

Exhibit A

Master Services Agreement

This Agreement made by and between GL Noble Denton, Inc., a Texas corporation, with offices at 1155 Dairy Ashford Suite 315, Houston, TX 77079 ("GL Noble Denton") and City of Duluth, a municipally owned corporation, with offices at 411 W. First Street, Room 211, Duluth, MN 55802 ("Client").

ARTICLE 1 - BACKGROUND

This Agreement sets forth the terms and conditions applicable to each project to be performed by GL Noble Denton for Client pursuant to Client's acceptance of a GL Noble Denton-submitted Scope of Work. Each Scope of Work defining a project to be governed by this Agreement, and other provisions related to that project as mutually agreed by the Parties, shall be attached as a Schedule to this Agreement.

ARTICLE 2 – TERMS AND AGREEMENT CONSTRUCTION

The following terms, when used in this Agreement with their first letter capitalized, shall have the following meanings:

"Accepted" means the Services meet all the established acceptance criteria defined in each Scope of Work.

"Agreement" means this Agreement and its appendices.

"Amendment" means a written instrument executed by authorized representatives of the Parties to this Agreement for the purpose of adding, modifying, or deleting specific terms and conditions of the Agreement.

"Cause" means any action or event or lack thereof on the part of, on behalf of, or against GL Noble Denton or Client constituting grounds for termination of this Agreement. Such actions or events or lack thereof are specifically itemized in this Agreement.

"Change Order" means a written instrument executed by authorized representatives of the Parties to this Agreement for the purpose of adding, modifying, or deleting specific Services for the Project defined in each Scope of Work.

"Completion Date" means the date on which the Project is completed and approved in writing by Client.

"Completion Time" means the time period specified in the Project Schedule in which the Project is required to be completed, subject to any extension or acceleration of such time pursuant to any Change Order(s).

"Contract Documents" means this Agreement and each Scope of Work.

"Contract Price" means the total of all moneys defined in each Scope of Work that are payable to GL Noble Denton by Client.

"Contract Time" means the time from the Effective Date of this Agreement until (a) the termination of all warranties, (b) the termination of insurance requirements, or (c) the Completion Date, whichever is latest.

"Cure" means the specific corrective actions that must be taken by the Party in breach or default of this Agreement and evidenced to the aggrieved Party within the time provided for in the provisions of this Agreement.

"Day" or "Days" means calendar days including Saturdays and Sundays but excluding Holidays, unless otherwise specifically stated.

"Effective Date" for the first Project means the date on which both Parties to this Agreement sign this Agreement and the Schedule related to the Project to be performed. Thereafter, Effective Date means the date on which both Parties sign the Schedule related to the Project to be performed.

"Holidays" means those days GL Noble Denton awards its employees company-wide the day off in observance of national, religious, or other occasions.

"Party" means either Client or GL Noble Denton and "Parties" means Client and GL Noble Denton.

"Progress Report" means a report supplied to Client by GL Noble Denton reviewing the activities accomplished to date, the activities planned and any problems that have occurred or are anticipated. The Contract Documents shall govern the frequency of Progress Reports.

"Project" means the undertaking specified in each Scope of Work.

"Project Schedule" means the schedule for the performance of Services specified in each Scope of Work.

"Rejected" means that the Services do not meet the established acceptance criteria defined in each Scope of Work.

"Scope of Work" means a deliverable-oriented grouping of project elements that defines and organizes the work that must be done in order to produce the project's deliverable product(s) and service(s).

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“Services” means all consulting, custom application development, data development, project management, technical advice, technology transfer, training, or other professional services to be performed and delivered by GL Noble Denton to Client as specified in each Scope of Work.

“Sources” means all Client information defined in each Scope of Work that must be provided by Client to GL Noble Denton before GL Noble Denton can perform the Services.

ARTICLE 3 – SCOPE

3.1 SERVICES. The scope of Services to be performed by GL Noble Denton is specified in the Scope of Work. Only those Services specified in the Scope of Work are within the scope of this Agreement.

3.2. SOFTWARE. A separate Software License Agreement shall exclusively govern all software provided by GL Noble Denton to Client.

3.3 MODIFICATIONS. If Client wishes to change any provision of a Scope of Work covered by this Agreement, Client shall so advise GL Noble Denton and shall submit specifications to GL Noble Denton. After receipt of the specifications, GL Noble Denton shall provide Client with a cost estimate for performing the changed or additional Services, or for eliminating portions of the Scope of Work, and a statement of impact on project scope and schedule. The Parties shall then negotiate in good faith to agree upon a charge for the Services that shall otherwise be governed by the terms and conditions of this Agreement. Any such modifications mutually agreed shall not be effective until incorporated into a Change Order signed by both Parties.

ARTICLE 4 – RESPONSIBILITIES OF THE PARTIES

4.1 RESPONSIBILITIES OF CLIENT. The following are the responsibility of Client.

4.1.1 SITE PROVISION AND PREPARATION. In the event any Services are to be conducted by GL Noble Denton at a Client site, Client at that site will provide all resources and accommodations, such as access to an adequate workspace, relevant records, electronic data, computers, hardware and Client personnel needed by GL Noble Denton. Moreover, in the event any hardware is to be installed at a Client site, Client shall prepare and maintain an installation site in accordance with the hardware manufacturer’s published specification.

