procedures are followed and oversee development of needed plans and implementation as instructed.
- (iv) Propose any additional capital expenditures needed at the property and oversee as instructed.

3.2.2 Additional Services. The following services, at minimum, will be overseen by the Manager, and may be done through third parties. If done through third parties, those costs will not be part of the management fee. The Manager may receive billings on behalf of the Owner and submit them to the Owner to pay the vendor directly. In all cases, the Manager is responsible that the Owner is aware of the service and its costs before any work is performed.

- (i) Custodial services, inclusive of daily service weekdays for the Property unless both parties agree to a change during the time of this agreement;
- (ii) Landscaping on a weekly basis, with the exception of winter holidays, and general exterior maintenance daily;
- (iii) Window cleaning on an annual basis for the interior and semi-annual for the exterior;
- (iv) Generator maintenance by best practices;
- (v) Elevator maintenance as required by law;
- (vi) HVAC maintenance by best practices;
- (vii) Extermination services on a monthly basis;
- (viii) General operating and maintenance supplies;
- (ix) Indoor plant maintenance on a monthly basis; and
- (x) Fire suppression services and maintenance as required by law;

3.2.3 The Owner shall directly oversee and pay for the following:

- (i) Utilities costs, including gas, electricity, and water;
- (ii) Debt service costs;
- (iii) Telephone service excluding emergency elevator communications; and
- (iv) General Liability Insurance expected of the Owner.

3.2.4 The Manager and Owner may amend or clarify this section by mutual consent at any time in writing.

3.2.5 Accounting and Records. Manager shall maintain at the Property or at another location designated by Manager, original documents relating to the performance of Manager's duties hereunder and shall remit same documents to the Owner as requested. Owner and its Authorized Representatives shall have at all times during normal business hours access to and the right to audit and make copies of such records, accounts, books, vouchers, files and other material pertaining to the Property and this Agreement.

3.2.6 Reports. Manager and Owner will meet, at minimum, monthly, to discuss any outstanding issues or improvements needed. Either party may ask for meetings as warranted.

3.2.7 Service Contracts. The Manager may negotiate contracts between the Owner and third parties, such as cleaning, fuel oil, elevator maintenance, security services, extermination, trash removal and other services in the ordinary course of the operation of the Property subject to approval of the Owner. Said contracts must be delivered to Owner for approval a reasonable time before expiration of previous contracts so as not to effect any service interruptions, but in any case no less than at least 15 business days before termination of the previous contracts. Manager shall also purchase all supplies and equipment necessary to maintain and operate the Property, with Owner receiving the benefit of any discounts, rebates or commission obtained by Manager for purchases or otherwise, and submit said expenses to Owner for reimbursement on a monthly basis. Manager shall use such efforts as are consistent with the Operating Standard to cause all such service contracts to be terminable by Owner on not more than thirty (30) days notice.

3.2.8 Maintenance. Manager shall review the efforts and work of those parties who, under service contracts referenced in Section 3.2.2, maintain or cause to be maintained the improvements and grounds of the Property.

3.2.9 Emergencies. In the case of any emergency, Manager may perform or cause to be performed repairs and maintenance to the Property arising out of such emergency, in its reasonable discretion, without Owner's prior approval provided that Manager shall contact Owner as soon as practicable by telephone or e-mail and thereafter by notice to describe the details thereof and expenses associated therewith.

3.2.10 Employees. (a) All parties at the Property engaged by Manager in the completion of Manager's duties hereunder shall be employees or independent contractors, as the case may be, of Manager and not Owner. Manager shall employ at all times a sufficient number of employees or independent contractors at the Property to enable it to operate and maintain the Property in accordance with the Operating Standard. The term "Employee(s)" shall mean individually or collectively the employees of Manager identified in the Annual Business Plan. In no event will Manager be considered a successor employer under any union contract to which Owner is a party.

(b) All matters pertaining to the employment, supervision, compensation, promotion and discharge of such employees or independent contractors, shall be vested solely with Manager and Owner shall not have any rights or obligations with respect thereto.

(c) In the event Owner terminates this Agreement for any reason, Owner shall be responsible for any and all costs incurred by Manager required by the Worker Adjustment Retraining and Notification Act ("WARN Act").

(d) Owner shall make no attempt to hire an Employee during the term of this Agreement nor for twelve (12) months following any termination of this Agreement without consent of the Manager.

3.2.11 Compliance. Manager shall be generally familiar with the insurance requirements and restrictions and covenants which Owner has provided to Manager which affect Manager's performance of its duties hereunder and which affect the Property. Manager shall inspect the Property at such intervals as Manager shall determine to be consistent with the Operating Standard and shall give notice to Owner of any existing violation of any Law, Insurance Requirement or restriction or covenant of which Manager becomes aware.

