

STATE OF GEORGIA,  
COUNTY OF SPALDING.

**DESIGN-BUILD CONTRACT**  
**between**  
**MALLORY & EVANS SERVICE COMPANY**  
**and the**  
**CITY OF GRIFFIN, GEORGIA**

THIS DESIGN-BUILD CONTRACT (hereinafter the "Contract") made this 8th day of November, 2016 (hereinafter the "Effective Date"), by and between MALLORY & EVANS SERVICE COMPANY (hereinafter the "Design-Builder"), whose address is 646A Kentucky Street, Scottdale, GA 30079, and the CITY OF GRIFFIN, a GEORGIA municipal corporation, whose address is 100 S. Hill Street, Third Floor, Griffin, GA 30223, provides as follows:

**WITNESSETH:**

For and in consideration of the sum of Ten (\$10.00) Dollars, the mutual promises and covenants hereinafter made, and other good and valuable consideration, the adequacy and sufficiency of which is acknowledged by each party, the parties agree as follows:

PROGRAM NAME: City of Griffin, Georgia  
One Griffin Center HVAC Replacement Project  
RFP #16-029 (SPLOST-funded)

1. **EXISTING DOCUMENTS:** The City's Program and Existing Documents, which the Design-Builder has reviewed and taken into consideration in preparing its proposal for fees and general conditions, are set forth on Exhibit "A"; the Owner's Preliminary Budget is set forth on Exhibit "B".
2. **DESIGN PROFESSIONAL:** The Owner requires the Design-Builder to retain CONNOR ENGINEERING SOLUTIONS (Michael Connor, P.E., Lead Engineer), as the Design Professional at the Design-Builder's cost.
3. **NOTICES:** Notices in accordance with this Contract shall be given as follows:

Design-Builder: Mallory & Evans Service Company  
646A Kentucky Street  
Scottdale, GA 30079  
Attn: John Catalfano, Account Manager

Owner: City of Griffin, Georgia  
100 S. Hill Street, Third Floor  
Griffin, GA 30223  
Attn: Kenny L. Smith, City Manager

All notices sent to the Owner shall also be sent to:

Program Manager:                      Phill Francis  
   P. O. Box T  
   Griffin, GA 30224

With copy to:                              Andrew J. Whalen, III  
   City Attorney  
   100 S. Hill St., Ste. 524  
   Griffin, GA 30223

4. **GUARANTEED MAXIMUM PRICE (“GMP”):** The maximum amount allowable for the Guaranteed Maximum Price shall in no event exceed the sum of One Million, One Hundred Ninety-nine Thousand, Nine Hundred (\$1,199,900.00) Dollars. The GMP will be established in accordance with Section 3, Part 3, of the General Requirements and may be replaced by a Lump Sum Price as set forth in Sec. 3.3.6.
5. **DESIGN-BUILDER FEE:**
  - a. *Design fee:* The Design Fee component of the Design-Builder Fee shall in no event exceed the sum of Sixty-four Thousand, One Hundred Ninety-four and No/100<sup>ths</sup> (\$ 64,194.00) Dollars;
  - b. *Preconstruction fee:* The Preconstruction Fee component shall in no event exceed the sum of – ZERO- (\$ 0.00 ) Dollars;
  - c. *Construction fee:* The Construction Fee component shall in no event exceed the sum of One Million, One Hundred Thirty-five Thousand, Seven Hundred Six and No/100ths (\$1,135,706.00 ) Dollars, including Design-Builder’s Fee and Contingency;
  - d. *Components:* The above fees contemplate the following components to be designed and incorporated by Component Change Orders: NONE;
  - e. *Other fees:* NONE.
6. **MATERIAL COMPLETION & OCCUPANCY DATE:** The Material Completion and Occupancy Date is One Hundred Forty-one (141) days following issuance of the Proceed Order.
7. **LIQUIDATED DAMAGES:** Liquidated damages, General Requirements Sec. 1.1.5, is waived.
8. **SCOPE OF BASIC SERVICES & THE WORK:** The Design-Builder shall perform all of the Basic Services and furnish all of the materials and perform all of the Work described in the Contract Documents and shall do everything required by the Contract Documents.