4.1.2 PROVISION OF SOURCES. Client shall be responsible for providing Sources to GL Noble Denton for the Project in a manner that is consistent with the Project Schedule and said Sources shall meet all requirements and specifications for accuracy, content, and condition that are detailed in the Scope of Work.

4.1.3 VALIDATION OF GOODS AND SERVICES. Client shall be responsible for reviewing and evaluating the quality and content of the Services delivered by GL Noble Denton for the Project within the time allocated and to the criteria detailed in this Agreement.

4.1.4 PAYMENT OF INVOICES. Client shall be responsible for receiving and paying GL Noble Denton invoices in the manner prescribed in this Agreement.

4.1.5 ACCEPTANCE. It shall be the responsibility of Client to provide GL Noble Denton with a written document signed by an authorized representative granting full acceptance of the Project within thirty (30) Days of the final delivery of all Services, or at such time all delivered Services meet the acceptance criteria as specified in the Scope of Work. In the event Client does not provide GL Noble Denton with a written document within the time specified above, it shall be deemed Client has fully accepted the Project.

4.1.6 NON-SOLICITATION. Client agrees that neither it nor any of its subsidiary or other affiliated companies shall directly or indirectly solicit for employment, employ, or otherwise retain any of the staff of GL Noble Denton during the term of this Agreement, or for a period of one (1) year after termination of this Agreement without the express prior written consent of GL Noble Denton.

Client hereby acknowledges and agrees that under no circumstances shall it solicit, hire, or contract with any of GL Noble Denton’s subcontractors to perform the Services that are provided for herein either during the term of this Agreement or for one (1) year thereafter.

4.2 RESPONSIBILITIES OF GL NOBLE DENTON. The following are the responsibility of GL Noble Denton.

4.2.1 PROJECT COMMENCEMENT. GL Noble Denton agrees to commence Services for the Project within the guidelines specified in the Scope of Work and in this Agreement and complete the Services in accordance with the Project Schedule.

4.2.2 STAFF. GL Noble Denton shall have the right to determine which of its staff shall be assigned to perform the Services for Client under this Agreement. GL Noble Denton shall have the sole right to reassign or replace any staff person provided that such reassignment does not interfere with performance of the Services governed by this Agreement.

GL Noble Denton shall have total responsibility for all salaries, wages, bonuses, retirements, withholdings, workers’ compensation, other employee benefits, and all taxes and premiums pertinent thereto concerning such persons used by them in the performance of Services under this Agreement.

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4.2.3 SITE OF SERVICES. GL Noble Denton Services shall be performed at GL Noble Denton's offices in Carlisle, Pennsylvania, Charlotte, North Carolina or Houston, Texas, except when the Parties mutually agree that such Services may be performed at Client's or other mutually agreed site.

4.3 INVOICING. GL Noble Denton shall issue to Client invoices as provided for in each Scope of Work.

4.4 DISPOSITION OF SOURCES. Upon acceptance of the Project by Client, GL Noble Denton shall within thirty (30) days, at Client's option, deliver to Client or destroy all documentation, Sources, and other materials as may be specified in the Scope of Work as being the property of Client.

4.5 PERMITS AND LICENSES. GL Noble Denton agrees that all applicable permits and licenses that apply to GL Noble Denton's performance of Services are the responsibility of GL Noble Denton.

ARTICLE 5 – DURATION AND PERFORMANCE OF AGREEMENT

5.1 TERM. The term of this Agreement shall commence on the Effective Date of this Agreement and shall continue until terminated by either Party in accordance with the provisions of this Agreement.

5.2 CHANGE ORDERS. GL Noble Denton and Client agree that any Change Order(s) affecting the Services, which in the judgment of GL Noble Denton will affect GL Noble Denton's performance and commitments to delivery dates reflected in the Project Schedule, must contain appropriate modifications, as are agreeable to the Parties, to the Completion Date and the Project Schedule. Any change in the scope or description of Services, or in the Contract Price, shall be executed by written order of Client. This shall constitute a Change Order. This shall not affect the validity of the Agreement or any terms or conditions not changed thereby.

5.3 PERFORMANCE DELAY. As required in the Project Schedule and as identified in the Scope of Work, GL Noble Denton shall be responsible for production and delivery of all Services for the Project within the mutually established Project Schedule. The Project Schedule and Completion Time may be affected in the event of the following delays. In the event of such delay(s), Client agrees to execute Change Order(s) extending the Project Schedule and Completion Time as provided for below.

5.3.1 FORCE MAJEURE. Any Party experiencing a delay in performance due to any actions or events beyond its reasonable control, including those defined as Force Majeure, shall document the reasons for the delay. Both Parties agree in such circumstance to extend in writing the Completion Date and the Project Schedule by the number of Days of the delay. Moreover, the Party not experiencing the

delay agrees to release the Party experiencing the delay from liability for any direct, indirect, special, incidental or consequential loss or damages, including liquidated damages, otherwise due to the Party not experiencing the delay because of said delay(s).

