

RESOLUTION NO. 21-__

WHEREAS, the City Council (the “Council”) of the City of Huntsville, Alabama (the “City”), does hereby declare that the Mayor be and he is hereby authorized to execute on behalf of the City a Project Development Agreement between the City and KBR Wyle Services, LLC, a Delaware limited liability company (the “Company”), the form of which said agreement is attached hereto, with such changes thereto as the Mayor shall deem necessary or desirable (the “Development Agreement”), an executed copy of said Development Agreement being permanently kept on file in the Office of the City Clerk-Treasurer of the City; and

WHEREAS, the Council hereby further recites that the City’s obligations under and in furtherance of the Development Agreement and the transactions therein described are being undertaken pursuant to the authority of Amendment 772 to the Constitution of Alabama of 1901, as amended, recodified as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901 (“Amendment 772”), that such obligations are being undertaken by the City in furtherance of any power or authority authorized in Amendment 772, and that the Council has determined that the expenditure of public funds for the purpose specified in the Development Agreement and the transactions therein contemplated or described will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby authorizes and approves the Development Agreement, and that the Mayor be and he is hereby authorized to execute on behalf of the City the Development Agreement, along with such notices, certificates, instruments, agreements and other documents as shall be necessary or desirable in connection with the transactions contemplated by, or in furtherance of, the Development Agreement.

ADOPTED this the 26th day of August, 2021

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 26th day of August, 2021

Mayor of the City of
Huntsville, Alabama

PROJECT DEVELOPMENT AGREEMENT

THIS PROJECT DEVELOPMENT AGREEMENT (this "Agreement") is hereby made and entered into on August 26, 2021 (the "Effective Date"), by and between the **CITY OF HUNTSVILLE, ALABAMA**, an Alabama municipal corporation (the "City") and **KBR WYLE SERVICES, LLC**, a Delaware limited liability company (the "Company"). The City and the Company are herein together sometimes referred to collectively as the "Parties" and, individually, as a "Party".

RECITALS

WHEREAS, the Company presently conducts engineering, research, and design in the defense, space, aviation and other governmental programs within certain facilities located in Cummings Research Park (the "Existing Facilities"); and

WHEREAS, the Company has determined to cause to be built and equip a new facility within the City consisting of two (2) buildings near Redstone Arsenal at a Capital Cost of not less than \$10,800,000 (collectively, the "New Facility") to expand at a the Company's existing operations within the City (the "Expanded Operations"), with the parties understanding and acknowledging that the Company intends to utilize the services of a third-party real estate developer to construct the real estate improvements of the New Facility; and

WHEREAS, the Company identified various locations throughout the United States as potential sites for the project, including sites in Maryland, Florida, South Carolina and Georgia, each of which offered incentives to the Company to locate its Expanded Operations within its jurisdiction, and the Company has determined to locate the Expanded Operations in the City by at the New Facility near Redstone Arsenal; and

WHEREAS, the Company has represented to the City that, as of the Effective Date (hereinafter defined), the Company employs 1,024 full-time employees at the Existing Facilities (the "Base FTE Level") and intends to add, over the Base FTE Level, up to 200 full-time employees, earning an average annual wage of not less than \$100,000, exclusive of Fringe Benefits and overtime pay, in connection with the Expanded Operations within the City, and has requested that the City help offset a portion of the costs of its aforesaid constructing and equipping of the New Facility and in recruiting and providing for such expanded employment; and

WHEREAS, the City has determined that the development of the New Facility and the location of the Expanded Operations therein, through the provision of the incentives and agreements herein set forth, would be in its best interest and the best interests of the citizens of the City and the surrounding area by: (i) promoting, improving, and expanding economic, manufacturing and industrial development; (ii) promoting the national and international reputation of the City as a hub for advanced aerospace and high-tech research and industrial development, (iii) increasing the number and diversity of manufacturing and industrial jobs and related employment opportunities; (iv) enabling the area surrounding the New Facility to better attract

and retain manufacturing and industrial enterprises; (v) expanding the overall tax base of the City; and (vi) enhancing the overall quality of life for the citizens of the City; and

