



## CITY OF ATLANTA

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Kasim Reed  
Mayor

DEPARTMENT OF PROCUREMENT  
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CIPC, CISCC, CIGPM  
Chief Procurement Officer  
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September 18, 2015

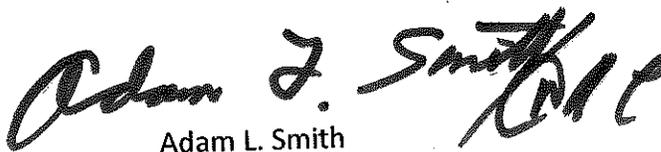
### INTERESTED PROPONENT:

**Re: FC-8260, Hotel, Travel Plaza, and Mixed-Use Development**

Attached is one (1) copy of **Addendum No. 2**, which is hereby made a part of the above-referenced project.

For additional information, please contact the following personnel for the respective solicitation: Mano Smith, CPPO, CPPB, Contract Administrator, at (404) 330-6351, or via email at [mosmith@atlantaga.gov](mailto:mosmith@atlantaga.gov).

Sincerely,

  
Adam L. Smith

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**Addendum No. 2**

**Re: FC-8260, Hotel, Travel Plaza, and Mixed-Use Development**

September 18, 2015

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This Addendum forms a part of the Request for Proposal and modifies the original solicitation package as noted below.

- **Proposal due date has been extended to Wednesday, October 28, 2015.**
- **Responses to Questions (CAD files referenced in the responses to questions have been posted to the City of Atlanta website ([www.atlantaga.gov](http://www.atlantaga.gov)))**

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Proposals are due **Wednesday, October 28, 2015**, and should be time stamped no later than 2:00 p.m. EST on this day, and delivered to the address below:

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

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

**Addendum No. 2**

**Re: FC-8260, Hotel, Travel Plaza, and Mixed-Use Development**

September 18, 2015

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**Acknowledgement of Addendum No. 2**

Proponents must sign below and return this form with its proposal to the Department of Procurement, 55 Trinity Avenue, City Hall South, Suite 1900, Atlanta, Georgia 30303 as acknowledgement of receipt of this addendum on this \_\_\_\_day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Legal Company Name of Respondent

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**FC-8260, HOTEL, TRAVEL, AND MIXED-USE DEVELOPMENT  
RESPONSES TO QUESTIONS  
ADDENDUM No. 2**

The following questions and/or clarifications were requested by various Proponents:

1.	Proponent Statement:	<p>As a threshold matter, it would be very helpful to know if the City is willing to enter into three separate ground leases (one for each of the three non-contiguous Development Tracts), as a single lender may not be interested in financing all three disparate projects.</p> <p>The Lease (in its current form) would also need various modifications in order to make sure that it is both marketable and financeable. For example, it should include mortgagee protection clauses, provide for a right of termination for convenience with just compensation only in instances where there is a public/national safety risk or related change in regulations, address the City's option to require the Lessee to demolish all of the improvements upon lease termination (e.g., limit same in certain instances when the Lessee is not the procuring cause of the termination), and include estoppel provisions. For example, we understand and respect the fact that, from a public safety perspective, the security needs of the Airport are necessarily superior to the success of any commercial project on the proposed site. But, to have a termination right without the obligation to compensate the Lessee/Developer and its financial partners would not result in a viable, financeable commercial framework for this most important commercial project.</p> <p>We also note that the Lease should be revised to be in recordable form or to include a provision requiring recordation of a memorandum of lease agreement, and to expressly permit certain transferees and subletting. In our view, inclusion of provisions permitting the future sale of the vertical improvements, and the ability to sever the Lease into separate smaller direct leases or subleases based upon a particular use would also improve the viability of the overall project. In all cases, we would expect such recommended modifications to include protection of the City's interest (e.g., credit quality and experience of the assignee/sublessee) to make sure the proposed development is completed in the manner agreed to by the initial Lessee/Master Developer and the City.</p> <p>In addition, we anticipate that there is a need to establish a Reciprocal Easement Agreement or "REA" which would govern, among other things, all access, ingress, egress and use of common areas (since we assume the City owns the entire Airport parcel). Note that this would not have been an issue but for these proposed uses by non-City parties.</p>
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		Finally, given the complexity of the contemplated development, we recommend that the City provide an opportunity to meet with all of the Proposers to discuss the various questions and comments prior to the preparation of the proposed Addendum by the City. We believe that this will serve the aim of reaching the best overall framework for the Atlanta RFP Documents leading into the proposal preparation and submission process.
	<b>Response:</b>	<b>Proponent’s statements above do not raise any questions that require specific responses from the City; however, the statements relate to some of the following questions and, therefore, the statements are included for reference purposes only.</b>
2.	Question:	<b>Section 1.01.1:</b> What is the specific location of the portion of the Hotel Development Tract which will not be available until January 2017 and is the City willing to extend the milestone deadline for completing development of the Hotel Development Tract if the delayed delivery parcel(s) are integral to the approved design and construction plans?
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>) for the map that identifies the portion of the Hotel Development Tract which will not be available until January 2017.</b>  <b>Yes, the City is willing to extend the development milestones if delivery of the parcel is integral to the approved design and construction plans.</b>
3.	Question:	<b>Section 1.03:</b> Is City willing to specifically identify the areas of ingress and egress for each of the Development Tracts? See also our related comments above and in Question # 5 relating to the proposed REA.
	<b>Response:</b>	<b>The City anticipates that Proponents will incorporate ingress and egress into the proposals for each of the development parcels. The City will consider any configuration submitted in conjunction with Proponent’s proposal that is consistent with traffic engineering best practices. However, the City will not approve any design that it deems may negatively impact the inbound or outbound airport roadway systems.</b>
4.	Question:	<b>Section 1.03:</b> Given the Lease's "Use It or Lose It" provisions, is the City willing to accept broad cure periods and the right to retain parcels under active development in the event a development milestone is not met or is partially met?
	<b>Response:</b>	<b>The City will work with the developer to complete the development projects in a timely and efficient manner. Subject to FAA and City approvals, any available milestone extensions will be considered on a</b>