5.3.2 DELAY IN SOURCES PROVISION. In the event that Client does not provide GL Noble Denton with Sources by the due dates contained in the Project Schedule, all subsequent due dates dependent on those Sources will be extended automatically by a number of days equal to the number of days that Client is late. The above notwithstanding, GL Noble Denton will make every reasonable effort to continue progressing the project in areas not dependent on those Sources.

5.3.3 DELAY DUE TO DEFICIENT SOURCES. In the event that GL Noble Denton must repeat any Services due to Client-provided incomplete or incorrect Sources, all affected due dates will be extended automatically by a number of Days equal to the number of Days GL Noble Denton requires to perform the rework necessitated by the Client-provided incomplete or incorrect Sources.

5.3.4 DELAY DUE TO RESCHEDULING OR SUSPENSION. In the event that Client decides to reschedule or suspend the performance of a Project activity in which GL Noble Denton is required to participate, all affected follow-on due dates will be extended automatically by a number of Days equal to the number of Days the Project activity was rescheduled or suspended by Client.

5.4 TERMINATION FOR CONVENIENCE. Client may prematurely terminate this Agreement with ninety (90) days' notice. Client's liability shall be limited to payment to GL Noble Denton of amounts due for Services performed and expenses incurred up to the effective date of termination.

5.5 TERMINATION FOR CAUSE. Either Party shall have the right under this Agreement and any Amendment to terminate this Agreement or any Amendment for Cause by serving a written notice to Cure. Said termination shall be effective within ten (10) Days from the receipt of the notice by the receiving Party unless a mutually satisfactory arrangement is made for continuance. Cause is agreed by the Parties to be any of the following:

5.5.1 If any proceeding pursuant to any bankruptcy or insolvency law is commenced by or against either Party and is not discontinued within ninety (90) Days thereafter, or if either Party makes an assignment for the benefit of its creditors, or if a receiver is appointed for either Party and is not discharged within ninety (90) Days after his/her appointment;

5.5.2 If Client fails to provide the required Sources within thirty (30) Days after any due date in the Project Schedule, or within the periods of time specified in this

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Article for Cure of said condition upon the receipt of the notifying Party's notice to the receiving Party;

5.5.3 If any of the Sources provided or Services delivered are proven to be defective as per the specifications contained in the Scope of Work or do not meet the acceptance criteria as specified in the Scope of Work, or the breaching/defaulting Party, within the period of time specified within this Agreement does not correct and redeliver the defective Sources or Services in compliance with said specifications;

5.5.4 When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the Agreement may be canceled in whole or in part by Client and GL Noble Denton shall be reimbursed for the value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the Agreement. Client agrees to notify GL Noble Denton of such non-appropriation at the earliest possible time;

5.5.5 Failure by GL Noble Denton or Client to comply with any material term or condition under this Agreement shall entitle the other Party to give the Party in default written notice requiring it to make good such default. If the Party in default has not cured such default within thirty (30) Days after receipt of notice, the notifying Party shall be entitled, in addition to any other rights it may have under this Agreement or otherwise by law, to terminate this Agreement by giving notice to take effect immediately. The right of either Party to terminate hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

5.6 TERMINATION RESPONSIBILITIES. Upon the receipt of the written notice of termination of this Agreement or any Amendment by either Party, it is agreed:

5.6.1 GL Noble Denton shall promptly discontinue the performance of all Services within ten (10) Days from receipt of notice of termination, unless a mutually satisfactory arrangement is made for continuance.

5.6.2 Promptly after the discontinuance of performance of Services, GL Noble Denton shall invoice Client for the balance of all Services performed on the Project up to the discontinuance of the performance of services.

5.6.3 All obligations of the Parties shall cease as of the effective date of the termination except for the following: any obligations for payments due; obligations under Article 9 (WARRANTY), which shall continue as provided for therein; and obligations under Articles 10 (CONFIDENTIALITY) and 12 (LIABILITY), which shall survive termination of this Agreement and any Amendment and shall continue indefinitely.

5.6.4 Upon receipt of payment from Client of the invoice pursuant to Article 5.6.2 above, GL Noble Denton shall promptly deliver to Client all Services completed and in-progress as of the date of receipt of the written notice of termination and all Sources of information supplied by Client to GL Noble Denton.

ARTICLE 6 – CLIENT REVIEW PERIODS AND ACCEPTANCE CRITERIA

6.1 CLIENT REVIEW PERIOD. Client shall have thirty (30) Days after delivery in which to review delivered Services, unless otherwise specified in the Scope of Work.

6.2 ACCEPTANCE CRITERIA. Client shall provide written notification to GL Noble Denton of the acceptance or rejection of delivered Services within sixty (60) Days of receipt, and if no notice is received during such sixty (60) Day period, Client shall be deemed to have accepted the Services. Conformance to specifications contained in the Scope of Work shall exclusively serve as the basis for acceptance or rejection of the Services produced for Client.