WHEREAS, the retention of the Company in the City and the development of the Expanded Operations as herein provided will further assist in the expansion of economic development that are critical to the sustained economic health and well-being of the City, and the City hereby finds that the payment and other incentives described in this Agreement are being made under and in furtherance of any power and authority authorized by Amendment 772 to the Constitution of Alabama of 1901 (the "Alabama Constitution"), and that the City has determined that the expenditure of public funds for the purposes herein specified will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

NOW, THEREFORE, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

ARTICLE I

REPRESENTATIONS AND WARRANTIES

Section 1.1 Representations and Warranties of the City. The City hereby makes the following representations and warranties:

(i) The City, by action of its governing body, has duly authorized the execution, delivery and performance of this Agreement, and has the power to perform its obligations contained herein.

(ii) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or to which the City or its assets or properties are subject.

(iii) There is not now pending nor, to the knowledge of the City, threatened, any litigation affecting the City which questions (A) the validity or organization of the City, (B) the authority of the City to provide discretionary, performance-based cash incentives using the terms and methods contemplated herein, (C) the members, titles or positions of the members of the governing body or the manner in which the officers of the City are selected, or (D) the subject matter of this Agreement.

Section 1.2 Representations and Warranties of the Company. The Company hereby makes the following representations and warranties:

(a) The Company is duly organized and validly existing as a limited liability company under the laws of the State of Delaware, and has duly authorized its execution, delivery and performance of this Agreement.

(b) Neither the execution and delivery of this Agreement, nor the performance hereof, by the Company requires any consent of, filing with or approval of, or notice to, or hearing with any person or entity (including, but not limited to, any governmental or quasi-governmental entity), except for such consents, filings, notices and hearings described herein, or already held or maintained.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company, violates, constitutes a default under or a breach of (i) the Company's certificate of incorporation, bylaws or other organizational documents, (ii) any agreement, instrument, contract, mortgage or indenture to which the Company is a party or to which the Company or its assets are subject, or (iii) any judgment, decree, order, ordinance, regulation, consent or resolution applicable to the Company or any of its assets.

(d) There is not now pending nor, to the knowledge of the Company, threatened, any litigation affecting the Company which questions the validity or incorporation of the Company, or any of the representations and warranties of the Company contained herein.

ARTICLE II

OBLIGATIONS AND COMMITMENTS OF THE COMPANY

Section 2.1 General. The Company acknowledges that the citizens of the City anticipate the receipt of economic benefit in return for the payments made by the City to the Company as herein described, and the Company agrees to diligently commence (and as to real property improvements cause to be commenced by a third-party developer) the design, development, construction, equipping and operation of the New Facility and to commence the Expanded Operations therein, and to achieve and maintain the employment levels, all as set forth and described in this Article II.

Section 2.2 Commencement of Construction; Commencement of Operations; Capital Commitment. The Company hereby represents to the City that the Company shall have Commenced Construction of the New Facility by March 31, 2022, utilizing the services of a third-party developer. The Company hereby covenants and agrees (i) to have (or cause to have) Completed Construction of the New Facility by December 31, 2022 (the "New Facility Completion Date"), and (ii) to have Commenced Operations at the New Facility by January 1, 2023 (the "Commencement Deadline"). The Company further agrees that it will invest not less than \$10,800,000 of Capital Costs in developing, constructing and equipping the New Facility by January 1, 2023 (the "Capital Commitment").

Section 2.3 Jobs Commitment. The Company and its Affiliates intend to employ up to 200 new Full-Time Employees (over the Base FTE Level) at the New Facility, which, together with existing employees at the Existing Facilities as of the Baseline Date, will earn an average annual wage of not less than \$100,000, exclusive of Fringe Benefits and overtime pay (the "Jobs Commitment"), and to have achieved the Jobs Commitment by March 1, 2026.

Section 2.4 Additional Obligations and Commitments.

(a) The Company shall require that any construction activities regarding the New Facility will be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The Company shall require any architect, general contractor, subcontractor or other business performing any work in connection with the New Facility to obtain all necessary permits, licenses and approvals to construct the same.

(b) At all times during the Term, the Company shall be in material compliance with all applicable laws, ordinances, rules and regulations of the City and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City and all local government entities unless such payments are the subject of a bona fide dispute and are being challenged by the Company.

