

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into by and between **DEWBERRY ENGINEERS INC.** ("Dewberry"), a Foreign Profit Company, and **THE CITY OF BONIFAY** ("City"), collectively the "Parties" to this Agreement, and is effective as of the date fully executed by the Parties hereto ("Effective Date").

WHEREAS, On or about May 9, 2022, Dewberry and the City entered into a written agreement for the provision of certain engineering and related services in relation to the project known as the Etheridge Street Roadway and Drainage Improvements Project ("Etheridge Street Project");

WHEREAS, On or about June 1, 2022, Dewberry and the City entered into a written agreement for the provision of certain engineering and related services in relation to the project known as the Memorial Field Improvements Project ("Memorial Field Project");

WHEREAS, Dewberry performed survey, design, permitting, and geotechnical services for the City pursuant to the Parties' agreements for the Etheridge Street Project and Memorial Field Project (collectively, the "Projects");

WHEREAS, In accordance with the terms of the Parties' agreement for the Memorial Field Project, the City agreed to pay Dewberry a total contract sum of \$238,400.00;

WHEREAS, In accordance with the terms of the Parties' agreement for the Etheridge Street Project, the City agreed to pay Dewberry a total contract sum of \$75,393.12;

WHEREAS, The Projects both ultimately encountered a series of delays;

WHEREAS, On or about September 25, 2023, the City notified Dewberry of its desire to terminate Dewberry, citing a lack of progress on the Projects;

WHEREAS, Dewberry disputes the City's claims, contends that the delays were outside of Dewberry's control, and maintains that its termination was improper; and

WHEREAS, The Parties believe it is in their respective best interests to settle the dispute between them, and now willingly enter into this Agreement, but this Agreement is not and shall not be interpreted as an admission of liability or fault or of any tortious or unlawful activity.

NOW, THEREFORE, For and in consideration of the promises and covenants contained herein and the good and valuable consideration stated below, the receipt and sufficiency of which is hereby expressly acknowledged, the Parties enter into this Agreement.

TERMS

1. **RECITALS.** The foregoing recitals are hereby incorporated into, and made a part of, this Agreement as if fully set forth herein.

2. **SETTLEMENT PAYMENT.** Dewberry will pay or cause to be paid to the City the total sum of **seventy-five thousand dollars and no cents (\$75,000.00)** ("Settlement Payment"), which shall fully and finally satisfy any and all claims by the City against Dewberry, including any claims for fees, interest, or costs, whether asserted or unasserted, except as otherwise specifically stated in Section 3 herein.

- a. Within **ten (10) days** after this Agreement is fully executed by the Parties, the City shall prepare and send a letter to Dewberry that confirms and clarifies that Dewberry was terminated from the Projects for convenience ("Letter"). As part of this Agreement, the City agrees that, in response to any inquiry from a person or entity not a Party to this Agreement regarding Dewberry's termination from the Projects, the City will state that the termination was for convenience.
- b. Within **thirty (30) days** after this Agreement is fully executed by the Parties, Dewberry shall mail the Settlement Payment, via check made out to The City of Bonifay at the following address: 401 McLaughlin Avenue, Bonifay, Florida 32425.
- c. The Parties agree that they are each to bear their own attorneys' fees and costs, except as otherwise specifically stated herein.
- d. The Parties agree to execute any additional documents and take any additional action needed to affect the implementation of the terms and intent of this Agreement.

3. **RELEASE.**

- a. Upon receipt and clearance of the Settlement Payment from Dewberry, the City, on its own behalf and on behalf of its officers, board members, directors, commissioners, affiliates, parent companies, successors, agents, employees, attorneys, insurers, reinsurers, authorized representatives, heirs, and assigns, does hereby remise, release, acquit, satisfy, and forever discharge Dewberry, and its officers, directors, owners, principals, agents, employees, attorneys, insurers, reinsurers, affiliates, related entities, subsidiaries, authorized representatives, successors, heirs, and assigns, from any and all manner of legal or equitable actions, suits, liens, claims, debts, dues, sums of money, accounts receivable, reckonings, bonds, liabilities, bills, covenants, contracts, controversies, agreements, promises, variances, deficiencies, trespasses, damages, judgments, executions, warranties, and demands whatsoever, in law or in equity, which it ever had, now has or may have through the Effective Date of this Agreement, in any way relating to or arising out of the Memorial Field Project, Etheridge Street

Project, or any other project or written agreement for services between the City and Dewberry, with the *sole exception* being claims relating to the City of Bonifay Fire Station Project (located at 809 S. Waukesh St., Bonifay, FL 32425). The City and Dewberry reserve and do not waive any claims or defenses they may have against each other in relation to the City of Bonifay Fire Station Project.