3.2.12 Annual Audit. Manager shall, at Owner's request and expense retain and pay, the fees and expenses of an independent accounting firm to perform annual audits of the expenses of the Property that are passed through to tenants under leases.

3.2.13 Requested Services. In connection with any proposed sale or refinancing of the Property by Owner, Manager shall comply with all reasonable requests by Owner for services related to such sale or refinancing, including showing the Property and copying and delivering leases, service contracts and other documents maintained by Manager in the performance of its duties hereunder. Manager shall not be required as part of the Ordinary Services to prepare any reports regarding the ownership or operation of the Property other than reports which are otherwise Manager's responsibility hereunder as part of the Ordinary Services.

3.2.14 Routine Repair, Replacement and Maintenance. (a) Manager shall, without any additional fee and as part of the Management Fee, monitor on behalf of Owner any work related to any routine repairs, replacement or maintenance of the Property.

(b) As part of Manager's duties in Section 3.2.14(a) above, Manager may execute and deliver, and Owner hereby authorizes Manager to execute and deliver, as Owner's authorized representative, such contracts and agreements as may be necessary to accomplish such routine repairs, replacement or maintenance of the Property, to the extent the amounts thereof are approved by the Owner.

3.2.15 Remodeling. (a) Manager shall, in consideration of the Construction Management Fee, as defined and payable in accordance with Section 4.6 below, monitor on behalf of Owner the construction and completion of the work associated with Improvements and remodeling of the Improvements.

(b) As part of Manager's duties in Section 3.2.15(a) above, Manager may negotiate, as

Owner's authorized representative and subject to Owner's approval, such contracts and agreements as may be necessary to accomplish remodeling of the Improvements within the Property. For the purpose of this Agreement, "Improvements" shall mean any and all buildings (as identified on page one hereof) and other improvements to the Property.

ARTICLE 4. COMPENSATION AND REIMBURSEMENT

4.1 Management Fee. Owner shall pay to Manager a fee ("Management Fee") equal to the Management Fee (as defined in Exhibit A) per fiscal year (such Management Fee shall be prorated on a daily basis for any fiscal year less than 365 days). The Management Fee shall be paid monthly in an amount equal to one twelfth (1/12th) of the Management Fee.

4.2 Reimbursement of Expenses. Manager shall be entitled to receive reimbursement for On Site Expenses incurred or advanced by Manager pursuant to its duties hereunder.

4.3 Construction Management Fees. (a) Owner agrees that Manager shall be entitled to a construction management fee in connection with its duties set forth in Section 3.2.15(a) above (the "Construction Management Fee") which shall be paid one half (1/2) upon the commencement of Manager's duties and the balance on acceptance thereof by the Owner that such project has been completed.

(b) If an Employee of Manager performs construction management duties for improvements and/or remodeling as part of his employment, then as part of the Ordinary Services, Manager shall review and monitor the activities of such Employee and be responsible for the completion of such improvements and/or remodeling. Manager agrees that the Construction Management Fee under the preceding sentence shall, notwithstanding anything to the contrary contained herein, be equal to one and one half percent (1.5%) of the construction costs which are the actual costs to construct and complete such project. If Manager engages a third party contractor to complete improvements and/or renovations, the construction costs on which the Construction Management Fee is calculated shall include, without limitation, all hard costs of construction, all amounts included in any construction contract for the completion of such project (including contractor's fees and overhead charges) and all architectural, engineering, design and other professional fees associated therewith. Such Construction Management Fee shall be the sum of the following:

- (i) Five percent (5%) of the first \$500,000 of such construction costs; PLUS
- (ii) Four percent (4%) of the amount of such construction costs in excess of \$500,000 but less than \$1,500,001; PLUS
- (iii) Three percent (3%) of the amount of such construction costs in excess of \$1,500,000.

ARTICLE 5. TERMINATION

5.1 Events of Default. The term "Event of Default" shall mean the following.

5.1.1 Failure to Comply. The failure of either Party to comply with any provision of this Agreement if such failure is not cured within ten (10) days after the effective date of a notice thereof from the other party (provided, however, with respect to any matter not curable by the payment of money if curing such failure reasonably requires more than ten (10) days, the time period for curing shall be extended for up to a total of fifty (50) days so long as the party who failed, promptly commenced to cure the failure after the effective date of the notice and thereafter diligently prosecutes such cure).