		<b>case-by-case basis.</b>
5.	Question:	<b>Section 2.03:</b> Is the City willing to narrow down the definition of Unauthorized Uses so that the Developer has more clarity about what is and is not permissible?
	<b>Response:</b>	<b>No.</b>
6.	Question:	<b>Section 2.05.2:</b> Is the City willing to enter into a Reciprocal Easement Agreement or "REA" in order to address the need for construction easements and long term access, ingress and egress easements as part of the Lease transaction?
	<b>Response:</b>	<b>The City will not impair or restrict Lessee's reasonable access to the Development Parcels. The City is open to adding language to the Lease Agreement to clarify this point.</b>
7.	Question:	<b>Section 3.01:</b> Given that the Lease term is 50 years (unless the City exercises its discretionary 10 year extension option under Section 3.05), is the City willing to allow for a due diligence, pre-development and governmental approval/permitting (including FAA approvals, among others) period which takes place <b>before</b> the clock on the Lease term commences?
	<b>Response:</b>	The City will consider.
8.	Question:	<b>Section 3.04 and 4.02:</b> (a) Is the City willing to allow for "market condition" based extensions of the mandatory (development) milestones in the Lease? (b) In the alternative, is the City willing to consider compensating the Developer for improvements made before the forfeiture provisions take effect in the event of a default by the Developer (e.g., when those improvements are used by the City or a successor developer/lessee)? (c) Is the City willing to allow for extensions of the milestones in case of City delay (to be defined) and a Force Majeure Event?
	<b>Response:</b>	(a) <b>No.</b> (b) <b>To the extent the City is willing to address these concerns; the circumstances are already adequately addressed in the Lease Agreement.</b> (c) <b>Yes, such consideration will be made on a case-by-case basis.</b>
9.	Question:	<b>Section 3.05:</b> Is the City willing to grant Lessee/Developer an option to extend the term of the Lease?
	<b>Response:</b>	<b>No.</b>
10.	Question:	<b>Section 5.01:</b> Is the City willing to adjust the percentage rent calculation,

		which is based on a true gross revenue test, so as to carve-out pass throughs, insurance proceeds, tax refunds, tax structuring issues (for example, if we have a REIT investor with a lease structure) and other customarily excluded items?
	<b>Response:</b>	<b>No. "Gross Revenue" is defined in Section 5.01.2.</b>
11.	Question:	<b>Section 5.02:</b> Is the City willing to modify the FMV appraisal process regarding changes in the Land Rent so as to include multiple appraisers and some form of "baseball arbitration" to resolve disputes?
	<b>Response:</b>	Possibly. Ultimately the City has to agree and the appraisal must be approved by the FAA.
12.	Question:	<b>Section 5.03:</b> (a) Is the City willing to add provisions to the Lease addressing the resolution of disputes concerning audits of the Lessee's books and records (e.g., in the manner in which a landlord and tenant customarily resolve common area maintenance audit disputes)? (b) Is the City willing to limit its audit rights to three prior years?
	<b>Response:</b>	<b>(a) The Lease Agreement includes a Dispute Resolution provision that may be called upon by the parties to address disputes. (b) No.</b>
13.	Question:	<b>Section 7.03:</b> Is the City willing to narrow down the provisions relating to Abandonment given that in the case of an Abandonment, the Improvements revert to City without remuneration to Lessee?
	<b>Response:</b>	<b>No.</b>
14.	Question:	<b>Section 7.06.2:</b> Is the City willing to modify the broad waiver and release of damages caused by the "City or others" failing to provide utilities to the project? For example, would a waiver for all except gross negligence or bad acts be acceptable?
	<b>Response:</b>	<b>No.</b>
15.	Question:	<b>Section 10.01:</b> Is the City willing to condition the obligation to rebuild following a casualty upon the availability of insurance proceeds and an extension of the term of the Lease in the event a casualty event occurs within a certain agreed upon years prior to the end of then-current term of the Lease?
	<b>Response:</b>	<b>No.</b>
16.	Question:	<b>Sections 13.01 and 14.04:</b> (a) Is the City willing to accept limits to its