- b. Upon receipt of the Letter from the City, Dewberry, on its own behalf and on behalf of its officers, directors, owners, principals, agents, employees, attorneys, affiliates, authorized representatives, heirs, and assigns, does hereby remise, release, acquit, satisfy, and forever discharge the City from any and all claims for payment, including accounts receivable and any claims for costs, fees, or interest, which it ever had, now has or may have against the City through the Effective Date of this Agreement, which relate to or arise out of the Memorial Field Project, Etheridge Street Project, or any other project or written agreement for services between the City and Dewberry, with the *sole exception* being claims relating to the City of Bonifay Fire Station Project (located at 809 S. Waukesh St., Bonifay, FL 32425). The City and Dewberry reserve and do not waive any claims or defenses they may have against each other in relation to the City of Bonifay Fire Station Project.
- c. Notwithstanding the provisions of the preceding paragraphs 3.a. and 3.b., nothing in this Agreement releases, acquits, discharges, satisfies or otherwise affects in any way any claims or potential claims that the City and Dewberry have or might have related to the City of Bonifay Fire Station (located at 809 S. Waukesh St., Bonifay, FL 32425) which is the subject of litigation and all such claims are specifically excluded from this Agreement. For purposes of clarity regarding the Parties' intent, nothing about this Agreement, the settlement of the City's claims described in this Agreement or anything else arising out of or relating to the matters described in this Agreement shall have any effect whatsoever on any claims or potential claims by or against Dewberry and the City regarding the City of Bonifay Fire Station (located at 809 S. Waukesh St., Bonifay, FL 32425) and all such claims continue to exist as if this Agreement was never signed.

4. **FULL UNDERSTANDING**. The Parties acknowledge and represent that they have entered into this Agreement voluntarily and with full knowledge and understanding of its terms, have read and fully understand the terms of this Agreement, and have had the opportunity to have the Agreement reviewed by counsel. Therefore, the Agreement will be treated as having been jointly drafted and not be construed more harshly against either of the Parties.

5. **AMENDMENT AND WAIVER**. This Agreement may be amended, superseded, or cancelled, and the terms or covenants waived, only by written agreement executed by both Parties. The failure to require performance of any provision hereof shall

not affect the future right to enforce the same. No waiver of any term by conduct or otherwise shall be deemed to be a further or continuing waiver of such breach of that or any other term.

6. **ENFORCEABILITY**. If a court of competent jurisdiction finds any term or provision in this Agreement is invalid or unenforceable, that provision shall, if feasible, be modified to be within the limits of enforceability or validity; however, if it cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

7. **NO ADMISSION OF LIABILITY**. Neither the assent to this Agreement nor the payment of the Settlement Payment constitutes an admission by the Parties of any liability, or a confession of judgment, or recognition of insurance coverage, or admission of any wrongful or tortious conduct. This Agreement is entered into by the Parties solely for the purpose of compromise, to resolve the disputes as described herein, and to protect their interests.

8. **GOVERNING LAW**. This Agreement is made and entered into in the State of Florida, and shall be interpreted, enforced, and governed by the laws of this State. If the Parties are required to seek enforcement or interpretation of the terms of this Agreement, venue shall be exclusively in a Court of competent jurisdiction in and for Holmes County, Florida. The prevailing party to any dispute arising out of or relating to this Agreement shall be entitled to recovery of its attorneys' fees and costs from the other party.

9. **COUNTERPARTS**. This Agreement may be executed in electronic or paper counterparts, all of which together shall have full force and effect. The signatories to this Agreement represent that they have full authority to enter into the Agreement on behalf of themselves and/or as the agent of the party for whom they are signing the Agreement.

10. **MERGER**. This Agreement contains the entire understanding between the Parties and a complete merger of all prior negotiations and agreements, which are hereby expressly superseded by this Agreement, except as otherwise specifically noted in this Agreement.

11. **AUTHORITY**. The undersigned represent and warrant that they have full authority to execute this Agreement on behalf of the Parties, which they acknowledge is binding upon and shall inure to the benefit of the respective successors, heirs, assigns, agents, trustees, and representatives of the Parties. The Parties also represent and warrant that they have not assigned or otherwise transferred any claims or right under this Agreement to third parties.

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Signature Page Follows

IN WITNESS WHEREOF, the Parties have set their hands and caused these presents to be executed in their name and on their behalf by their duly authorized representatives, all as of the Effective Date:

DEWBERRY ENGINEERS INC.

THE CITY OF BONIFAY

Printed Name

Printed Name

Title

Title

Date

Date