9. **SCHEDULE & COMPLETION:** The Design to be performed under the Contract Documents shall commence upon execution of this Contract. Once the Design Development Documents and Construction Documents have been approved by the Owner, a Proceed Order shall issue within ten (10) days and the Work shall commence within ten (10) days of the issuance of the Proceed Order. The Work shall be diligently prosecuted and substantially completed in accordance with the approved Overall Project Schedule no later than the Material Completion and Occupancy Date set forth above.
10. **PARTIAL OCCUPANCY:** General Requirements, Sec. 1.3.4, is hereby waived. Full occupancy of the building shall continue during the Work, except for limited areas affected as equipment is installed.
11. **PAYMENTS:** Payments on account of the Contract shall be made in accordance with Section 4 of the General Requirements.
12. **FINAL PAYMENT:** Final payment shall be made in accordance with Section 6, Part 5 of the General Requirements, provided all other requirements of the Contract Documents have been met in full.
13. **THE CONTRACT DOCUMENTS:** The Contract Documents include this executed Contract, the Construction Documents, any Component Change Orders and Component Construction Documents, all other approved Change Orders, as defined in the General Requirements, and Special General Requirements, if any, which by reference are incorporated herein as if fully made a part of this Contract.
14. **CITY'S PROGRAM MANAGER.** As Owner, the City designates Phill Francis as Program Manager, who shall fulfill the duties and obligations of said position described in the Contract, General Requirements, and any Supplementary General Requirements.
15. **SURETY BONDS:** The Design-Builder shall furnish both a performance bond and a payment bond as specified in the General Requirements and shall pay the premiums thereon as a Cost of the Work. The performance bond shall guarantee the full performance of the Contract and Contract Documents.
16. **FULL PERFORMANCE:** The Owner and the Design-Builder hereby agree to the full performance of the Basic Services and the Work, including all the requirements, conditions and stipulations contained in the Contract Documents.
17. **NO WAIVER:** The failure of the Owner at any time to require performance by the Design-Builder of any provision hereof shall in no way affect the right of the Owner thereafter to enforce any provision or any part of the Contract, nor shall the failure of the Owner to enforce any breach of any provision hereof be taken or

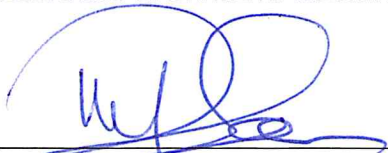
held to be a waiver of such provision, or as a waiver, modification or rescission of the Contract itself.


18. **APPLICABLE LAW:** This Contract and all rights, privileges and responsibilities shall be interpreted and construed according to the laws of the State of Georgia.
19. **ASSIGNMENT:** This Contract and the proceeds of the Contract may not be assigned nor may the performance thereunder be assigned, without the prior written consent of the Owner.
20. **GEORGIA SECURITY & IMMIGRATION COMPLIANCE ACT:** The Design-Builder hereby certifies its compliance with the Immigration Reform & Control Act of 1986 ("IRCA"), P.L. 99-603, and the Georgia Security & Immigration Compliance Act, O.C.G.A. §13-10-90, *et seq.* Design-Builder certifies that it has registered at <https://www.vis-dhs.com/Employer/Registration> to verify eligibility of all newly hired employees in order to comply with these laws. Design-Builder further certifies that it shall execute any affidavits required by the regulations issued by the Georgia Department of Labor, set forth in Rule 300-10-1-.01, *et seq.* Design-Builder covenants to include a similar provision in all written agreements with any subcontractors engaged to perform services under this Contract.
21. **SEVERABILITY:** If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons and circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.
22. **FULL AGREEMENT:** These Contract Documents shall supercede all prior negotiations, discussions, statements, and agreements between the Design-Builder and Owner and constitute the full, complete, and entire agreement between the Owner and Design-Builder. There can be no changes to this Contract by oral means, nor by course of conduct by either party, unless such change is properly authorized, in writing, in accordance with Section 3 of the General Requirements.

***[Signatures on following page.]***

**IN WITNESS WHEREOF**, the parties, through their duly-authorized officers, have set their hands and affixed their seals, the day and year first above written.

**DESIGN-BUILDER: MALLORY & EVANS SERVICE COMPANY**

By:   
Marco De Zan, President

Attest:   
Secretary  
(SEAL)

**OWNER: CITY OF GRIFFIN, GEORGIA**

By: \_\_\_\_\_  
Dick Morrow, Chairperson  
Board of Commissioners

Attest: \_\_\_\_\_  
Kenny L. Smith, Secretary  
(SEAL)

Approved as to form:

By:   
Andrew J. Whalen, III  
City Attorney

Attachments:

Attachment 1 – General Requirements

Attachment 2 – Supplementary General Requirements, if needed



## EXHIBIT A

### OWNER'S PROGRAM AND EXISTING DOCUMENTS

- a. Program Description: Design, engineering and construction services for the replacement of the existing HVAC system in One Griffin Center (City of Griffin City Hall), 100 S. Hill Street, Griffin, Georgia. The new system is to be a variable refrigerant flow (VRF) zoned system. The intent is to have a VRF system designed and installed that is capable of providing zone level VRF system control while maintaining proper levels of ventilation and conditioning and improving operational efficiency. The scope of work includes replacement of the existing HVAC system. The City Hall facility encompasses approximately 60,000 square feet and is currently served by a cool water chiller system. Due to age and changing demands of the modern workplace, the system is in need of replacement in order to meet expectations for employee comfort, safety and the efficient operation of the facilities.
- b. Request for Proposals, RFP #16-029; Bid Proposal from successful bidder.

## EXHIBIT B

### OWNER'S PRELIMINARY BUDGET

Available funding not to exceed \$2,000,000.00.