		ability to declare a non-monetary default such that the Lessee/Developer has sufficient cure rights/periods? In addition, is the City willing to limit its ability to terminate the Lease by reason of a default to only a select number of monetary defaults? (b) Is the City willing to provide notice and an opportunity to cure to the Lessee/Developer's lender?
	<b>Response:</b>	<b>(a) The Lease Agreement contains sufficient cure rights for Lessee. The Termination provisions of the Lease Agreement will not be amended or changed.</b> (b) No.
17.	Question:	<b>Section 14.01:</b> Is the City willing to "cap" the amount which the Lessee would have to expend to restore the premises to its original condition (which condition is based on the condition at the time of Lease commencement) upon termination?
	<b>Response:</b>	<b>No.</b>
18.	Question:	<b>Sections 14.03, 14.04 and 14.07:</b> (a) Is the City willing to include a compensation event payment to the Lessee in the event the City exercises its right of repossession (at any time) in order to further develop the Airport? (b) Similarly, is the City willing to include a similar compensation event if the City has to cancel the Lease if the FAA withdraws its approval of the Lease in the future or if the Lease is otherwise terminated due to other agreed upon public safety, health or welfare issues not the fault of the Lessee?
	<b>Response:</b>	<b>These circumstances are addressed in the Lease Agreement.</b>
19.	Question:	<b>Sections 15.02 and 21:</b> Is the City willing to allow a clarification wherein the Lessee reserves the right to make claims for damages to persons and property resulting from damages caused by third parties such as jet wash, crashes, falling debris, etc.?
	<b>Response:</b>	<b>Yes, the City is willing to consider appropriate language when finalizing the agreement. .</b>
20.	Question:	<b>Sections 15.05.3:</b> Is the City willing to make these prevailing party fee provisions mutual?
	<b>Response:</b>	<b>The provision, as written, is standard contract language for City contracts. Please note that the paragraph numbers are incorrect and will be corrected when the contract is finalized and circulated for execution.</b>
21.	Question:	<b>Section 18:</b> (a) Is the City willing to include revisions to the current limitations on Assignment, Transfer and Subletting provisions in order to

		permit the development and financing of the project? (b) In addition, is the City willing to enter into three separate Leases (one for each of the three non-contiguous Development Tracts)? See our introductory comments regarding these matters.
	<b>Response:</b>	<p><b>(a) Yes. The City is open to adding language to the Lease Agreement to clarify this point.</b></p> <p><b>(b) Yes. The City is open to adding language to the Lease Agreement to clarify this point.</b></p>
22.	Question:	<b>Section 23.03:</b> Is the City willing to provide the Lessee with some period of time in which it can complete and stabilize the project before the City can compete with the Lessee, particularly if the Lessee is not in default?
	<b>Response:</b>	<b>No.</b>
23.	Question:	<b>Section 34.04:</b> Consistent with our introductory comments, is the City willing to allow the recording of a memorandum or short form of Lease (e.g., for financing and title insurance purposes)?
	<b>Response:</b>	<b>The City will consider allowing a recording relative to the Improvements owned and/or operated by Lessee.</b>
24.	Question:	<b>Section 34.13:</b> Is the City willing to broaden the definition of a Force Majeure Event to include other specific matters beyond Lessee/Developer's control?
	<b>Response:</b>	<b>No.</b>
25.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Definitions:</b> Will the City agree to limit the requirement to comply with City Rules which are in effect at the time the plans are approved? The definition of Applicable Laws, which include City Rules (also as defined in Exhibit C), includes all that come into effect during the Lease term. The defined term City Rules also includes future modifications and compliance with same is required at all times per Section 2.1(xix) of the Lease.
	<b>Response:</b>	<b>No. The Lessee will be required to comply with all Applicable Laws throughout the Term of the Lease Agreement, including those that may be amended or created after the Effective Date.</b>
26.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Definitions:</b> Does the definition of Design Engineer intend to preclude the Developer from independently engaging engineering professionals to be coordinated with the lead architect or must they be hired under the lead architect?