6.3 ACCEPTANCE UPON USE. Services will be deemed Accepted when used by Client in the ordinary course of its business, which includes production processing.

6.4 CORRECTION OF SERVICES. Any Services performed by GL Noble Denton under this Agreement which do not fulfill the acceptance criteria set out above shall be corrected by GL Noble Denton without charge to Client provided:

(1) Client provides GL Noble Denton with a written request for such investigation and detailed supporting documents and/or evidence of deficiency within two (2) weeks after Client determines that the services performed fail to meet the above warranties;

(2) Such written request is made during the term of this Agreement or within three (3) months thereafter;

(3) Client provides GL Noble Denton with the free use of necessary computer time to perform the corrections if use of Client's computer facilities are required.

GL Noble Denton shall perform any correction of Services under this provision under the original specifications and without modification of said specifications, excepting only mutually agreed amendments.

6.5 GL NOBLE DENTON REVIEW PERIOD. GL Noble Denton shall have fifteen (15) Days after receipt of written notification of any delivered Services having failed to meet the acceptance criteria in which to contest such determination by Client. GL Noble Denton shall be deemed to have accepted Client's determination in the absence of Client receiving written notification within such fifteen (15)

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Day period of GL Noble Denton's intent to contest Client's determination.

6.6 GL NOBLE DENTON REDELIVERY PERIOD. Upon the conclusion of the fifteen (15) Day GL Noble Denton Review Period of Client rejected Services, GL Noble Denton shall, if it has not elected to contest Client's rejection, commence and diligently continue to correct and as promptly as possible redeliver the Services to Client for reconsideration.

6.7 CLIENT REDELIVERY REVIEW PERIOD. Upon receipt of redelivered Services from GL Noble Denton, Client shall have thirty (30) Days to review said redelivered Services. Client shall be deemed to have accepted said redelivered Services in the absence of GL Noble Denton receiving written notification within such thirty (30) Day period of the redelivered Services having failed to meet the acceptance criteria contained in the Scope of Work.

ARTICLE 7 – COMPENSATION, INVOICING AND PAYMENT TERMS

7.1 INVOICES. GL Noble Denton shall submit invoices to Client as provided for in the Scope of Work Fee Schedule Attachment. Invoices shall contain information sufficient to document conformance of the invoiced amount due with provisions of the Scope of Work.

7.1.1 Client agrees that upon the expiration of the review period for delivered Services specified in Article 6 (CLIENT REVIEW PERIODS AND ACCEPTANCE CRITERIA), acceptance shall be deemed to have been granted by Client for payment purposes. Payment by Client of such amounts shall in no way constitute a waiver of any rights or remedies by Client under Article 9 (WARRANTY).

7.2 TERMINATION INVOICES. Pursuant to Article 5 (DURATION AND PERFORMANCE OF AGREEMENT) of this Agreement, in the event of termination for default by either Party, GL Noble Denton shall submit an invoice to Client, and Client agrees to pay such invoice, for all Services performed and accepted by Client on the Project up to the effective date of the termination and which are delivered to Client prior to or concurrent with any invoice issuable under this provision.

In the event of termination for convenience by Client, GL Noble Denton shall submit an invoice to Client, and Client agrees to pay such invoice, for all Services performed on the Project up to the effective date of termination and are delivered to Client prior to or concurrent with the invoice. Furthermore, both Parties shall negotiate and agree upon a reasonable amount to be paid by Client for all Services in progress.

7.3 PAYMENT. In consideration of the Services rendered by GL Noble Denton to Client under this Agreement, Client will pay to GL Noble Denton the Contract Price in accordance with the Scope of Work Fee Schedule Attachment. GL Noble Denton will provide a monthly invoice to Client describing the services rendered during the invoicing period.

7.4 PAYMENT TERMS. Client shall pay GL Noble Denton's invoices within thirty (30) Days after receipt. GL Noble Denton reserves the right to add an interest charge of one and one-half percent per month to any amounts outstanding more than thirty (30) Days.

7.5 TAXES. The Contract Price, unless explicitly specified to the contrary, is exclusive of any tariffs, duties, or taxes imposed or levied by any government or governmental agency, other than taxes on GL Noble Denton's net income. Client will be liable for payment of, and shall pay to GL Noble Denton or directly to the appropriate taxing authority, all such taxes, however designated, levied, or based on Client's possession or use of the services provided under this Agreement, including without limitation, sales, use, and personal property taxes.

7.6 TRAVEL EXPENSES. It is agreed that all reasonable travel and travel-related expenses that are incurred by GL Noble Denton as a result of GL Noble Denton's attendance at required meetings at Client's place(s) of business, as identified in the Scope of Work, are included in the Contract Price. It is agreed that any reasonable travel and travel-related expenses incurred by GL Noble Denton as a result of GL Noble Denton's attendance at meetings at Client's place(s) of business at Client's request that are not specifically identified in the Scope of Work are not included in the Contract Price and said expenses shall be reimbursed to GL Noble Denton by Client as specified in the Scope of Work Fee Schedule Attachment.

It is agreed that all travel and travel-related expenses that are incurred by Client as a result of Client's attendance at meetings at GL Noble Denton's place(s) of business, whether identified in the Scope of Work or not, shall be the sole responsibility of Client.

7.7 RESTART FEE. GL Noble Denton may suspend its performance of Services on the Project upon occurrence of the reasons provided for in this provision. Client will pay to GL Noble Denton a restart fee of 7.5% of the total services fee in consideration of the disruption caused to GL Noble Denton by the Project suspension.

7.7.1 DELAY IN PROVISION OF SOURCES: In the event client is thirty (30) or more Days late in providing GL Noble Denton with Sources necessary for GL Noble Denton to proceed with the Project, GL Noble Denton may suspend its Services on the Project until such time as Client is current in providing Sources. At such time, GL Noble

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Denton and Client will in good faith resume the Project at the earliest mutually agreeable time.

7.7.2 RESCHEDULING OF PROJECT ACTIVITIES BY CLIENT. If Client reschedules or suspends performance of a Project activity in which GL Noble Denton is required to participate, such as a Factory Acceptance Test or Site Acceptance Test, for thirty (30) Days or more, GL Noble Denton may suspend its performance of Services on the Project until such time as the rescheduled activity can take place.

7.8 PURCHASE ORDERS. Any purchase orders issued by Client shall be deemed to be for Client's convenience only and, notwithstanding acceptance of such orders by GL Noble Denton, shall in no way change or add to the terms and conditions of this Agreement or of the Scope of Work.

7.9 AUDIT. GL Noble Denton agrees to keep records and books of account in accordance with generally accepted accounting principles and practices in the industry. Client shall have the right at all reasonable times to inspect and audit the books of GL Noble Denton which pertain to a Project performed under this Agreement. GL Noble Denton shall preserve such records for a period of two (2) years after completion or termination of each Project performed under this Agreement.

ARTICLE 8 – THIRD PARTY HARDWARE AND SOFTWARE

8.1 ENVIRONMENT. Client assumes full responsibility for the operating environment in which any third party hardware and software purchased under this Agreement is to function. The proper operating environment is set forth in the third party supplier's specifications.

8.2 DELIVERY AND RISK OF LOSS. GL Noble Denton shall endeavor to facilitate timely delivery of third party hardware and software purchased under this Agreement and shall advise Client of each expected delivery date as that date becomes known. Upon delivery to Client, risk of loss shall pass to Client.

8.3. INSTALLATION. Unless otherwise provided for in the Scope of Work, installation of the third party hardware and software shall be the sole responsibility of Client.

8.4 TITLE. GL Noble Denton warrants that title to third party hardware and software is good and marketable and shall be conveyed upon shipment by the third party hardware or software supplier free and clear of all liens or security interest provided that GL Noble Denton shall retain a security interest in the third party hardware or software until payment in full is received by GL Noble Denton.

8.5 SUPPORT. Support of third party hardware and software delivered under this Agreement shall be the direct responsibility of Client and the third party supplier. Upon expiration of any warranty and support period provided for in the purchase price of third party hardware and software delivered under this Agreement, Client shall be solely responsible for directly contracting with third parties for any further warranty or support services. In the event Client purchases additional warranty and support services directly from a third party supplier, GL Noble Denton, who is not a Party to such agreement, shall have no responsibility or liability of any kind for such warranties or services.

ARTICLE 9 – WARRANTY

9.1 WARRANTY OF PERFORMANCE. GL Noble Denton warrants that all Services delivered to Client by GL Noble Denton will be of professional quality conforming to generally accepted industry practices and shall comply with the acceptance criteria for said Services defined in the Scope of Work.

9.2 WARRANTY OF PERFORMANCE IN COMBINATION USE. GL Noble Denton shall not be liable to Client for any claim resulting or alleged to result from any combination, operation or use of GL Noble Denton's Services or Software as defined in an GL Noble Denton Software License Agreement with any other party's services or software if the claim would not result if GL Noble Denton's Services or Software were used alone in accordance with the Scope of Work and all other provisions of this Agreement, excepting only where the Scope of Work or other provision(s) of this Agreement directly provide for such combination, operation, or use.

9.3 LATENT DEFECTS. GL Noble Denton provides no warranty with respect to latent defects in the Services, the discovery of which may elude detection by the exercise of ordinary and reasonable care that GL Noble Denton agrees to employ.

9.4 INTELLECTUAL PROPERTY. GL Noble Denton represents and warrants, to the best of its knowledge, that neither the Services nor their use by Client in accordance with the terms of the Scope of Work and this Agreement shall infringe upon or violate any third party rights in any patent, copyright, trademark, trade secret, or other proprietary right of any third party.