(c) The Company agrees that besides the reporting described in this Agreement, the Company shall otherwise meet the reporting requirements with respect to this Agreement as provided by applicable law.

Section 2.5 Force Majeure Events. If due to the occurrence of a Force Majeure Event the Company is unable to have (or through a third-party developer to cause to have) (i) Completed Construction of the New Facility by the New Facility Completion Date, or (ii) Commenced Operations at the New Facility by the Commencement Deadline, then for each day of the Force Majeure Event, each said deadline shall be extended by one day to address such condition before the Company shall be considered in default as to Section 2.2 of this Agreement; provided at the time of the Force Majeure Event the Company is claiming or anticipating the Company shall have first provided written notice to the City providing: (i) a description of the Force Majeure Event, (ii) an explanation of how the Company anticipates such event will affect the Company's performance under said Section 2.2, (iii) the actions the Company plans to undertake in order to address the conditions caused by the Force Majeure Event, and (iv) an estimate of how long the Company anticipates the Force Majeure Event will delay the deadlines provided in Section 2.2; and, provided further, in no event shall any deadline be extended by more than 90 days, unless otherwise agreed by the parties in writing, with the Director for Urban Planning and Economic Development of the City herein authorized to agree to such extension on behalf of the City), with reference to this Section 2.5.

ARTICLE III OBLIGATIONS OF THE CITY

Section 3.1 City Obligations. In consideration of the Company's agreement to construct, install and equip the New Facility and locate therein the Expanded Operations, make the Capital Commitment, and satisfy the construction, investment and jobs commitments of the Company described in Sections 2.2 and 2.3 hereof, the City agrees to make certain payments to the Company as more particularly described in this Article III.

Section 3.2 City Payments. (a) The Parties agree that if the Company shall have Commenced Operations at the New Facility by the Commencement Deadline, the City shall make certain payments to the Company (herein called "City Payments"), up to the aggregate sum of \$200,000, as follows:

(i) Provided the Company shall have timely satisfied at least fifty percent (50%) the Capital Commitment, the City shall remit to the Company the sum of \$1,000 for each net New Full-Time Employee (hereinafter defined) at the New Facility, up to not more than 200 net New Full-Time Employees (*i.e.*, new Full-Time Employees in excess of the Base FTE Level), within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT A** hereto, signed by an authorized employee of the Company and submitted to the City on or before March 1, 2026, certifying that, as of the last business day of each of the three consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at the New Facility the Baseline FTE Level plus the number of Net New Full-Time Employees for which payment is being requested under the said certificate (the "First Payment FTE Level"), all earning an average annual salary, exclusive of Fringe Benefits and overtime pay, of not less than \$100,000, along with all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company (the "First City Payment"); and

(ii) Provided the Company shall have timely satisfied the full Capital Commitment, the City shall remit to the Company the sum of \$1,000 for each net New Full-Time Employee at the New Facility, up to not more than 200 total net New Full-Time Employees less the number of New Full-Time Employees for which a City Payment was made pursuant to (i) above, if any (it being understood that the Company may seek one single payment from the City if available under this paragraph (ii)), within 90 days after the Company furnishes to the City a certificate in the form set forth on **EXHIBIT A** hereto, signed by an authorized employee of the Company and submitted to the City on or before March 1, 2026, certifying that, as of the last business day of each of the three consecutive calendar months immediately preceding the month in which such certificate is submitted, the Company employed at the New Facility the First Payment FTE Level (which may be zero if the Company elects to utilize this Section 3.2(a)(ii) only, at the Company's option), plus the number of net New Full-Time Employees for which payment is being requested under this Section 3.2(a)(ii), and said certificate, all earning an average annual salary, exclusive of Fringe Benefits and overtime pay, of not less than \$100,000, along with all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company; provided, in no event shall the City owe the Company any amount that, when added with the First City Payment, shall exceed \$200,000.

(b) The Company understands, acknowledges and agrees that it shall not be entitled to payment under this Section 3.2 for any hiring targets satisfied following March 1, 2026.

Section 3.3 Recapture of City Payments.