5.1.2 Insolvency. The making by either party of an assignment for the benefit of creditors; the appointment on behalf of either party of a receiver, liquidator or trustee of its property; the adjudication of either party to be bankrupt or insolvent; or the filing by or against either party of a petition for the bankruptcy, reorganization or arrangement of such party; provided however that if the petition was filed against the party, such party shall have sixty (60) days from the date of filing within which to have the petition discharged or dismissed.

5.2 Owner's Right to Terminate. Owner shall have the right to terminate this Agreement upon the occurrence of an Event of Default by Manager, upon a sale or other disposition of all or substantially all of the Property by Owner, upon a condemnation or casualty making more than twenty percent (20%) of the gross rentable area of the Property untenable, thirty (30) days after the effective date from Owner to Manager of a notice of termination given at any time after the Expiration Date hereof, or for convenience of the Owner at any time with thirty (30) days' notice to Manager. Owner shall give to Manager notice of any such termination specifying the effective date thereof. Provided, however, Owner agrees to give Manager prompt notice of its execution of any contract or agreement to sell or otherwise dispose of its interest in the Property which could result in Owner's or the new owner's termination of this Agreement and to keep Manager informed as to the anticipated date that this Agreement would be terminated as a result thereof. In the event of termination upon a sale or other disposition of all or substantially all of the Property by Owner, Manager shall be entitled to a due diligence fee equal to two (2) months management fee as compensation for its services and assistance to the Owner's sale efforts.

5.3 Manager's Right to Terminate. Manager shall have the right to terminate this Agreement in accordance with Section 5.2 above, upon the occurrence of an Event of Default by Owner, upon the sale or other disposition of all or substantially all of the Property by Owner (including, without limitation a transfer of the Property under power of sale or judicial decree), upon a condemnation, upon any exercise by the holder of a Loan of any right to collect the income and rents from the Property or sixty (60) days after the effective date of a notice from Manager to Owner given at any time after the Expiration Date. Manager shall give Owner notice of termination specifying the Effective Date thereof, which, in the case of a transfer under power of sale or judicial decree, or by deed, or which in the case of the exercise by the holder of a Loan of any right to collect the income and rents from the Property may be effective immediately upon such transfer.

5.4 Duties Upon Termination. On the effective date of a termination or expiration of

this Agreement, Manager shall deliver to Owner promptly any outstanding invoices for Manager or third party vendors. Manager will also promptly return all materials, supplies, keys, leases, contracts, other documents, insurance policies, plans, specifications, promotional materials and such other accounting papers and records as pertain to this Agreement shall be delivered to Owner upon or within a reasonable period of time after the Effective Date of a termination or expiration. Manager shall also assign to Owner (without recourse to Manager) executed contracts, if any, in Manager's name relating to the operation and maintenance of the Property. Manager shall deliver to Owner a final accounting (prepared in accordance with the provisions of this Agreement) of the Property up to and including the effective date of the termination or expiration within 90 days after such effective date of termination or expiration. No further services shall be performed by Manager under this Agreement after the effective date of a termination or expiration, except that Manager shall cooperate reasonably with Owner to accomplish an orderly transfer of the operation and management of the Property to the entity designated by Owner in a notice to succeed Manager.

5.5 Remedies and Survival. If either party terminates this Agreement pursuant to an Event of Default, the party so terminating may exercise any and all remedies available at law or in equity for breach of contract, unless and to the extent expressly limited herein. Upon expiration or any termination both parties shall remain liable for all obligations accrued and not fully performed under this Agreement during the term.

ARTICLE 6. INDEMNIFICATION AND INSURANCE

6.1 Intent. It is the intent of the parties hereto to look first and primarily to the insurance coverages set forth herein, with the insurers having no right of subrogation against either party, any affiliate or any authorized representative. The parties shall look to each other for personal liability only to the extent that insurance proceeds are not available from that party's insurer.

6.2 Indemnification. To the extent permitted under Georgia law, owner shall hold Manager harmless with respect to any and all of Manager's activities under this Agreement (including, without limitation, any liability which Manager may incur in connection with any Hazardous Materials located on or affecting, the Property), except for Manager's gross negligence or willful misfeasance. Manager shall Hold Harmless Owner with respect to Manager's gross negligence and willful misfeasance with respect to Manager's performance of its duties hereunder with respect to the Property.