	<b>Response:</b>	<b>No. The City is not precluding the Developer from independently engaging engineering professionals.</b>
27.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Definitions:</b> The last subpart of the definition of Force Majeure, sub part (b) (2), might be read to preclude a weather delay claim that does not directly and immediately impact the work; this concept appears inconsistent with subpart (b) (1) which allows for same where there is a demonstration of impact to the work. Please clarify the intent of the two qualifications.
	<b>Response:</b>	<b>Allowance of impact based on weather is provided in the Lease Agreement.</b>
28.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Definitions:</b>  (a) Will the City modify the definition for a Lessee Default to clarify that it is subject to cure and certain other remedies of the City, such as liquidated damages? For example, subpart (i) triggers a default where a milestone will not be achieved in the City's determination but the terms also provide for specific milestone and liquidated damage events. (b) Will the City provide a clarification to the definition for Lessee Default under subpart (iii) which triggers default if any employee or subcontractor is not promptly paid in full, since this language is misleading given that parties are not paid "in full" until the work is complete? In addition, there may be valid and permissible reasons for withholding payment. This provision should be revised to state "as and when due per their respective agreements."
	<b>Response:</b>	<b>(a) Yes, to the extent Lessee has opportunity to cure a default or if such default triggers a liquidated damage claim, then the Lease Agreement may be edited to include additional language clarifying this point.</b> <b>(b) Yes, the Lease Agreement may be edited to include language clarifying Lessee's obligation to fully satisfy its employees and subcontractors.</b>
29.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Definitions:</b> Will the City agree to modify the definition of Substantial Completion to omit the turnover of all operations and maintenance manuals which are typically a condition for payment (final payment) rather than a condition for completion of the work?
	<b>Response:</b>	<b>Yes.</b>
30.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.1 -</b>

		<b>Commencement of Work:</b> (a) Will the City establish an outside date for issuance of the Notice to Proceed provided that all other conditions by the Developer have been satisfied? The Lease term clock commences on the Effective Date which under the current structure will occur before issuance of the NTP. (b) As a related matter, perhaps the Lease term clock should commence upon the issuance of the NTP or at some other mutually agreeable milestone date?
	<b>Response:</b>	<b>No. Lessee’s obligations under the Lease Agreement are and will remain based on the Effective Date and the Commencement Date (as those terms are defined in the Lease Agreement).</b>
31.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.1(iii) – Warranties:</b> Will the City agree that warranty obligations under the Lease which go beyond typical design and construction warranties will not be imposed independently on construction manager, architect, etc.?
	<b>Response:</b>	<b>The Lease Agreement may be edited to include language to clarify that such additional warranty obligations are the sole obligation of Lessee.</b>
32.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.1(v) – Technical Accuracy:</b> Will the City provide carve-outs to allow Developer to rely on information provided by the City and the City related parties or must Developer verify the accuracy of all site related information and assume all related risk for same in its pricing? Same question applies with respect to Section 10.4 as noted below.
	<b>Response:</b>	<b>Developer/Lessee must independently verify all information related to the Development Tracts and must assume all related risk regarding same and shall not rely on any information provided by the City.</b>
33.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.1(vii) – Utilities:</b> Will the Developer have full authority and responsibility to negotiate all utility agreements or are there elements for which the City or the City agencies will retain responsibility or approval rights?
	<b>Response:</b>	<b>Yes, regarding the provision of utilities to the Development Parcel except for electricity, which will be provided by Georgia Power. However, the City retains the right to approve any design and development attributes related to the provision of utilities to the subject property.</b>
34.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.2(xv) – Staffing:</b> Please confirm that the rights to replace personnel are intended to be limited to on-site supervisors, subject to prior written notice and basis demonstrated for same, and only where such personnel

		may be replaced with persons readily available and qualified as determined by the Developer.
	<b>Response:</b>	<b>Yes.</b>
35.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 2.2(xvii) – Accident Reporting:</b> Please confirm only such reports as are required to be reported to the insurer shall be reported.
	<b>Response:</b>	<b>Yes.</b>
36.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 3.2(i) – Program Changes:</b> (a) Please confirm that the City approval for program changes is limited to those elements of the program which are material in nature and do not impact scope or overall quality. We understand that changes which are immaterial in terms of exact square footage, number of estimated hotel rooms (other than designated mandatory minimums) are permissible without prior approval. (b) In addition to our Question #74 regarding the ability to move design/development elements around (other than the Hotel and Travel Plaza), can we substitute other development uses for a portion of the 30,000 sf office requirement, in addition to the present ability to add other uses to that requirement as part of a phased development? (c) If the Response to the above is yes, and we include any other uses (e.g., non-Hotel uses) into the Phase I Parcel designated for the Hotel within the two year period, is the City willing to give the Developer a "credit" for any such development in excess of program requirements for the future phases (e.g., credit toward the related development milestones and/or relief from the "Use It or Lose It" provisions?
	<b>Response:</b>	<p>(a) <b>The City retains the right to approve any changes to the Program Requirements.</b></p> <p>(b) <b>Developer/Lessee is required to provide the minimum development, including 30,000 sq. ft. office space. These requirements cannot be substituted but may be complemented with other proposed improvements.</b></p> <p>(c) <b>The final terms of the Lease Agreement will be negotiated following review of the proposals and prior to award of the contract.</b></p>
37.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 3.2(iii) – Design Approvals:</b> Please confirm that the City will bear the risk of time for the time periods required for City approvals once established by the schedule.
	<b>Response:</b>	<b>The City will only bear the risk for time delays that City is solely</b>