(a) The Company acknowledges that the payments by the City pursuant to this Article III are based largely on the estimated economic impact that will be realized within the City from the capital investment made by the Company in and/or through the construction, development and equipping of the New Facility and additional payroll and job opportunities created by the Company in undertaking the Expanded Operations at the New Facility, and that those benefits are justified only if the Company maintains the job creation for which it receives City Payments for a period of three years following the earlier to occur of March 1, 2026, or such date as the Company shall have received \$200,000, or such lesser amount as shall be earned by the Company and owed by the City, all pursuant to Section 3.2 above (the "Jobs Commitment Period").

(b) The Company hereby agrees to provide to the City either (1) the Company's final employment levels pursuant to Section 3.2(a)(ii), or (2) if the Company has certified its employment levels pursuant to Section 3.2(a)(i) for which it received a First City Payment but, prior to having certified any employment levels pursuant to Section 3.2(a)(ii), the Company notifies the City (such notice, an "Early City Payment Termination Notice") that the Company desires to forfeit any right under this Agreement to receive a payment from the City pursuant to Section 3.2(a)(ii); the date of delivery of the certification described in the foregoing clause (1) or the date of delivery of the Early City Payment Termination Notice herein called the "Benchmark Date"). Within 90 days following the first anniversary of the Benchmark Date, and within 90 days following the second anniversary of the Benchmark Date, the Company shall report the total average number of Full Time Employees and the average annual salary, exclusive of Fringe Benefits and overtime pay, for the twelve calendar months immediately preceding the Benchmark Date, the first anniversary of the Benchmark Date, and the second anniversary of the Benchmark Date, respectively. The Company hereby understands, acknowledges and agrees that upon delivery of an Early City Payment Termination Notice, the Company shall not be entitled to receipt of any amounts pursuant to Section 3.2(a)(ii), notwithstanding the fact the Company may have hired additional Full-Time Employees at the New Facility following delivery of the Early City Payment Termination Notice.

(c) If, for any year during the Jobs Commitment Period, the number of Full-Time Employees earning the Minimum Average Annual Pay reported by the Company under subsection (a) above (the "Reported Annual Employee Level") is less than the Base Employment Figure, the Company shall owe the City a payment (a "Recapture Payment") computed as follows:

$$\text{Recapture Payment} = [1 - (\text{Reported Annual Employee Level} / \text{Base Employment Figure})] * \text{Total City Payment};$$

provided, however, that there shall be reduced from any Recapture Payment then owed by the Company the sum of any and all Recapture Payments theretofore paid by the Company to the City. In addition, if the sum of all Recapture Payments made by the Company to the City under this

Section 3.3(b) is equal to the Total City Payment, the Jobs Commitment Period shall immediately be deemed to cease and the Company shall owe no other funds or amounts to the City that, when added to all Recapture Payments theretofore paid by the Company, exceed the Total City Payment. Anything in this Agreement to the contrary notwithstanding, whether express or implied, under no circumstances shall the Company owe the City more than the Total City Payment pursuant to this Section 3.3. The Parties hereto further understand, acknowledge and agree that the Jobs Commitment Period shall not occur, and the Company shall not be obligated for any Recapture Payment, if the City does not make a City Payment under this Agreement.

(d) Any recapture payment due by the Company under this Section 3.3 shall be paid by the Company to the City within 30 days of being requested by the City.

(e) The right of the City to receive any Recapture Payment shall survive termination of this Agreement.

Section 3.4 Expedited Plan Review and Permitting/Inspection Services. The City shall work in good faith with the Company and use its commercially reasonable best efforts to expedite review of all permitting, inspection and related approvals, permits and applications by the Company incident to the building, modification and equipping of the New Facility as herein provided; provided, nothing herein shall relieve the Company from payment of application, permit and other fees and charges ordinarily charged by the City and other governmental entities, or of the obligation of the Company to cause to be built and equipped the New Facility in accordance with all existing laws, ordinances, regulations and other requirements.

ARTICLE IV EVENTS OF DEFAULT AND REMEDIES

Section 4.1 Events of Default by the City.

(a) Any one or more of the following shall constitute an event of default by the City under this Agreement (a "City Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the City shall seek or consent to or acquiesce in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the City to perform or observe any of its agreements or covenants contained in Section 3.2 or Section 3.3 of this Agreement, which failure shall have

continued for a period of 60 calendar days after written notice thereof from the Company to the City, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) during such 60-day period or any extension thereof, the City has commenced and is diligently pursuing appropriate corrective action.

(b) If a City Event of Default occurs, the Company shall have available to it the right and remedy of specific performance and mandamus, along with other rights and remedies provided by law; provided, however, the Company shall not be entitled to any punitive, incidental, consequential, or other damages, whether arising at law, in equity or otherwise.

Section 4.2 Events of Default by the Company.

(a) Any one or more of the following shall constitute an event of default by the Company under this Agreement (a "Company Event of Default") (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations and commitments hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in Article II or Sections 3.3 of this Agreement, which failure shall have continued for a period of 60 calendar days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) during such 60-day period or any extension thereof, the Company has commenced and is diligently pursuing appropriate corrective action. If a Company Event of Default occurs, the City shall have available to it the right of specific performance and mandamus, along with other rights and remedies provided by law; provided, however, the City shall not be entitled to any punitive, incidental, consequential, or other damages, whether arising at law, in equity or otherwise.

(b) Notwithstanding the foregoing, both parties acknowledge that failure by the Company to fulfill the Capital Commitment requirement shall not be a Company Event of Default and, furthermore, the Company shall incur no liability to the City if the Company does not fulfill the Capital Commitment requirement set forth in Section 2.2 herein.

Section 4.3 Remedies Subject to Applicable Law. All rights, remedies and powers provided in this Article IV may be exercised only to the extent the exercise thereof does not violate

any applicable provision of law in the premises, and all the provisions of this Article IV are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 5.1 Severability; Enforceability. If any term or provision hereof shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this Agreement and shall not affect the validity of the remainder of this Agreement.

Section 5.2 Term. Unless sooner terminated in accordance with the terms hereof, the term of this Agreement shall expire on the tenth (10th) anniversary of the date of this Agreement or, if earlier, such date following 120 days after the second anniversary of the Benchmark Date that the Company shall have completed and, if applicable, the Company shall have made all payments to the City required under Section 3.3 hereof (the "Term").

Section 5.3 Entire Agreement. This Agreement contains the entire agreement of the Parties regarding the transactions described herein, and there are no representations, oral or written, relating to the transactions described herein which have not been incorporated herein. Any agreement hereafter made shall be ineffective to change, modify, or discharge this Agreement in whole or in part unless such agreement is in writing and is signed by each of the Parties hereto.

Section 5.4 Counterparts; Assignment.

(a) This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

(b) This Agreement is not assignable by any Party hereto except upon the written consent of the other Parties hereto; provided, however, that the Company shall have the right at any time to assign all its rights and obligations in and to this Agreement or any part thereof to any financially solvent Affiliate of the Company that agrees to assume assigned obligations of the Company in and to this Agreement, the New Facility and the Expanded Operations and all other operations within the New Facility; and if so assigned, the Company shall continue to be responsible for the performance of the obligations of the assignee under this Agreement unless specifically excused therefrom by the City, to be expressed in writing and signed by an authorized representative of the City.

Section 5.5 Binding Effect; Governing Law; Construction of Agreement. This Agreement shall inure to the benefit of, and shall be binding upon, the Parties hereto and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with, the laws of the State of Alabama without regard to Alabama's conflict of laws' provisions. The Parties agree that this Agreement has been negotiated and drafted at arm's-length and that no ambiguity or inconsistency in any term shall be

construed or interpreted against any Party due to such Party being deemed the primary drafter of this Agreement or of the provision in question.

Section 5.6 Notices.

(a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the Party or to an officer of the Party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(i) If to the City:

The City of Huntsville
308 Fountain Circle
8th Floor
Huntsville, Alabama 35801
Attn: City Attorney

(ii) If to the Company:

KBR, Inc.
Attn: Real Estate Manager
601 Jefferson St.
Houston, Texas 77220

With a copy to:

Thomas H. Brinkley
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
Suite 1700
Birmingham, Alabama 35203

(b) In addition, the parties hereto agree that notices may be sent electronically to any electronic address provided by a party from time to time. Notices may be sent in writing to a party's address as set forth above or to such other address as any party may give to the other for such purpose in accordance with this section.

(c) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of 3 days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Notice sent by electronic mail shall be deemed to be received upon the sender's receipt of an electronic confirmation of delivery.

Section 5.7 Liabilities of the City. Any provision hereof to the contrary notwithstanding, the Parties agree and acknowledge that the obligations and commitments of the City as set forth in this Agreement is limited by the limitations imposed by Alabama law.

Section 5.8 Survival of Covenants. The covenants in this Agreement shall not terminate until they have been fully performed or have expired by their terms.

Section 5.9 No Waiver. No consent or waiver, express or implied, by any Party hereto to any breach or default by any other Party in the performance by such other Party of its obligations and commitments hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other Party of the same or any other obligations or commitments of such Party hereunder. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare such other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any Party hereto shall be construed to be a waiver or limit the need for such consent in any other or subsequent instance.

Section 5.10 Venue.

(a) Whenever any Party hereto shall default in the performance of any of its obligations or commitments under this Agreement, the other Party hereto may take whatever legal proceeding (including actions for specific performance to the extent provided by law) as shall be necessary or desirable to enforce any agreement or condition contained herein or any other obligation of the defaulting Party imposed by law. The Parties hereto recognize, and will not object to, an action for specific performance.

(b) Each of the Parties irrevocably submits to the jurisdiction of the Alabama state courts sitting in Madison County, Alabama (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Agreement or any transaction undertaken in connection therewith (an "Agreement Action"); and waives, to the fullest extent permitted by law, any objection or defense that such Party may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts.

Section 5.11 No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the Parties and their respective permitted successors and assigns.

Section 5.12 Headings. The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

Section 5.13 Press Releases. Upon execution and delivery of this Agreement by each Party, the Parties agree thereupon to develop a mutually agreeable press release related to the New Facilities and the Expanded Operations which can be expected to include content regarding investment and jobs at the New Facilities, the timing of which issuance will be mutually agreed upon by the Parties, but in no case prior to the occurrence of all necessary approvals, executions and deliveries of written agreements related to the New Facilities as determined by the Company. Any additional press releases relating to this Agreement, the New Facilities or Expanded Operations following the press release contemplated by the immediately preceding sentence shall be pursuant to mutual agreement of the Parties.

Section 5.14 No Third-Party Beneficiaries. This Agreement is intended only for the benefit of the signing Parties hereto, and neither this Agreement, nor any of the rights, interest, obligations or commitments hereunder, is intended for the benefit of any other person or third-party.

ARTICLE VI **DEFINITIONS**

All initially capitalized terms not otherwise defined herein shall have the following meanings:

"**Affiliate**" of any specified entity shall mean any other entity directly or indirectly Controlling or Controlled by or under direct or indirect common with, or which directly or indirectly owns voting securities of an entity directly or indirectly Controlled by, such specified entity.

"**Base Employment Figure**" shall mean the total number of Full-Time Employees set forth in the final certificate delivered by the Company to the City pursuant to Section 3.2(a) hereof and for which the final City Payment was made, times 0.85.

"**Capital Costs**" shall mean costs (whether expended by the Company directly or indirectly by and through a third-party developer) to develop, construct or equip the New Facility that are chargeable to a capital account (or could be chargeable if so elected) determined in accordance with generally accepted accounting principles, or costs within the definition of "Capital Investment" set forth in Section 40-18-370(c)(2) of the Code of Alabama 1975, as amended.

"**Commence Construction**" or "**Commencement of Construction**" means, with respect to the New Facility, that the Company has entered into one or more binding contracts with one or more contractors licensed by the State of Alabama to perform the initial site work and construction for the New Facility.

"**Commenced Operations**" shall mean that the Company has moved into the New Facility with full-time employees who have started performing Company core business activities, such as providing aerospace and defense, industrial, technology, digitalization, intel and data science, and Federal and civilian solutions to various third party clients around the world.

"**Completed Construction**" shall be deemed to have occurred when the Company has completed or caused to be completed the New Facility.

"**Control**" when used with respect to any entity means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "**Controlling**" and "**Controlled**" have meanings correlative to the foregoing.

"**Force Majeure Event**" shall mean and include a material matter beyond the reasonable control of the Company (excluding unfavorable economic conditions), including acts of God,

including without limitation earthquakes, fire, floods, tornadoes, hurricanes, and extreme weather conditions (but not including normal seasonal inclement weather); acts of terrorism, epidemics, quarantine restrictions, freight embargos, and national financial crises that limit normal extensions of credit to the Company for the New Facility and the Expanded Operations.

"Fringe Benefits" shall mean all non-wage consideration paid or otherwise provided to Full-Time Employees, including, but not limited to, health insurance, retirement benefits, life insurance, workers' compensation, unemployment compensation, and the employer portion of FICA taxes.

"Full-Time Employee" shall mean a person (expressly excluding unskilled temporary labor, construction workers and individuals employed by entities providing temporary workers): (a) who is being paid directly by the Company or an Affiliate of the Company and is employed at the New Facility for not less than 36 hours per work week; (b) who has a primary residence in the State of Alabama or who is subject to Alabama State income tax withholdings, (c) who the Company or an Affiliate of the Company identifies as its employee to the U.S. Internal Revenue Service and its Alabama Department of Revenue tax returns or reports filed with the foregoing; (d) who is eligible to participate under such benefit plans as are generally applicable to employees holding positions of like kind and character within the Company or an Affiliate of the Company within the United States of America; and (e) who was not employed by the Company or any Affiliate within the City within three (3) years of becoming employed at the New Facility, unless previously laid off for a period of at least 365 consecutive days immediately prior to the date of rehiring at the New Facility.

"Minimum Average Annual Pay" shall mean, for any group of Full-Time Employees reported or certified by the Company under this Agreement, an average annual salary of \$100,000, exclusive of Fringe Benefits and overtime pay for such Full-Time Employees.

"Total City Payment" shall mean the total amount paid by the City to the Company pursuant to Section 3.2 hereof.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the City and the Company have each caused this Agreement to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated the date and year first above written.

"CITY":

CITY OF HUNTSVILLE, ALABAMA

By: _____
Tommy Battle, Mayor

(SEAL)

ATTEST

By: _____
Kenneth Benion

Its: _____
Clerk-Treasurer

"COMPANY":

**KBR WYLE SERVICES, LLC, a
Delaware limited liability company**

By: _____

Title: _____

EXHIBIT A
FORM OF REQUEST FOR CITY PAYMENT

REQUEST FOR CITY PAYMENT NO. [1/2]

Date: _____, 20__

Amount Requested: \$ _____

Applicable Project Development Agreement Section: [Section 3.2(a)(i)]/[Section 3.2(a)(ii)]

Pursuant to the Project Development Agreement dated _____, 2021 (the "Project Development Agreement") between the City of Huntsville (the "City") and KBR Wyle Services, LLC, a Delaware limited liability company (the "Company"), the Company hereby certifies as follows.

(a) Attached hereto is evidence demonstrating that [at least 50% the Capital Commitment]/[the Capital Commitment] has been satisfied by [____], and that the Company has Commenced Operations at the New Facility by the Commencement Deadline.

(b) The Company hereby requests payment of \$[____] pursuant to [Section 3.2(a)(i)]/ [Section 3.2(a)(ii)] of the Project Development Agreement.

(c) the Company hereby certifies that as of the last business day of each month of (i) _____, 20__ ("Month 1"), (ii) _____, 20__ ("Month 2"), and (iii) _____, 20__ ("Month 3"), the Company had employed Full-Time Employees at the New Facility, as follows:

	Month 1	Month 2	Month 3	Average
Full-Time Employees				
Average Annual Salary ⁽¹⁾				

(d) Attached hereto is all supporting information and materials as shall enable the City to confirm and independently verify the employment and wage levels so certified by the Company.

(e) The Company is not in default of its obligations under the Project Development Agreement.

(f) Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Project Development Agreement (including all exhibits thereto).

⁽¹⁾ Excludes Fringe Benefits and overtime pay.

IN WITNESS HEREOF, the undersigned has executed and delivered this certificate to the
City this ____ day of ____, 20__.

KBR Wyle Services, LLC, a Delaware limited
liability company

By: _____

Title: _____