6.3 Owner's Insurance. Owner shall carry commercial general liability and/or umbrella excess liability insurance (including personal injury liability coverage) with respect to the Property in an amount of \$3,000,000 aggregate per location; any deductible with respect to such insurance shall be the sole and exclusive responsibility of the Owner. With respect to property insurance, Owner shall carry an all risk property damage policy in an amount equal to the replacement cost of the property, and Owner shall obtain and deliver to Manager a waiver of subrogation. Property insurance coverages may be included in blanket policies provided that the Property is named separately. If Owner owns any vehicles with respect to the Property, Owner shall carry automobile liability insurance; any deductible with respect to such insurance

shall be the sole and exclusive responsibility of the Owner.

6.4 **Manager's Insurance.** Manager shall carry Worker's Compensation Insurance (and any similar insurance as required by law) and a fidelity bond bonding Manager and those employees of Manager who have signature authority over Owner's funds or the funds in the Operating Account with coverages of up to \$1,000,000. If Manager owns or operates any vehicles in connection with the Property, Manager shall carry automobile liability insurance with respect to such automobiles with coverages of not less than \$5,000,000 for combined single limit coverage for bodily injury and property damage.

6.5 **General Insurance Provisions.** All insurance provided by either party pursuant to this Agreement shall be maintained in effect throughout the term hereof. Each policy, other than Worker's Compensation, shall provide that it shall not be canceled, amended or reduced without thirty (30) days prior written notice to both Parties and that it shall not be invalidated or reduced by any act of either party, their affiliates, authorized representatives or any other entity having an interest in the Property or by foreclosure or other change in title to the Property. Each party shall, with regard to the coverages required of it, deliver certificates of insurance evidencing the required coverages within ten (10) days after the date of this Agreement or within ten (10) days prior to the expiration of any policy already in effect. The other party may by notice request a certified copy of each such policy.

ARTICLE 7. MISCELLANEOUS

7.1 **Notices.** Whenever any notice is required or permitted hereunder, each notice shall be in writing and shall be sent by depositing it with United States Postal Services or any official successor thereto, certified or registered mail, return receipt requested, with adequate postage pre-paid, or with a nationally recognized overnight courier service which obtains receipts, addressed to the appropriate party hereto (and marked with particular individual's attention if so indicated). Copies of notices shall be sent simultaneously by e-mail. Each notice shall be effective upon being so deposited, but the time period in which a response to any notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the notice by the addressee thereof (the "Effective Date"). Rejection or other refusal by the addressee to accept or the inability to deliver because of a changed address of which no notice was given shall be deemed to be the receipt of the notice sent. Any party hereto shall have the right from time to time to change the address or individual's attention to which notices to it shall be sent and to specify up to two additional addresses to which copies of notices to it shall be sent by giving to the other parties notice thereof. The addresses of the parties hereto are set forth on Exhibit B attached hereto.

7.2 Defined Terms. Any terms which are capitalized and not otherwise defined in the body of this Agreement are defined or described in Exhibit A attached hereto.

7.3 Assignment. Neither party shall assign its rights under this Agreement without the Approval of the other party except as follows:

7.3.1 Owner. Owner may assign all of its rights under this Agreement (but not part of them) in connection with a sale or transfer of title to, the Property, provided that the purchaser of the Property assumes all of the Owner's obligations under this Agreement in writing and provides a copy of such assumption to Manager.

7.3.2 Manager. Manager may assign all of its rights under this Agreement (but not part of them) to any affiliate of Manager upon written approval of the Owner (which shall not be unreasonably withheld).

7.4 Successors and Assigns. Subject to the provisions of the preceding Section dealing with assignment, this Agreement shall be binding upon the parties and their respective successors and assigns.

7.5 Entire Agreement. This Agreement constitutes the entire agreement of parties with respect to the subject matter hereof. There are no further agreements or understandings, written or oral, in effect between the parties with respect to the subject matter hereof. All amendments of or modification to the Agreement must be in writing signed by the Parties.

7.6 No Waiver. The failure of either party to insist upon the strict performance of any covenant, agreement, provision, or condition of this Agreement shall not constitute a waiver thereof.

7.7 Severability. If any provision of this Agreement or the application thereof to any entity or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to any other entity or circumstance shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

7.8 Interpretation. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural; and the plural shall include the singular. Titles of articles and sections in this Agreement are for convenience only and neither limit nor amplify the provisions of this Agreement. All references in this Agreement to articles, sections, subsections or paragraphs shall refer to articles, sections, subsections and paragraphs of this Agreement, unless specific reference is made to the articles, sections, or other subdivisions of another document or instrument. This Agreement shall not be interpreted in favor of either party by virtue of said party not having prepared this Agreement. If any time period provided for in this Agreement ends on a day other than a business day, the time period shall be extended to the next business day.