		<b>responsible for.</b>
38.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 3.2(iv) – Design Changes:</b> Please confirm that immaterial changes to designs are permissible without prior City approval.
	<b>Response:</b>	<b>The City retains the right to approve any changes to the Program Requirements.</b>
39.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 3.3 – Submittal Review and Approval:</b> Consistent with similar inquiries above regarding timing for City review and approvals, please confirm that the City will bear risk or time and expense for delays in review and approval of time periods to be established, alternatively, will the City agree to a maximum time period where no so established by other schedule, after which time it will, submittals are deemed approved?
	<b>Response:</b>	<b>The City will only bear the risk for time delays that City is solely responsible for.</b>
40.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.3 – Continuous Performance of Work:</b> Will the City agree to a qualification/clarification that the obligation to continuously perform the work is subject to Force Majeure or other impacts preventing same, such as delay in the City review and approval process and delays caused by FAA or other regulatory changes?
	<b>Response:</b>	<b>The City will only bear the risk for time delays that City is solely responsible for.</b>
41.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.3(iii) – Bonding Over Liens:</b> Will the City agree to a qualification/clarification that the obligation to bond over liens is subject to those not arising out of a payment breach by the City?
	<b>Response:</b>	<b>The Payment and Performance Bonds are not intended to cover any act or breach by the City but that of the lessee.</b>
42.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.3(v) – Job Meetings Notices:</b> Please confirm that the City does not require specific advance notice of all routinely scheduled job meetings.
	<b>Response:</b>	<b>The City does not require specific advance notice of all routinely scheduled job meetings.</b>
43.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section</b>

		<b>4.3(vi) – Progress Reporting:</b> Please advise as to the frequency of progress reporting. Our presumption is that this should not be more frequently than monthly.
	<b>Response:</b>	<b>Monthly progress reporting is acceptable.</b>
44.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.3(viii) – Duty to Accelerate Work:</b> (a) Will the City omit language which requires the Developer to affirmatively accelerate and bear cost impacts where it otherwise has exposure for milestone liquidated damages? (b) Further, please confirm that such duty does not exist for Force Majeure or other excused delay which would otherwise cause schedule to be adjusted and the only obligation of the Developer is to reasonably undertake to mitigate any such delay.
	<b>Response:</b>	<b>(a) No. (b) Exhibit C to Lease - Design and Construction Requirements – Section 4.3(viii) does not require further clarification.</b>
45.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.6 – Bonds:</b> Please confirm that payment and performance bonds from the general contractor are not required until (and prior to commencement) of construction and not upon award of the Lease.
	<b>Response:</b>	<b>Payment and Performance Bonds from the General Contractor are required at the conclusion of the Design phase but before the Construction phase begins.</b>
46.	Question:	<b>Exhibit C to Lease - Design and Construction Requirements – Section 4.7 – Excused Delays:</b> (a) Will the City agree to revise the language "wholly or primarily" to instead read "to the extent" caused by Force Majeure? (b) Please confirm that the duty to mitigate will not include an affirmative duty to accelerate in all cases per comments to Section 4.3(viii) above. (c) Will the City omit language limiting claims for the City's delay to time only? (d) Will the City consider objective standards for justifiable delay rather than City's sole discretion? (e) Please confirm that timing for notice requirements are not strictly construed such that claims for extensions of time will be forfeited/waived.
	<b>Response:</b>	<b>(a) No. (b) Section 4.3(viii) does not require further clarification. (c) No. (d) The provision, as written, is standard contract language for City contracts. (e) Claims for extensions of time are considered on a case by case</b>

		<b>basis and are based on the merits of the claim.</b>
47.	Question:	<b>Calculation of Utilization Requirements:</b> Our team is very familiar with and therefore has no comments to the Construction Phase Utilization requirements concerning the use of DBE's (established at 29%); however, given the phased start-up and complexity of the Revenue Generating Phase for the project, we would like the opportunity to meet with representatives of the Office of Contract Compliance to make sure that we properly account for all of the included activities which will be measured for purposes of attaining the 36% target for Revenue Generating Phase Utilization of Airport Concessions DBE's or ACDBE's. If such a meeting is not possible, can the City confirm that taxes, surcharges, assessments, cost-sharing payments such as common area maintenance reimbursements and similar pass through charges associated with each of the excluded revenue categories (e.g., room charges for the Hotel, gas sales for the Travel Plaza and rents for the Mixed-Use Development) will be excluded from the utilization compliance calculations?
	<b>Response:</b>	<b>Yes. The City can confirm that the taxes, surcharges, assessments, cost-sharing payments such as common area maintenance reimbursements and similar pass through charges associated with each of the excluded revenue categories (e.g., room charges for the Hotel, gas sales for the Travel Plaza and rents for the Mixed-Use Development) will be excluded from the utilization compliance calculations.</b>
48.	Question:	<b>Change Orders:</b> With respect to the Airport RFP's requirement that the ACDBE participation goal relative to Revenue Generating Operations "be measured against total revenue generated in the above referenced areas and must include any additional revenue created by change orders and/or miscellaneous modifications that may occur throughout the life of the project," can the City provide an example of "change orders" in the context of this scope?
	<b>Response:</b>	<b>Change Orders: If the Airport changes the make-up of the components of the development and decides to add components that fall under the revenue generation opportunities, the additional revenue will be included.</b>
49.	Question:	<b>Compliance Monitoring:</b> With respect to the Atlanta RFP's "Monitoring of DBE Policy" statement, will the same requirements exist for monitoring of ACDBE participation as DBE participation?
	<b>Response:</b>	<b>Yes, with respect to the Atlanta RFP's "Monitoring of DBE Policy" statement, the same requirements will exist for the monitoring of the ACDBE participation toward the ACDBE participation goal.</b>

50.	Question:	<b>Certification Status:</b> Will the City accept for purposes of calculating ACDBE or DBE participation confirmation that a firm has applied for but has not yet received certification from the Georgia Department of Transportation at the time proposals are submitted?
	<b>Response:</b>	<b>Yes, the City will accept applied for certification status at the time of the proposal submission. However, the firm must be properly certified at the time the contract is executed.</b>
51.	Question:	<b>Mixed-Use Development Revenue:</b> If the proponent elects to include only non-concessions-oriented firms in its Mixed-Use Development concept (i.e., the only revenue generated is office rent), is the proponent exempt from complying with the ACDBE requirement for the concept, by virtue of the exclusion of office rent revenue from the ACDBE revenue calculation?
	<b>Response:</b>	<b>The proponent must submit a proposal including all required components to be considered in compliance with the proposal requirements.</b>
52.	Question:	<b>Hotel Concept:</b> (a) Does the exclusion of "room charge" revenue include only charges for guest rooms? (b) Does this exclusion also apply to charges for event or conference space?
	<b>Response:</b>	<b>(a) Yes. (b) No.</b>
53.	Question:	<b>Subcontractor Contact Form:</b> On the "Subcontractor Contact Form," should the proponents list DBE Subcontractors/Suppliers <i>and</i> ACDBE Subcontractors/Suppliers? Is this form only meant to address contacts relating to the Construction scope of the RFP?
	<b>Response:</b>	<b>The proponents should list DBE Subcontractors/Supplier and ACDBE Subcontractors/Suppliers on separate forms. This form is for both the Construction and the Revenue Generating Components of the RFP.</b>
54.	Question:	<b>Equal Business Opportunity Subcontractor Project Plan Subcontractor/Supplier Utilization" Form:</b> (a) On the "Equal Business Opportunity Subcontractor Project Plan Subcontractor/Supplier Utilization" form, what does "Majority" mean? (b) Moreover, should the proponents list ACDBE Subcontractors/Suppliers <i>and</i> DBE Subcontractors/Suppliers (i.e., should they list the proponents for both scopes on this form)? (c) Should the "Dollar (\$) Value of Work and Scope and Work" include only that scope relevant to the calculation of the participation goal? (d) Similarly, should the Percentage (%) of Total Bid

		Amount include only that portion of the bid amount relevant to the calculation of the participation goal?
	<b>Response:</b>	<p><b>a). Majority means: Companies with 51% ownership which is Non-Minority.</b></p> <p><b>b). Both the ACDBE Subcontractors/Suppliers and the DBE Subcontractors should be listed on separate forms</b></p> <p><b>c). Yes. The “Dollar (\$) Value” of the Work and Scope and Work should only include the work relevant to the calculation. The calculation should be clear and concise.</b></p> <p><b>d). Yes. The Percentage (%) of Total Bid Amount should include only that portion of the bid amount relevant to the calculation of the participation goal.</b></p>
55.	Question:	<b>Appendix A/Attachment 1:</b> In Attachment 1, do these same minimum requirements apply to a firm qualifying as an ACDBE for the Revenue Generating Operations scope?
	<b>Response:</b>	<b>No. The minimum requirements in Attachment 1 are the requirements for the prime proponents.</b>
56.	Question:	<b>Subcontractors Under Revenue Generating Operations Scope:</b> What types of subcontractors are counted toward the ACDBE participation goal in the Revenue Generating Operations Scope – only those subcontractors that generate revenue? Do subcontractors who are paid (e.g., landscaping, maintenance), but which do not themselves generate revenue, count?
	<b>Response:</b>	<p><b>Yes, only those subcontractors that generate revenue count toward the Revenue Generating Operation goals.</b></p> <p><b>No, the subcontractors who are paid to provide services do not count toward the Revenue Generating Operation Scope. The subcontractor must have a material involvement in the revenue generating activities.</b></p>
57.	Question:	<b>Protégé Program:</b> Is the protégé program also available for ACDBE firms relevant to the Revenue Generating Operations scope?
	<b>Response:</b>	<b>Yes, the protégé program is available for ACDBE firms. However, the protégé program is strongly encouraged but not required.</b>
58.	Question:	<b>Letters of Intent:</b> (a) In the tables in the document labeled Letters of Intent, what is meant by the column for "Quantity?" (b) Moreover, should the "Total" column only reflect that portion of the Total contract price relevant to the calculation of the DBE/ACDBE participation goals? (c) Similarly, should the "total contract" amount in the "Percent of total

		contract" portion only include the "contract total" for the price relevant to the calculation of the DBE/ACDBE participation goals?
	<b>Response:</b>	<p><b>(a) Quantity for the DBE is the number of services which will be provided by the firm. The quantity for the ACDBE would be n/a or one for the total services per item.</b></p> <p><b>(b)"Total" column is the total value of the items provided per items listed.</b></p> <p><b>(c) Yes. The "total contract" amount in the "Percent of total contract" is the total value of the work being performed.</b></p>
59.	Question:	Would you please provide the height limit relative to the FAA restrictions for each of the sites mentioned in the Atlanta RFP?
	<b>Response:</b>	<b>A preliminary response from the FAA is that 1,090 MSL is an acceptable height; however, the City is continuing discussion with the FAA to achieve approval of a taller height.</b>
60.	Question:	Would you please provide the FAR for each of the sites mentioned in the Atlanta RFP?
	<b>Response:</b>	<b>Federal Aviation Regulations (FAR) are not site specific.</b>
61.	Question:	Would you please provide maximum coverage for each of the sites mentioned in the Atlanta RFP?
	<b>Response:</b>	<b>This question is unclear and City is unable to provide any response.</b>
62.	Question:	Would you please provide minimum landscape requirements for each of the sites mentioned on the Atlanta RFP?
	<b>Response:</b>	<b>Landscape design and maintenance should be comparable to the level found at 4-diamond hotels and Class A office buildings.</b>
63.	Question:	Would you please provide an electronic survey drawing with property lines, setbacks, spot elevations for each of the sites mentioned in the Atlanta RFP?
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>).</b>
64.	Question:	In order to be able to propose a more accurate and feasible connection between the Airport and the Hotel to be located on the West Auto Parking lot, would you please provide electronic drawings of the existing west end

		of the Airport Terminal, MARTA Station and SKY TRAIN? <i>Additionally it would be helpful if the Terminal and Sky Train column grid would be included with the CAD file.</i>
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>) for the CAD file containing the survey for the existing West GTC and West Economy Parking. Additionally, the CAD files that were provided for the Plane Train Turnback protection area include both the column locations for MARTA and the SkyTrain (each in its own file).</b>
65.	Question:	Would you please provide information regarding the renovation design of the Air Terminal that could possibly impact the design as requested in the Atlanta RFP?
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>) for the Terminal Modernization renderings from the planning document.</b>
66.	Question:	Will the service vehicular traffic (taxis, remote parking lot shuttles, limos, buses) be relocated away from the actual position on the west side of the Air Terminal? If so, where will the new location be?
	<b>Response:</b>	<b>Commercial vehicle staging will be relocated; however, passenger pickup will remain on the west curb. See Attachments provided in Response to Question #2.</b>
67.	Question:	What will be the final height of the new north and south parking decks linked to the Air Terminal?
	<b>Response:</b>	<b>Making the assumption that the new parking decks will be 8 levels it will be 1,090 MSL. Note: These decks are not presently in design.</b>
68.	Question:	Would you please provide information regarding how and where the parking decks will be connected to the Air Terminal?
	<b>Response:</b>	<b>This has not been finalized at this time.</b>
69.	Question:	Would you please provide an updated drawing showing the new roadways around the project sites mentioned in the Atlanta RFP?
	<b>Response:</b>	<b>See Attachments provided in Response to Question #2.</b>
70.	Question:	Would you please provide information regarding the constraints imposed by the 100' by 100' construction access located at the west of the 40' wide by 50' deep tunnel clear zone, i.e. is that a No Touch Zone?

	<b>Response:</b>	<b>This area may be utilized for short term needs but no permanent structures may be located in this area. Parking is permissible until needed.</b>
71.	Question:	Exhibit 1 shows the future APM tunnel location; however it is not clear where the distances of 318' and 276' are taken from. Is it the property line, the curb or something else? Please clarify.
	<b>Response:</b>	<b>The distances of 318' and 276' are measured from the edge of the Plane Train Turnback protection area to the property line.</b>
72.	Question:	Can we assume that a Future APM Station is being planned which would provide access to MARTA, Sky Train and the planned Hotel and is there a rough location for that station for planning purposes?
	<b>Response:</b>	<b>There will be no future APM (Plane Train) station. The tunnel extension is for a turnback only.</b>
73.	Question:	What level of Leed Certification is required for the Project?
	<b>Response:</b>	<b>Silver LEED required</b>
74.	Question:	With the exceptions of the Hotel and Travel Plaza designated locations, can other functions in the program be changed and redistributed among the various sites?
	<b>Response:</b>	<b>Yes.</b>
75.	Question:	<b>Part 2 of RFP, 2.4.4:</b> Certain parcels may be omitted and this possibility may impact design elements, pricing, etc., to be considered. Will any such changes which materially impact costs, operational revenue, and/or schedule be the basis for adjustments to contract sum and schedule?
	<b>Response:</b>	<b>The City retains the right to approve any changes to the Program Requirements. The final terms of the Leased Agreement will be negotiated following review of the proposals and prior to award of the contract.</b>
76.	Question:	<b>Intellectual Property/Design Rights:</b> Proposers agree that the designs, etc. become City property, even if the project is terminated or the Proposer is not ultimately selected. Pursuit costs for this project are expected to be fairly expensive. Is the City willing to entertain a provision which requires them to purchase the design plans of the Proposers in the event the project is terminated after the proposal responses are submitted or in the event a Proposer is not successful?

	<b>Response:</b>	<b>No.</b>
77.	Question:	<b>Airport Security Matters - Homeland Security/TSA Compliance:</b> Clearly, Airport security requirements will need to be factored into the design, construction and operational elements of the project. Query as to whether the City will share the risk of changes in law/security protocols which limit the use and development rights of the winning proposer? For example, paying unwind costs and/or extending the term of the Lease to provide a means for recovery of diminished revenue?
	<b>Response:</b>	<b>No. The Lessee will be required to comply with all applicable laws and security requirements throughout the Term of the Lease Agreement, including those that may be amended or created after the Effective Date.</b>
78.	Question:	<b>Airport Security Matters:</b> Will access to the proposed project site, or any portion of it, require the Developer to enter any "restricted areas" (as defined in Section 22-181(b) of Chapter 22, Code of Ordinances of City of Atlanta) of the Airport?
	<b>Response:</b>	<b>No.</b>
79.	Question:	Date to Submit Questions: Can the last date for questions be extended until August 28 <sup>th</sup> ? (commentary: It is difficult for us to understand the site, the constraints and legal issues surrounding the lease prior to that time.)
	<b>Response:</b>	<b>No.</b>
80.	Question:	Ground Lease Agreement: Can the Ground Lease Agreement be executed and then the lessee subsequently assign the three different components to three different parties (all parties pre-approved by the City) without cross default provisions between the three components and assignees? (commentary: the project financiers for one component will not accept poor performance of another component impacting their investment.)
	<b>Response:</b>	<b>Yes.</b>
81.	Question:	Ground Lease Agreement: Can the Ground Lease Agreement be extended to 70 years with a one 10 year option for the Lessee? Can the term of the Ground Lease be calculated from the Commencement Date as opposed to the Effective Date? (commentary: The financiers require additional term.)
	<b>Response:</b>	<b>No. The term will remain 50 years.</b>

		<b>No. The term will start on the Effective Date.</b>
82.	Question:	Ground Lease Agreement: Can the FMV rent valuation occurring every 5 years be capped at 2% or simply have the annual escalations at the greater of 2% and CPI with no FMV concept? (commentary: The risk of a unusually high valuation of the land rent is not acceptable to the long term financier of the project.)
	<b>Response:</b>	<b>The appraisal FMV rent valuation will not be capped.</b>
83.	Question:	Ground Lease Agreement: Does land that is considered Residual Land attract rent prior to commencement of development? Can the payment of rent be delayed until Certificate of Beneficial Occupancy for each segment? (Commentary – rent on land that is not income producing will capitalized into the cost of the building.)
	<b>Response:</b>	<b>Yes. