



CITY OF ATLANTA

SUITE 1900

55 TRINITY AVENUE, SW

ATLANTA, GA 30303

(404) 330-6204 Fax: (404) 658-7705

Internet Home Page: www.atlantaga.gov

Kasim Reed
Mayor

DEPARTMENT OF PROCUREMENT
Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP
Chief Procurement Officer
asmith@atlantaga.gov

March 18, 2015

Dear Proponents:

Re: FC-7984, On-Call Concessions Consultant Services at Hartsfield-Jackson Atlanta International Airport

Attached is one (1) copy of **Addendum No. 3**, which is hereby made a part of the above-referenced project.

For additional information, please contact Mr. Leslie H. Page, Contracting Officer, at (404) 330-6107, or via e-mail at lpage@atlantaga.gov.

Sincerely,

A handwritten signature in cursive script that reads "Adam L. Smith".

Adam L. Smith

ALS:lhv

Addendum No. 3

**Re: FC-7984, On-Call Concessions Consultant Services at Hartsfield-
Jackson Atlanta International Airport**

March 18, 2015

Page 2

This Addendum No. 2 modifies and forms a part of the Request for Proposals for Project Number FC-7984 ("RFP").

Questions and answers;

**Revision to Part 4, Required Submittal Forms - Insert Form 5,
Acknowledgement of Insurance and Bonding Requirements;**

Replace Exhibit D, Insurance and Bonding Requirements;

Replace Exhibit D-1: Payment and Performance Bonds.

Proposals are due **Thursday, April 2, 2015**, should be time stamped in no later than 2:00 p.m., and delivered to the address below:

Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP
Chief Procurement Officer
Department of Procurement
55 Trinity Avenue, S.W.
Suite 1900
Atlanta, Georgia 30303

**** All other information remains unchanged ****

Addendum No. 3

Re: FC-7984, On-Call Concessions Consultant Services at Hartsfield-Jackson Atlanta International Airport

March 18, 2015

Page 3

Acknowledgment of Addendum No. 3

Proponents must sign below and return this form with proposal to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303 as acknowledgment of receipt of this Addendum.

This is to acknowledge receipt of Addendum No. 3 for **FC-7984, On-Call Concessions Consultant Services** at Hartsfield-Jackson Atlanta International Airport on this the _____ day of _____, 2015.

Legal Company Name of Proponent

Signature of Authorized Representative

Printed Name

Title

Date

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

1. Is a bond applicable to this work, if so, please provide Form 5.

Response: Risk Management is requesting a Performance Bond and a Payment Bond per Exhibit D & D1.

2. Must the Performance Bond (page 93) be completed and submitted as part of the Proposal?

Response: No.

- a. How can a performance bond be required if the total contract value has yet to be determined at this juncture?

Response: The performance bond won't be calculated until the successful proponent is selected.

3. The RFP states that a performance bond will be required. Typically, a performance bond is not required for a task order based professional services contract. Why is one required for this contract? Will the City consider waiving this requirement?

Response: Please review the current addendum which includes an updated Exhibit D & D1.

4. The contract requires that subcontractors are also bonded. This poses a challenge for certified MBE and FBE firms. Will the City consider removing this requirement since it represents a "barrier" to participation by small MBE/FBE professional services firms?

Response: No. Please review the current addendum which includes an updated Exhibit D & D1.

5. To clarify a statement at the pre-proposal, do respondents need to have the performance bond in place as of the proposal due date?

Response: No. Please review the current addendum which includes an updated Exhibit D & D1.

6. Are subcontractors required to post a performance bond? If so, who is the beneficiary of the subcontractor's performance bond?

Response: The City of Atlanta does not require subcontractors to be bonded.

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

7. Minimum Qualification 4.4 refers to database maintenance and modeling software.

a. What is meant by modeling software?

Response: Modeling software refers to computer simulations depicting the tendency and behavior of passengers to frequent retail outlets pursuant to their location and proximity to security checkpoints, elevators, escalators, food courts, etc. Modeling software may include and refer to, statistical analyses and econometrics.

b. What sort of "modeling" is anticipated? Common statistical analyses? Forecasting? Econometrics?

Response: Please see answer above. Successful proponent will be given access to passenger forecast numbers that have been created for the Hartsfield-Jackson Atlanta International Airport Master Plan.

c. What types of reports are contemplated?