7.9 Costs of Litigation. If either party shall institute an action or proceeding against the other party relating to this Agreement, the unsuccessful party in such action or proceeding shall reimburse the successful party for its disbursements incurred in connection therewith and for its reasonable attorney fees actually incurred.

7.10 Governing Law. This Agreement shall be governed by the laws of the state in which the Property is located.

7.11 Further Assurances. The Parties agree to execute such other documents and perform such other actions as may be necessary or desirable to carry out the purposes of this Agreement.

7.12 No Third Party Beneficiary. No other entity other than Owner and Manager (or the legal entity of which Manager is a subsidiary) is or shall be entitled to bring any action to enforce any provision of this Agreement. The provisions of this Agreement are solely for the benefit of and shall be enforceable only by the Owner and Manager and their respective successors and assigns as permitted hereunder.

7.13 Remedies Not Exclusive. The rights and remedies of Owner and Manager under this Agreement shall not be mutually exclusive. The exercise of one or more of the rights and remedies under this Agreement shall not preclude the exercise of any other right or remedy. Damages at law may not be an adequate remedy for a breach or threatened breach of this Agreement, and in the event of a breach or threatened breach of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, and injunction or other equitable remedy.

7.14 Unavoidable Delays. Each party shall be excused from performing its obligations under this Agreement for so long as and to the extent that performance is prevented or delayed by unavoidable delays. For the purpose of this Agreement "Unavoidable Delays" shall mean an act of God, fire, earthquake, flood, explosion, war, insurrection, riot, mob violence, sabotage, inability to procure labor, equipment, facilities, materials or supplies, strikes, walk-outs, action of labor unions, condemnations, laws, litigation involving a party, inability to obtain governmental permits or approvals, and other matters not within the control of the party in question.

7.15 Joint and Several. If either party at any time consists of more than one entity, the obligation of all such entities under this Agreement shall be joint and several.

7.16 Exhibits. The exhibits referred to in and attached to this Agreement are incorporated herein in full by reference.

7.17 Time of the Essence. Time is of the essence of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

MANAGER: RGRE MANAGEMENT, LLC

By: Brandon Berk

Print Name: Brandon BERK

Title: Property Manager/member

OWNER: CITY OF DUNWOODY, GEORGIA

By: _____

Print Name: _____

Title: _____

EXHIBIT A

PROPERTY DESCRIPTION: The City of Dunwoody's City Hall (4800 Ashford Dunwoody Rd, Dunwoody GA 30338) was occupied by staff in the winter of 2017/2018. The facility is a building of approximately 45,532 square feet consisting of two stories. All city departments are primarily located at this facility. In the fall of 2019, the City also opened the North Shallowford Annex a.k.a. the Annex (4470 North Shallowford Rd, Dunwoody GA 30338). The facility is a building of approximately 13,675 square feet consisting of two stories. The building's main purpose is to house police training and citizen recreational programming activities.

AUTHORIZED REPRESENTATIVE OF THE OWNER: Eric Linton, City Manager

MANAGEMENT FEE: The management fee referenced in Article 4.1 shall be \$2,500.00 per month for 4800 Ashford Dunwoody Rd and the management fee for the Annex is \$1,000.00 per month 4470 North Shallowford Rd until the agreement is terminated or mutually adjusted.

EXHIBIT B

ADDRESSES

OWNER: City of Dunwoody, GA
Attn: City Manager
4800 Ashford Dunwoody Road, Suite 210
Atlanta, GA 30338

with a copy to: Riley McLendon, LLC
315 Washington Ave.
Marietta, Georgia 30060 Attention:
Cecil McLendon, Esq.

MANAGER: RGRE Management, LLC
Attn: Ryan Goldstein & Brandon Berk
PO Box 550912
Atlanta, GA 30355

RGRE Management, LLC

SERVICE CONTRACT

THIS AGREEMENT, dated **December 1, 2019** as by and between City of Dunwoody c/o RGRE Management, LLC as managing agent. (hereafter referred to as Manager or whoever City of Dunwoody appoints), and **CEGLR Group, LLC** (hereinafter referred to as "Contractor").