9.5 IMPLIED WARRANTIES. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

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ARTICLE 10 – CONFIDENTIALITY

10.1 CONFIDENTIALITY. "Confidential Information" shall mean all material or data relating to Client's or GL Noble Denton's business that is designated by either Party as "Confidential". All Confidential Information will be safeguarded and kept confidential during the term of this Agreement and for two (2) years thereafter by the receiving Party to the same extent the receiving Party safeguards similar Confidential material or data relating to its own business. Confidential Information does not include information: (1) which is in or enters the public domain without breach of this Agreement; (2) previously known to the receiving Party as evidenced by the receiving Party's written records; (3) independently developed by the receiving Party as evidenced by the receiving Party's written records; or (4) lawfully disclosed to Client by a third Party. Provided however, that nothing herein shall prohibit the disclosure of data which would be classified as "public data" under Minnesota Statutes Chapter 13—the "Minnesota Government Data Practices Act"—and in the event of a conflict between the language of this Paragraph and said Statute the requirements of the Statute shall be deemed to be controlling.

ARTICLE 11 – PROPERTY RIGHTS

11.1 OWNERSHIP OF SERVICES. All Services created by GL Noble Denton under this Agreement shall be the non-exclusive property of GL Noble Denton and Client.

11.2 OWNERSHIP OF ENABLING PROPERTY. Client shall not be the owner of, and GL Noble Denton shall not assign any software modules, standard routines, development tools, programming techniques or interfaces that existed prior to the effective date of this Agreement or that are used or developed by GL Noble Denton in the providing of the Services and that are non-specific or non-identifiable in the Services. The foregoing shall include GL Noble Denton's software components, regardless of how packaged, which may be used or contained in any customized programs developed for Client.

11.3 OWNERSHIP OF KNOW-HOW. Any ideas, concepts, know-how, or techniques developed by GL Noble Denton in the performance of this Agreement by GL Noble Denton shall be the exclusive property of GL Noble Denton.

11.4 CLIENT SOURCES. Any Sources furnished by Client for use by GL Noble Denton in connection with the Work performed under this Agreement shall remain the sole property of Client.

ARTICLE 12 – LIABILITY

12.1 LIABILITY. GL Noble Denton shall correct the performance of its services for Client in accordance with Article 6 (CLIENT REVIEW PERIODS AND ACCEPTANCE CRITERIA) of this Agreement and this

shall constitute Client's sole remedy against GL Noble Denton under this Agreement.

12.2 EXCLUSIONS. GL Noble Denton shall in no event be liable to Client or others for loss of profit, goodwill or other direct, indirect, special, incidental or consequential loss or damages resulting or arising from the performance of Services by GL Noble Denton under this Agreement.

12.3 DEATH AND DAMAGE INDEMNIFICATION. GL Noble Denton hereby indemnifies and agrees to defend and hold Client, its directors, officers, and employees harmless from and against any and all claims, suits, demands, damages, losses, costs, and expenses asserted by any person for injuries to or the death of any person, or damage to or loss of property including property, materials, and/or facilities of Client to the extent caused by GL Noble Denton's performance of its Services hereunder, or its failure to comply with the terms of this Agreement, provided that the claim against GL Noble Denton is covered by GL Noble Denton's General or Automobile Liability Insurance. GL Noble Denton will provide Client with a Certificate of Insurance at Client's request.

12.4 INTELLECTUAL PROPERTY INDEMNIFICATION.

GL Noble Denton will indemnify and hold Client, its officers and employees harmless from any claims, demands, liabilities, actions, suits or proceedings filed by any third party that the Services constitute an infringement of any United States copyright or United States patent. GL Noble Denton shall indemnify Client against all costs, expenses, and damages arising from any such claim, suit, demand, or action, provided:

12.4.1 Client gives GL Noble Denton written notice of such claim, suit, demand, or action within ten (10) Days of receipt of same; and

12.4.2 Client shall cooperate with GL Noble Denton in the defense and settlement thereof; and

12.4.3 GL Noble Denton shall have control of the defense of such claims, suit, demand, or action and the settlement or compromise thereof. If an injunction is obtained against Client's use of the Services by reason of an infringement of a patent, copyright, trademark, trade secret, or other proprietary right, GL Noble Denton shall, at its option and expense, either:

(1) procure for Client the right to continue using the Services, or

(2) modify or replace the Services with a compatible, functionally equivalent, non-infringing replacement.

12.4.4 GL Noble Denton shall have no liability to Client for any infringement action or claim based upon or arising

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out of the unauthorized use of the Services by Client in combination with any other products or services in the event that, but for such use, the action or claim for infringement would not lie.

12.4.5 These statements constitute the entire obligation of the Parties with respect to the infringement of any third-Party rights in any patent, copyright, trademark, trade secret, or other proprietary right of any third-Party.

12.5 INSURANCE. GL Noble Denton will maintain comprehensive general liability, automotive liability, and property damage coverage with a minimum combined single limit of \$1,500,000.00 for injury to persons and property damage caused by GL Noble Denton during the performance of services by GL Noble Denton under this Agreement. Such insurance shall name Client as an additional insured.