Response: Reports that are contemplated are benchmarking reports by category, qualitative and quantitative reporting on branding, pricing, products, and market research reporting. This list is not all-inclusive.

8. To clarify a statement at the pre-proposal, are respondents to provide a build-up of the 2018 Retail Plan lump sum fee proposed on Exhibit A.2? That is, in addition to the fixed fee, are respondents to provide a budget showing anticipated hours and billing rates for each job classification and individual to be used in the preparation of the Retail Plan and anticipated reimbursable expenses?

Response: Yes.

9. Is the lump sum for the 2018 Retail Plan payable monthly on a time and material basis or as a percentage of completion? Are reimbursable expenses included in the lump sum or separately paid?

Response: The lump sum for the 2018 Retail Plan and reimbursable expenses will be payable as a percentage of completion.

10. To clarify a statement at the pre-proposal, are respondents to provide a build-up of the hourly rates proposed on Exhibit A.3?

Response: Yes.

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

11. The City's directory of certified businesses includes an industry category for each business. Are only certified businesses listed in certain industries eligible to be counted for participation in this contract? If so, what are the eligible industries?

Response: No, any certified business with the city of Atlanta is eligible to be counted for participation in a contract. Additionally, the contractor should add the NAICS code to their list of work categories.

12. In addition to a lump sum fee proposal for the 2018 Retail Plan, are respondents allowed to propose alternates for additional services that are related to a retail plan, but not necessarily part of the retail plan? For example, may a respondent propose a passenger survey - with a separate lump sum fee - as an optional service as part of the retail plan?

Response: Yes, you can provide additional optional services along with their respective fees not listed in the RFP.

13. Has the City conducted any passenger surveys within the past three years? If so, can the City provide copies to prospective respondents?

Response: Any surveys conducted by the City of Atlanta and/or our contracted consultants will be provided to the successful proponent.

14. Can the City provide sales data by retail location for the past three years?

Response: This information will be provided to the successful proponent after award of contract.

15. Can you confirm whether subcontractants must fill out pages 24 AND 25 (Subcontractor Affidavits)? What is the difference between the two?

Response: The Subcontractor Affidavits are not required to be filled out at this time as stated on page 22, paragraph seven (7).

16. Can non US companies take part in this RFP?

Response: Yes, however, all necessary forms to conduct business in the State of Georgia must be properly completed.

17. Authorization to conduct business in the State of Georgia... not applicable for UK companies?

Response: Please see response to question #16

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

18. The RFP refers to a "2018 Retail Program" that is to be developed. Please indicate what kinds of spaces this encompasses. (e.g. Retail, Duty Free, Food & Beverage, News & Gift, Services, etc.)

Response: The kinds of spaces contemplated for the 2018 Retail Program include:

- **News/Gift (also referred to as Convenience Retail, Newsstand or Sundries Retail) - A type of Concessions Operation that specializes in the sale of magazines, newspapers and other periodicals, candy, gum, snacks, sundries, magazines, paperback books and souvenirs. Some news/gift stores may sell hardcover books as part of its product mix, but such books are not the primary item offered. Single-serve canned or bottled drinks may also be sold at such locations.**
- **Specialty Retail - A type of Concessions Operations that specializes in the sale of a particular category of consumer products such as clothing, sporting goods, electronics, travel accessories, books, leather goods and luggage, souvenirs, lotions and personal care items, and home accessories. Automated retail of good that would generally be sold in specialty retail shops may also be included in this category; may be individual locations or small "stores-within-a-store" that are accounted for separately from the larger location. Stand-alone bookstores should be included as specialty retail.**

19. How will you evaluate individual billing rates for the on-call services?

Response: Individual billing rates will not be evaluated for this solicitation.

20. Is an Insurance Bond required for this work?

Response: A Payment Bond is required for FC-7984. The bond must be renewed annually at one hundred percent (100%) of the then current year's payment amount specified in the Agreement. The bond must be kept in full force and effect during the Term and any renewals. Please refer to Exhibits D & D1.

21. Please provide Form 5 as it was not included in the RFP

Response: Form 5 is attached to this Addendum.