WITNESSETH

WHEREAS, Manager desires to avail itself to the services of the contractor to provide **Janitorial, Day Porter and Maintenance** for that certain property/project located at **4800 Ashford Dunwoody Road, Dunwoody, GA** and **4470 North Shallowford Rd., Dunwoody GA** commonly known as **Dunwoody City Hall & Annex** (the "Property") and Contractor is willing to so act,

NOW, THEREFORE, in consideration of the mutual promises herein contained the parties agree as follows:

1. TERM

Manager, on behalf of Owner, hereby engages Contractor as an independent contractor, to perform and provide **Janitorial, Day Porter and Maintenance** hereinafter described commencing on **January 1, 2020** and ending on **December 31, 2020**. Manager may terminate this agreement at any time by giving the Contractor thirty (30) days prior written notice of its election to terminate. Contractor may terminate this agreement by giving Manager written notice (90) days prior to the one-year anniversary date of the commencement of this agreement, and at ninety (90) days prior to each anniversary date during the time which this agreement may remain in effect. Ninety (90) days prior to each anniversary date, contractor shall give Manager a proposal for the twelve month period following the anniversary date.

2. SERVICES TO BE PERFORMED AND CONSIDERATION

General Services. Contractor agrees to perform the services for the Property on and in accordance with the schedule and manner specified in the specification which are attached hereto as "Exhibit A" and made a part of hereof reference. Manager agrees to pay the contractor the following amounts (as outlines in "Exhibit A"):

See Exhibit 'A'

3. RELATIONSHIP OF THE PARTIES

Contractor does hereby state, represent and warrant that it is an independent contractor. In no event and/or under no circumstance shall contractor in the performance of its contractual obligation hereunder be deemed or considered to be acting as a servant, agent, or employee of the Manager, Owner or the Property. Contractor agrees that it is solely responsible for all payments due or to become due to all its employees, or material suppliers including withholding of appropriate taxes and compliance with any and all worker's compensations laws or similar employer obligations or requirements with respect to its employees and Contractor hereby agrees to indemnify and save harmless Owner and Manager, and any affiliate, subsidiary, employee, or parent corporation of either against any and all liability therefore. This agreement shall not be construed in any way to create a partnership or joint venture between the parties. The sole relationship of Contractor to Manager is of an independent contractor.

4. PERSONNEL

Contractor shall supply an adequate number of employees who have been trained, **vett**ed and are competent to perform the services required hereunder. The personnel provided shall be supervised and directed by a foreman, who shall be trained and duly qualified to act in such capacity. All personnel shall be properly uniformed or attired suitably to perform such services professional in a medical office building. Contractor agrees to maintain in good order and shall be responsible for the professional behavior of its employees while on the premises. In the event that the Manager, in the exercise of its reasonable discretion, shall deem an employee unacceptable or unsatisfactory, Contractor shall promptly remove such employee from the work force and shall supply a vetted replacement therefore.

5. SUPPLIES AND EQUIPMENT

Any and all supplies, equipment, uniforms and/or materials whatsoever, which may be necessary to perform the services required hereunder, shall be furnished by contractor at no cost to owner (see Exhibit 'A'). All such materials and supplies shall be of a quality consistent with that of an Office Building in the **Atlanta, GA** market and acceptable to Manager in its sole judgment, and no additional charge shall be made by the Contractor for this requirement.

6. COMPLIANCE WITH LAWS AND REGULATIONS

Contractor agrees to comply with all Federal, State and Local laws, ordinances and/or rules and regulations in connection with the performance of its services and obligations under this contract.

7. AGREEMENT OF INDEMNITY

Contractor shall fully protect, indemnify, and save harmless and defend Manager and Owner, their directors, officers, agents and employees from and against any and all loss, costs (including reasonable attorney's fees and costs), damage, injury, liability claims, or causes of actions, arising out of resulting from:

- a) The performance by Contractor (or its subcontractors, agents and employees) of the services to be provided pursuant to this Agreement; or
- b) The negligence or willful misconduct of Contractor or its subcontractor, agents or employees

Prior to working on the property, the contractor shall provide and maintain the following types of insurance protecting the interests of the Owner, Management Company and contractor with limits of liability not less than those specified below:

- a) **Workers Compensation Insurance** providing statutory benefits under the Worker's compensation Act of the State of GA and or any other State of Federal lay or laws applicable to the Contractors' employees performing work on the property. Employer's Liability insurance with limits of liability of not less than \$500,000 each accident, \$500,000 each employee for disease and \$500,000 policy limit for disease.
- b) **Commercial General Liability** coverage shall carry limits of \$1,000,000 for bodily injury and property damage per occurrence with a general aggregate of \$1,000,000. There shall not be any policy exclusions or limitations for contractual liability covering the contractor's obligations herein; personal injury; advertising liability; medical payments; fire damage legal liability; broad form property damage; and liability for independent contracts.
- c) **Comprehensive Automobile Liability insurance** covering all owned, hired and non-owned vehicles used in connection with the work performed on property with a combined single limit for bodily injury and property damage liability of not less than \$1,000,000.

- d) Whenever the Owner deems necessary, we will request Umbrella coverage of \$2,000,000 per occurrence/\$2,000,000 aggregate and/or a Fidelity Bond of \$10,000 per employee.

Before commencing any work, the Contractor shall present Certificates of insurance satisfactory to the Management Company (or, as and when the Management Company may direct, copies of the actual insurance policies to the following address:

**City of Dunwoody
C/O City Manager
4800 Ashford Dunwoody Road, Suite 210
Atlanta, Georgia 30338**

Copy: Brandon Berk bberk@rg-re.com or fax 404-537-1905

A Certificate of Insurance is required from each insurance company evidencing proof of insurance is in force stating policy numbers, dates of expiration, and limits of liability. All Certificates of Insurance submitted to the Management Company shall be in form and content acceptable to the Management Company and Owner.

The policy or policies providing commercial and general liability and as required above shall list the Management Company and the Owner as Additional Insured as respects operations performed by or on behalf of the contractor. The additional insured should be listed as follows:

**City of Dunwoody
And
RGRE Management, LLC**

Policies and/or Certificates shall specifically provide a thirty (30) day notice of cancellations, non-renewals or material change to be sent to the Management Company

Such liability insurance shall be endorsed to the name of the Owner and Manager including affiliates and subsidiaries, as additional insured to provide primary coverage for the Owner and Manager, and to provide a cross liability provision. Such insurance shall be with insurance satisfactory to Owner and Manager.

Before Contractor performs work at or on premises or delivers material to site of construction, contractor shall furnish foregoing insurance coverage. The certificates of liability insurance shall state that the policy insures the Owner and Manager as Agent, against liability for all claims arising out of or in connection

with services to be performed by the contractor, and the policy insures the performance of the Contractor's obligation to indemnify and to hold the Owner and Manager, free and harmless from injury to person or damages to the Property. Said certificates shall provide that insurance will not be cancelled or deduces without thirty (30) days prior written notice to Owner or Manger

Contractor shall maintain all of the foregoing insurance coverage in full force and effect until the work under this agreement is fully completed. The requirements for carrying the foregoing insurance shall not diminish.

Recourse against the Owner hereunder shall be limited to proceeding against Owner's interest in the Property.

8. ASSIGNMENTS

This agreement may not be assigned by Contractor without the prior written consent of Manager. Manager may, at any time, assign this Agreement to Owner or Owner's nominee without the consent of the Contractor.

9. NOTICES

All notices, requests, consents and other communications required or permitted under this Contract shall be in writing (including facsimile) and shall be (elected by the person giving such notice) hand delivered by messenger or overnight courier service, faxed or telecommunicated (with original to follow by overnight commercial courier for delivery on the next business day), or mailed by registered or certified mail(postage prepaid), return receipt request, addressed to the parties at the address set forth below. Each notice shall be deemed delivered (a) on the date delivered if by personal or overnight delivery, (b) on the date telecommunicated if by facsimile (with original to follow as provided above), (c) on the date of upon which return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

Contractor: **CEGLR**
 PO Box 54005
 Atlanta, GA 30308

Manager: **RGRE Management, LLC**
 P.O. Box 550912
 Atlanta, Georgia 30355-9998

Owner: **City of Dunwoody
4800 Ashford Dunwoody Road. Suite 210
Dunwoody, GA 30338**

This address to which any notice or other writing may be given, made or sent to either party, may be changed by written notice given by such party as above described.

10. CONFLICT

Should there be a conflict between this service contract and any of the Schedules or Exhibits attached hereto, this service contract shall take precedence. Any ambiguity resulting in from the construction of this agreement shall not be construed against either party hereunder, each party having participated in the drafting of the terms hereunder.

11. BINDING EFFECT

It is the intention of the parties hereto that the terms, conditions and provisions of this agreement shall be legally biding upon and inure to the benefit of and be enforceable by each of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized representatives on the dates below.

**CONTRACTOR
CEGLR Group, LLC**

**Owner
City of Dunwoody**

By: _____

By: _____

Title _____

Title _____

Date: _____

Date _____

Exhibit 'A'

4800 Ashford Dunwoody

41,000 SF

0.0467 per foot monthly for night cleaning (includes day cleaning)

\$100.00 per month Mat Service

\$15.10 per hour day porter

\$18.50 per hour for maintenance services

Supplies provided by janitorial tax exempt

4470 North Shallowford Rd. (see attached)



Janitorial Cleaning Proposal RG Real Estate

Overview

First Impressions Cleaning Solutions (FICS) shall provide all labor, supervision, material and equipment necessary to perform the agreed upon cleaning service for RG Real Estate at site location below. The cleaning specifications sheet, Exhibit A, outlines regular and periodic detailing schedule. FICS will provide services during a 12-month renewable contract.

Site Location

4470 N Shallowford Road, Atlanta, GA 30338

Cleaning Rates

Night Cleaning	\$835.00 per month
Day Porter	\$15.10 per hour
Maintenance Services	\$18.50 per hour

Cleaning crew will observe New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and any other such days as designated by property manager/owner.

FICS shall provide and deliver consumables such as hand towels, hand soap, toilet paper, and liners upon request and bill client for such.

Cleaning Specifications

Exhibit A

Special Services

Following additional services are available and priced upon request:

- Hard surface floors Strip/Wax
- Carpet Cleaning
- Microwave and/or Fridge Cleaning
- Pressure Washing



Exhibit A

General Specifications for Janitorial Services

(A) OFFICES

Daily Service

1. Empty trash and replace liners as needed
2. Desks will NOT be cleaned unless ALL personal items removed with note stating CLEAN
3. Carpets - Vacuum all designated areas within space
4. Hard Surface Floor - Dust and wet mop
5. Chairs/Waste Baskets - Return to their proper location
6. Stairwells – check and clean as necessary

Weekly Service

1. Walls - spot clean around light switches and doors at hardware as necessary
2. Empty recycling bins

Monthly Service

1. Blinds/Window Ledges - Dust
2. Hard Surface Floor - Spray buff
3. Baseboards – Dust
4. AC Diffuser / Return Grilles - Dust or vacuum
5. Vacuum - Detail vacuuming of edges and corners
6. Dusting - All high dusting
7. Spot clean carpets

(B) REST ROOMS

Daily Service

1. Trash – Empty and replace liners
2. Floors - Sweep and damp mop with germicide cleaner
3. Wash Basins / Urinals / Commodes - Clean and sanitize
4. Mirrors / Shelving / Dispensers / Chrome / Fixtures - Damp wipe with disinfectant
5. Sanitary Napkin Receptacles - Empty, Clean, Disinfect, replace bag liners
6. Stall Walls & Urinal Walls - Spot clean
7. Towel / Tissue Receptacles / Hand Soap Receptacles - Refill

Monthly Service

1. Tile Floor - Machine scrub with degreaser
2. Urinal Walls - Clean
3. Drains - Flush floor drains to prevent odors

**(C) BREAK ROOM****Daily Service**

1. Trash - Remove and clean receptacles
2. Floors – Dust and wet mop
3. Sinks and Areas – Clean
4. Walls / Cabinets - Spot clean
5. Fill paper towel / napkin dispensers
6. Clean trash can lids as needed

Monthly Service

1. Door / Door Jambs / Kick Plates - Dust and clean
2. Tile Floor - Spray buff

(D) MAIN LOBBIES / PUBLIC CORRIDORS**Daily Service**

1. Glass Entrance Door Metal Trim and Thresholds - Clean
2. Entranceway Mats – Vacuum/sweep accumulations of dirt, papers and leaves in all corner areas
3. All Hard Surface, Lobby Floors – Dust and damp mop
4. Trash Receptacles / Sand Ash Urns – Empty and clean
5. Water Fountain / Hose Cabinets / Visible Hardware – Clean
6. Carpets – Vacuum

Weekly Service

1. Baseboards in Lobby - Clean as necessary
2. Blinds / Windowsills – Dust and clean

Monthly Service

1. Carpet – Spot clean

(E) CONFERENCE ROOMS**Daily Service**

1. Remove trash
2. Straighten chairs (push under table)
3. Wet wipe tabletops
4. Vacuum



NIGHT CLEANING CREW/DAY PORTER GENERAL RESPONSIBILITIES

1. Notify building contact of any observed irregularities, i.e. defective plumbing, lights left on, inventory requirements, rest room supplies, and burnt out lights
2. Turn off lights (at night)
3. Janitorial Closets - Neat and clean (including floor), no trash left over night, kept locked
4. Required to maintain a neat and clean personal appearance (Uniforms or Badges)
5. Always use "wet floor "signs while wet mopping an area to warn others of slippery floor conditions
6. Monitor and / or sweep the trash / dumpster area
7. Boxes - No boxes are to be thrown out unless clearly marked TRASH

SECURITY PRECAUTIONS

1. No children are allowed to accompany cleaners in the buildings
2. Cleaners are not to give access to anyone
3. All tenant entry doors are to remain locked at night