12.6 DELIVERY AND RISK OF LOSS. The risk of loss and damage with respect to the shipment or possession of any Sources or Services being prepared or shipped to GL Noble Denton during the performance of the Work associated with the Project, shall be and remain with Client until delivered to GL Noble Denton. The risk of loss and damage with respect to the shipment or possession of any Sources or Services received or created while performing the Work associated with the Project shall be and remain with GL Noble Denton until delivered to Client. Deliveries shall be F.O.B. destination unless otherwise specified by either Client or GL Noble Denton.

ARTICLE 13 – GENERAL

13.1 GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota, and in any action, special proceedings, or other proceeding brought, arising out of, in connection with, or by reason of this Agreement, the laws of the State of Minnesota shall be applicable and shall govern to the exclusion of the laws of any other forum, without regard to the jurisdiction in which any action or special proceeding may be instituted.

13.2 ENTIRE AGREEMENT. This Agreement contains the entire understanding of the Parties with respect to the matters contained herein. This Agreement may not be modified or amended except in writing signed by authorized representatives of GL Noble Denton and Client. Any terms and conditions contained on any acknowledgment, purchase order or other document submitted by Client to GL Noble Denton which are in conflict with or in addition to the terms of this Agreement will be void and of no effect.

13.3 ORDER OF PRECEDENCE. The order of precedence of these Contract Documents, in the event of inconsistent or contradictory terms, conditions, or provisions among them shall be: (1) Any Change Order(s),

(2) Any Amendment(s), (3) the Scope of Work, and (4) this Agreement.

13.4 RELATIONSHIP OF PARTIES. Nothing contained in this Agreement shall in any way be construed to create an agency relationship, partnership, or joint venture between the Parties, and each Party shall have no power to obligate or bind the other in any manner whatsoever.

13.5 FREEDOM OF ACTION. GL Noble Denton is in the business of providing services to multiple clients, and nothing in this Agreement shall prevent GL Noble Denton from using its personnel's skills in pursuing such business with any other client for services on any other terms, whether or not similar to those Services provided to Client under this Agreement.

13.6 NOTICES. Any notice required or permitted to be sent under this Agreement and its governing law, shall be made in writing and shall be deemed to have been properly served, given, or made if: delivered in person, or delivered by facsimile (with proof of transmission), or delivered by overnight courier (with proof of receipt) to the authorized representatives of the Parties listed herein or their successors.

GL Noble Denton: Vice President
Suite 100
600 Bent Creek Boulevard
Mechanicsburg, PA 17050

Fax: (717) 724-1901

CLIENT: City of Duluth
411 W. First Street, Room 211
Duluth, MN 55802

Either Party may, at any time, under the provision of this Article and Section, change the authorized representative or address of same by written notice to the other Party to this Agreement.

13.7 NO WAIVER. A term or condition of this Agreement can be waived only by written consent of the appropriate Party. Forbearance or indulgence by either Party in any regard will not constitute a waiver of the term or condition to be performed and, until performance of the term or condition is complete, the other Party may invoke any remedy available under the Agreement or by law, despite such forbearance or indulgence.

13.8 FORCE MAJEURE. Neither Party shall be responsible for delay or failure in performance resulting from acts beyond the reasonable control of such Party. Such acts shall include but not be limited to: an act of God; an act of war, riot, an epidemic, fire, flood, or other disaster, an act of government, a strike or lockout, communication line failure, power failure, or failure of the computer equipment.

Exhibit A

13.9 SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the Parties to this Agreement and their respective successors and permitted assigns.

13.10 SEVERABILITY. If any of the provisions of this Agreement are declared to be invalid, such provisions will be severed from this Agreement and the other provisions hereof will remain in full force and effect.

13.11 COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original as against any party whose signature appears thereon and all of which taken together constitute one and the same Agreement.

13.12. TITLE HEADINGS: GENDER. The title headings of the respective articles and sections of this Agreement are inserted for convenience and shall not be deemed to be a part of this Agreement. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires.

13.13 RE-EXPORT. Client hereby warrants that it will not knowingly re-export any of GL Noble Denton's Services, or any direct product thereof, in violation of the United States customs and/or export laws as currently promulgated or as amended during the term of the Agreement.

13.15 TIME LIMITATION. No action arising out of this Agreement, regardless of the form of action, may be brought by either Party more than six (6) years after the cause of action arises.

13.16 SURVIVAL OF TERMS. The provisions of Articles 9 (WARRANTY), 10 (CONFIDENTIALITY), and 12 (LIABILITY) of this Agreement shall survive the expiration of the Contract Time, except as provided in Article 5 (DURATION AND PERFORMANCE OF AGREEMENT), whereby either Party exercises the right to terminate this Agreement for convenience.

13.17 DISPUTE RESOLUTION. All claims, disputes, and other matters in question between the Parties arising out of or relating to this Agreement or the breach thereof, shall be formally discussed and negotiated between the Parties for resolution. In the event that the Parties are unable to resolve the claims, disputes, or other matters in question within thirty (30) Days of written notification from the aggrieved Party to the other Party, the aggrieved Party shall be free to pursue litigation.

13.18 ATTORNEY FEES. In the event of any litigation pursued by either Party for any reason with respect to this Agreement, or if it becomes necessary for either Party to

employ an attorney to enforce compliance with the terms and conditions of this Agreement, the costs of said litigation including reasonable attorneys fees, and all other costs and expenses incurred in the litigation or enforcement, as determined by the court of competent jurisdiction, shall be borne by the Party not prevailing.

13.19 COMPLIANCE WITH APPLICABLE LAW(S) AND REGULATION(S). The Parties hereby agree to observe and abide by all applicable federal, state and local laws applicable to this Agreement. Furthermore, the Parties agree to submit to the rules and regulations of any lawful regulatory agency having recognized authority to regulate any of the work being performed and/or Services produced for the Project under this Agreement.

For the avoidance of doubt, compliance by GL Noble Denton includes, but is not limited to:

13.19.1 EXECUTIVE ORDER 11246 – Equal Employment Opportunity Clause (If the contract is for \$10,000 or more). GL Noble Denton agrees to include the Equal Employment Opportunity Clause by reference in every contract, agreement and purchase order entered into with subcontractors or suppliers as required by C.F.R. 60-1.4 and authorized by 41 C.F.R. 60-1.4D.

13.19.2 EMPLOYER INFORMATION REPORT EEO-1. GL Noble Denton further agrees and certifies that if the value of any contract or purchase order is \$50,000 or more and GL Noble Denton has 50 or more employees, GL Noble Denton will file a complete and accurate report on Standard Form 100 (EEO-1) with the Joint Reporting Committee at the appropriate address per the current instructions within thirty (30) days of the contract award and otherwise comply with and file such other compliance reports as may be required under Executive Order 11246, as amended, and Rules and Regulations adopted thereunder.

13.19.3 WRITTEN AFFIRMATIVE ACTION PROGRAM. GL Noble Denton further agrees and certifies that if the value of any contract or purchase order is \$50,000 or more and GL Noble Denton has 50 or more employees, GL Noble Denton will develop a written affirmative action compliance program for each of its establishments as required by Title 41, Code of Federal Regulations, Section 60-1.40 and Section 60.2.

13.19.4 VETERANS EMPLOYMENT CLAUSE (If this contract is for \$10,000 or more). GL Noble Denton agrees to abide by and comply with the provisions of the Affirmative Action Clause, Section 60-250.4 of C.F.R. unless exempted as therein provided and which provisions are incorporated herein by reference to the same extent as though set forth herein in full.

13.19.5 EXECUTIVE ORDER 11758 – EMPLOYMENT OF HANDICAPPED PERSONS (If this Contract is for \$10,000 or more). GL Noble Denton agrees that it will

Exhibit A

abide by and comply with the provisions of the Affirmative Action Clause, Section 60-741.4 of 41 C.F.R. (41 Fed. Reg. 16150, April 16, 1976), Affirmative Action for Handicapped Workers, which provisions are incorporated herein.

13.20 ASSIGNMENT. The Parties shall not assign or subcontract their obligations hereunder, or any part thereof, without the previous written consent of the other Party, nor shall either Party assign by power of attorney or otherwise any of the money payable under the Agreement.

13.20.1 No claim for any money due or to become due shall be asserted against Client, or persons acting for Client, by reason of any so-called assignment of the Agreement or any part thereof by GL Noble Denton, unless such assignment has been authorized by the written consent of Client. The instrument of assignment shall contain a clause subordinating the claim of the assignee to all prior liens for services rendered or materials supplied for the performance of the work. GL Noble Denton shall be fully responsible and accountable to Client for the acts and omissions of GL Noble Denton's subcontractors, and of persons directly or indirectly employed by GL Noble Denton.

Exhibit A

IN WITNESS WHEREOF, the parties to these presents have hereunto caused these presents to be executed the day and year first above written.

CITY OF DULUTH

GL NOBLE DENTON, INC.

Mayor

By _____

Its _____

Attest:

Printed Name _____

Date _____

City Clerk

Date _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

Date _____

Department Director

Purchasing Agent

Exhibit A

SCHEDULE A SCOPE OF WORK

The Scope of Work is contained in the *Water System Model Construction Project* proposal dated August 7, 2015.

ACCEPTED:

CITY OF DULUTH

Mayor

Attest:

City Clerk
Date _____

Countersigned:

City Auditor

Approved as to form:

City Attorney
Date _____

Department Director

Purchasing Agent

ACCEPTED:

GL NOBLE DENTON, INC.

By _____

Its _____

Printed Name _____

Date _____

Exhibit A

SCHEDULE B FEE SCHEDULE ATTACHMENT

The Fee Schedule is contained in the *Water System Model Construction Project* proposal dated August 7, 2015.

ACCEPTED:

CITY OF DULUTH

Mayor

Attest:

City Clerk

Date _____

Countersigned:

City Auditor

Approved as to form:

City Attorney

Date _____

Department Director

Purchasing Agent

ACCEPTED:

GL NOBLE DENTON, INC.

By _____

Its _____

Printed Name _____

Date _____