22. Is there an existing tenant database? If yes, what software is it?

Response: There is no database however all tenants are listed in an excel spreadsheet.

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

23. Will the database be maintained by the consultant? If yes, on whose server?

Response: Not applicable

24. On page 9, Section 4.4: it states that the Proponent must “maintain the ability to use in-house, proprietary databases and modeling software”. Can you please clarify, does this mean the City’s or Proponent’s “in-house” databases? Are databases / software required to be developed or built as part of this scope of work? What is meant by “modeling software”?

Response: Please see response to question #7. In-house or proprietary databases refers to the proponent’s databases. Databases and/or software are not required to be built for this scope of work.

25. How are existing tenancies procured? Through Invitations To Bid (ITBs) or Requests for Proposals (RFPs)?

Response: All concessions contracts with the City of Atlanta are procured through a competitive solicitation process whether it is requests for proposals or invitations to bid.

26. Are brokerage commissions allowed?

Response: No brokerage commissions are not allowed.

27. Is there a lease expiration report of all existing tenancies that can be provided?

Response: Please see response to question #14.

28. Please provide copies of tenant ledgers and/or reports indicating current rents.

Response: Please see response to question #14.

**FC-7984 – ON-CALL CONCESSIONS CONSULTANT
QUESTIONS AND ANSWERS**

29. Are there current passenger mix and demographic reports available for review? If so, please provide.

Response:

Male	44%
Female	56%
Business	34%
Leisure	65%
Average Age	40
Average Income	\$83,700
Dwell time	99 minutes
% Origination/Destination (O & D)	31%

30. Please provide floor plans of the Atrium, Concourses, and retail areas that would be included in this scope of work.

Response: Please see response to question #14.

31. Page 17, Section 4.2: In lieu of a three-hole ring binder, would the City consider proposals bound by plastic spine binding?

Response: No

32. Page 77 and 79: Are Proponents to submit both Cost Forms A.2 and A.3? Is it the intent of the City to award the 2018 Retail Program work to one proponent, and subsequent Task Orders to the same or other proponents? Or, in the alternative, if the City decides to award the 2018 Retail Program to one proponent in full, then subsequent task orders would not be issued?

Response: The successful proponent will be given the 2018 Retail Program work and subsequent Task Orders.

33. Would the City be willing to provide a two week extension of the Proposal due date (currently set for 3/18/15)?

Response: Please see Addendum #2 on the City of Atlanta website.

Form 5

ACKNOWLEDGMENT OF INSURANCE AND BONDING REQUIREMENTS

I, _____, on behalf of _____, (“Respondent”), acknowledge that if selected as the successful Respondent for **FC-7984; On-Call Concessions Consultant Services**, Respondent shall comply with all insurance and bonding requirements contained in the Agreement (attached to the ITB), and any other attachments to the ITB which pertain to insurance and/or bonding, including, but not limited to, Exhibit D.

Respondent understands that it is expected to share these requirements with potential sureties and insurance brokers, agents, underwriters, etc. prior to any award of a Agreement and to take all necessary steps to ensure compliance with the applicable requirements without delay. Respondent understands, acknowledges and agrees that any failure to fully comply with these requirements within ten (10) days of the date Respondent receives a final Agreement document from the City may result in the forfeiture of the Bid Security submitted with this Bid and/or the disqualification of Respondent from further consideration for the Agreement.

By executing this Acknowledgement of Insurance and Bonding Requirements, I represent that the Respondent understands and agrees to comply unconditionally with all requirements related to insurance and bonding. Further, by signing below, I represent that I am authorized to make the representations contained herein on behalf of Respondent.

Date: _____, 2015
Corporate Respondent: [Insert Corporate Name]

By: _____
Name: _____
Title: _____

Corporate Secretary/Assistant Secretary (Seal)

Date: _____, 2015
Non-Corporate Respondent: [Insert Respondent Name]

By: _____
Name: _____
Title: _____

Notary Public (Seal) My Commission Expires: _____

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-7984, ON-CALL CONCESSIONS CONSULTANT

A. Preamble

The following requirements apply to all work under the Agreement. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Exhibit D and applicable to the Agreement.** For all purposes hereunder, including but not limited to any Additional Insured Endorsements, the City shall include the City of Atlanta, its elected officials, officers, agents, and employees.

1. Evidence of Insurance and Bonding Required Before Work Begins

No work under the Agreement may be commenced until all insurance and bonding requirements contained in this Exhibit D, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City.

At the time Consultant submits to City its executed Agreement, Consultant must satisfy all insurance and bonding requirements required by this Exhibit D and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the Agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the Agreement or under applicable law, make a claim against any proposal security provided by Consultant.

If the Consultant is an entity (e.g., corporation, limited liability company, etc.) or a partnership (e.g., general partnership, limited partnership, joint venture, etc.) then Consultant shall tender insurance certificates and bonds in the name of Consultant's entity or partnership as the primary insured.

2. Project Number & Name

The project number (**FC-7984**) and name (On Call Concessions Consultant) must be referenced in the description section of the insurance certificate.

3. Minimum Financial Security Requirements

All companies providing insurance required by this Exhibit D must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-

Casualty. Upon request, the Consultant must submit the ratings for each company to the City.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-;
- ii) Best's Financial Size Category not less than Class VII;
- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia; and
- iv) All performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Consultant in writing. Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Consultant's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Agreement will not relieve Consultant from any liability under the Agreement. Consultant's obligations to comply with all insurance and bonding requirements set forth in Exhibit D and applicable to the Agreement will not be construed to conflict with or limit Consultant's indemnification obligations under the Agreement.

4. Insurance and Bonds Required for Duration of Contract

All insurance and bonds required by this Exhibit D must be maintained during the entire term of the Agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

5. Notices of Cancellation & Renewal

Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within two (2) business days of any notices received from any insurance carriers providing insurance coverage or surety providing bonds under this Agreement and Exhibit D (including any attachments thereto) that Consultant receives concerning the proposed cancellation, or termination of coverage or security:

Enterprise Risk Management
68 Mitchell St., Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Consultant shall provide the City with evidence of required insurance and bonding prior to the commencement of this Agreement, and, thereafter, with a certificate and/or bonds evidencing renewals or changes thereto at least fifteen (15) days prior to the expiration of previously provided certificates and/or bonds.

6. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this Agreement shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

7. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management** at **68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303**.

8. Additional Insured Endorsements – Form CG 20 26 07 04 or Equivalent

City shall be covered as an Additional Insured, as its interest may appear, under any and all insurance required pursuant to this Agreement, and such insurance shall be primary and non-contributory with respect to the Additional Insured. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Additional insured status extending to ongoing and completed operations per CG 20 26 07 04 or their carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia.

NOTE: A copy of the Additional Insured Endorsement or its equivalent must be forwarded to the Risk Management Department as soon as practicable but in no event more than ten (10) days after the effective date of the Agreement.

9. Mandatory Sub-Contractor/Consultant Compliance

Consultant must require and ensure that all of Consultant's subcontractors operating under the Agreement at any level are sufficiently insured and bonded.

10. Self-Insured Retentions, Deductibles or Similar Obligations

Any self-insured retention, deductible or similar obligation will be the sole responsibility of the Consultant.

11. Waiver of Subrogation in favor of the City of Atlanta

The certificates of Commercial General Liability Insurance and Commercial Automobile Liability Insurance tendered by the Consultant must clearly indicate a waiver of subrogation in favor of the City of Atlanta.

B. Workers' Compensation

Consultant must procure and maintain Workers' Compensation in the following limits to cover each employee who is or may be engaged in work under the Agreement:

Workers' Compensation **Statutory**

C. Commercial General Liability Insurance

Consultant must procure and maintain Commercial General Liability Insurance on Form CG 00 00 01 (or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Independent Contractor/Consultants
- Products – Completed Operations
- Additional Insured Endorsement (primary & non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

D. Professional Liability/Errors & Omissions Insurance

Consultant shall procure and maintain during the life of this Agreement Professional Liability Insurance in an amount of **\$2,000,000** per occurrence and annual aggregate. The policy will fully address the Consultant's professional services associated with the scope of work contained in this document. The policy will include at least a three-year Extended Reporting Provision as well as these extensions of coverage.

E. Payment Bond

At, or prior to, Service Provider's execution of the Agreement, Service Provider must, at its own expense, deliver to the City a Payment Bond in an amount equal to one hundred percent (100%) of the first year's payment amount specified in the Agreement, naming the City as co-obligee and issued by a surety company or companies in such form as approved by the City's Attorney as attached hereto at Exhibit D-1. The bond must be renewed annually at one hundred percent (100%) of the then current year's payment amount specified in the Agreement. The bond must be kept in full force and effect during the Term and any renewals.

1. The surety company issuing the bond must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bond of its intention not to renew or to terminate the bond.
2. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bond.
3. An agent of the Surety residing in the State of Georgia must execute the bond. The date of the bond must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia, upon whom all notices must be shown on each bond. The person executing the bond on behalf of the Surety must file with the bond a general power of attorney unlimited as to amount and type of bond covered by such power of attorney, and certified to by an official of said Surety. The bond must be on form provided by City. The Agreement will not be executed by City until after the approval of the bond by City's Attorney.
4. For additional information regarding Payment Bonds, please see Exhibit D-1 attached hereto and incorporated herein by this reference.

EXHIBIT D-1

ATTACHMENT 2

Payment Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Payment Bond

"City" City of Atlanta, Georgia
"Project" On-Call Concessions Consultant
"FC No." 7984

"Principal"
Type of Organization ("X" one):
 Individual
 Partnership
 Joint Venture
 Corporation

"Surety:" (Name and Business Address) _____

duly authorized by the Commissioner of Insurance of
the State of Georgia to transact surety business in the
State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20____, regarding
performance of Work relative to the Project.

"Penal Sum:" _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally. Principal and Surety agree that the Penal Sum shall be equal to or greater than one hundred percent (100%) of the total Management Fee as specified in the Agreement for the first year of the Term as defined therein. If this bond is renewed annually as described below, then Principal and Surety agree that the Penal Sum shall equal or exceed the Management Fee as specified in the Agreement for the same 12-month period of the annual bond.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work. Surety further agrees that it will provide City with at least 60 days' written notice by registered mail prior to any suspension, cancellation or termination of this bond; otherwise, this bond shall remain in full force and effect for a minimum of one (1) year (i.e., twelve (12) full months) beginning from the Effective Date of the Agreement. This bond may be renewed on an annual basis provided the renewal covers the requisite Penal Sum as required above; and, in the event Surety declines to renew this bond, Surety agrees that it will provide City with at least 60 days' written notice by registered mail prior to the expiration date of bond.

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20__.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-7984, ON-CALL CONCESSIONS CONSULTANT

A. Preamble

The following requirements apply to all work under the Agreement. **To the extent permitted by applicable law, the City of Atlanta ("City") reserves the right to adjust or waive any insurance or bonding requirements contained in this Exhibit D and applicable to the Agreement.** For all purposes hereunder, including but not limited to any Additional Insured Endorsements, the City shall include the City of Atlanta, its elected officials, officers, agents, and employees.

1. Evidence of Insurance and Bonding Required Before Work Begins

No work under the Agreement may be commenced until all insurance and bonding requirements contained in this Exhibit D, or required by applicable law, have been complied with and evidence of such compliance satisfactory to City as to form and content has been filed with City.

At the time Consultant submits to City its executed Agreement, Consultant must satisfy all insurance and bonding requirements required by this Exhibit D and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the Agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the Agreement or under applicable law, make a claim against any proposal security provided by Consultant.

If the Consultant is an entity (e.g., corporation, limited liability company, etc.) or a partnership (e.g., general partnership, limited partnership, joint venture, etc.) then Consultant shall tender insurance certificates and bonds in the name of Consultant's entity or partnership as the primary insured.

2. Project Number & Name

The project number (**FC-7984**) and name (On Call Concessions Consultant) must be referenced in the description section of the insurance certificate.

3. Minimum Financial Security Requirements

All companies providing insurance required by this Exhibit D must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-

Casualty. Upon request, the Consultant must submit the ratings for each company to the City.

For all agreements, regardless of size, companies providing insurance or bonds under the agreement must meet the following requirements:

- i) Best's Rating not less than A-;
- ii) Best's Financial Size Category not less than Class VII;
- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia; and
- iv) All performance and payment bonds must be underwritten by a U.S. Treasury Circular 570 listed company.

If the issuing company does not meet these minimum requirements, or for any other reason is or becomes unsatisfactory to City, City will notify Consultant in writing. Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submit to City evidence of its compliance with these conditions.

Consultant's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Agreement will not relieve Consultant from any liability under the Agreement. Consultant's obligations to comply with all insurance and bonding requirements set forth in Exhibit D and applicable to the Agreement will not be construed to conflict with or limit Consultant's indemnification obligations under the Agreement.

4. Insurance and Bonds Required for Duration of Contract

All insurance and bonds required by this Exhibit D must be maintained during the entire term of the Agreement, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

5. Notices of Cancellation & Renewal

Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within two (2) business days of any notices received from any insurance carriers providing insurance coverage or surety providing bonds under this Agreement and Exhibit D (including any attachments thereto) that Consultant receives concerning the proposed cancellation, or termination of coverage or security:

Enterprise Risk Management
68 Mitchell St., Suite 9100
Atlanta, GA 30303
Facsimile No. (404) 658-7450

Confirmation of any mailed notices must be evidenced by return receipts of registered or certified mail.

Consultant shall provide the City with evidence of required insurance and bonding prior to the commencement of this Agreement, and, thereafter, with a certificate and/or bonds evidencing renewals or changes thereto at least fifteen (15) days prior to the expiration of previously provided certificates and/or bonds.

6. Agent Acting as Authorized Representative

Each and every agent acting as Authorized Representative on behalf of a company affording coverage under this Agreement shall warrant when signing the Acord Certificate of Insurance that specific authorization has been granted by the Companies for the Agent to bind coverage as required and to execute the Acord Certificates of Insurance as evidence of such coverage. City of Atlanta coverage requirements may be broader than the original policies; these requirements have been conveyed to the Companies for these terms and conditions.

In addition, each and every agent shall warrant when signing the Acord Certificate of Insurance that the Agent is licensed to do business in the State of Georgia and that the Company or Companies are currently in good standing in the State of Georgia.

7. Certificate Holder

The **City of Atlanta** must be named as certificate holder. All notices must be mailed to the attention of **Enterprise Risk Management** at **68 Mitchell Street, Suite, 9100, Atlanta, Georgia 30303**.

8. Additional Insured Endorsements – Form CG 20 26 07 04 or Equivalent

City shall be covered as an Additional Insured, as its interest may appear, under any and all insurance required pursuant to this Agreement, and such insurance shall be primary and non-contributory with respect to the Additional Insured. However, this requirement does not apply to Workers' Compensation or Professional Liability Insurance. Additional insured status extending to ongoing and completed operations per CG 20 26 07 04 or their carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia.

NOTE: A copy of the Additional Insured Endorsement or its equivalent must be forwarded to the Risk Management Department as soon as practicable but in no event more than ten (10) days after the effective date of the Agreement.

9. Mandatory Sub-Contractor/Consultant Compliance

Consultant must require and ensure that all of Consultant's subcontractors operating under the Agreement at any level are sufficiently insured and bonded.

10. Self-Insured Retentions, Deductibles or Similar Obligations

Any self-insured retention, deductible or similar obligation will be the sole responsibility of the Consultant.

11. Waiver of Subrogation in favor of the City of Atlanta

The certificates of Commercial General Liability Insurance and Commercial Automobile Liability Insurance tendered by the Consultant must clearly indicate a waiver of subrogation in favor of the City of Atlanta.

B. Workers' Compensation

Consultant must procure and maintain Workers' Compensation in the following limits to cover each employee who is or may be engaged in work under the Agreement:

Workers' Compensation **Statutory**

C. Commercial General Liability Insurance

Consultant must procure and maintain Commercial General Liability Insurance on Form CG 00 00 01 (or equivalent) in an amount not less than **\$1,000,000 per occurrence subject to a \$2,000,000 aggregate**. The following indicated extensions of coverage must be provided:

- Contractual Liability
- Independent Contractor/Consultants
- Products – Completed Operations
- Additional Insured Endorsement (primary & non-contributing in favor of the City of Atlanta)
- Waiver of Subrogation in favor of the City of Atlanta

D. Professional Liability/Errors & Omissions Insurance

Consultant shall procure and maintain during the life of this Agreement Professional Liability Insurance in an amount of **\$2,000,000** per occurrence and annual aggregate. The policy will fully address the Consultant's professional services associated with the scope of work contained in this document. The policy will include at least a three-year Extended Reporting Provision as well as these extensions of coverage.

E. Payment Bond

At, or prior to, Service Provider's execution of the Agreement, Service Provider must, at its own expense, deliver to the City a Payment Bond in an amount equal to one hundred percent (100%) of the first year's payment amount specified in the Agreement, naming the City as co-obligee and issued by a surety company or companies in such form as approved by the City's Attorney as attached hereto at Exhibit D-1. The bond must be renewed annually at one hundred percent (100%) of the then current year's payment amount specified in the Agreement. The bond must be kept in full force and effect during the Term and any renewals.

1. The surety company issuing the bond must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bond of its intention not to renew or to terminate the bond.
2. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bond.
3. An agent of the Surety residing in the State of Georgia must execute the bond. The date of the bond must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia, upon whom all notices must be shown on each bond. The person executing the bond on behalf of the Surety must file with the bond a general power of attorney unlimited as to amount and type of bond covered by such power of attorney, and certified to by an official of said Surety. The bond must be on form provided by City. The Agreement will not be executed by City until after the approval of the bond by City's Attorney.
4. For additional information regarding Payment Bonds, please see Exhibit D-1 attached hereto and incorporated herein by this reference.

EXHIBIT D-1

ATTACHMENT 2

Payment Bond

INSTRUCTIONS

1. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the City.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership, or joint venture, or an office of the corporation involved, evidence of this authority must be furnished.
3. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
4. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
5. Do not date this bond. The City will date this bond the same date or later than the date of the Agreement.
6. The Surety shall attach a duly authorized power-of-attorney authorizing signature on its behalf of any attorney-in-fact.
7. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the word "Seal."
8. The name of each person signing this bond shall be typed or printed in the space provided.

Payment Bond

"City" City of Atlanta, Georgia
"Project" On-Call Concessions Consultant
"FC No." 7984
"Principal"

Type of Organization ("X" one):
 Individual
 Partnership
 Joint Venture
 Corporation

"Surety:" (Name and Business Address) _____

duly authorized by the Commissioner of Insurance of
the State of Georgia to transact surety business in the
State of Georgia.

"Agreement:" Agreement between Principal and City, dated _____ day of _____, 20____, regarding
performance of Work relative to the Project.

"Penal Sum:" _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally. Principal and Surety agree that the Penal Sum shall be equal to or greater than one hundred percent (100%) of the total Management Fee as specified in the Agreement for the first year of the Term as defined therein. If this bond is renewed annually as described below, then Principal and Surety agree that the Penal Sum shall equal or exceed the Management Fee as specified in the Agreement for the same 12-month period of the annual bond.

WHEREAS, the Principal and the City entered into the Agreement identified above;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall faithfully and fully comply with, perform and fulfill all of the undertakings, covenants, conditions and all other of the terms and conditions of said Agreement, including any and all duly authorized modifications of such Agreement, within the original term of such Agreement and any extensions thereof, which shall include, but not be limited to any obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said Agreement, this obligation shall be void; otherwise, of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any way affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work. Surety further agrees that it will provide City with at least 60 days' written notice by registered mail prior to any suspension, cancellation or termination of this bond; otherwise, this bond shall remain in full force and effect for a minimum of one (1) year (i.e., twelve (12) full months) beginning from the Effective Date of the Agreement. This bond may be renewed on an annual basis provided the renewal covers the requisite Penal Sum as required above; and, in the event Surety declines to renew this bond, Surety agrees that it will provide City with at least 60 days' written notice by registered mail prior to the expiration date of bond.

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Sections 13-10-1 and 36-82-101, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

IN WITNESS WHEREOF, the Principal and the Surety have caused these presents to be duly signed and sealed this _____ day of _____, 20__.

PRINCIPAL: _____

President/Vice President (Sign)

President/Vice President (Type or Print)

Attested to by:

Secretary/Assistant Secretary (Seal)

SURETY: _____

By: _____
Attorney-in-Fact (Sign)

Attorney-in-Fact (Type or Print)

APPROVED AS TO FORM

Associate/Assistant City Attorney

APPROVED

City's Chief Financial Officer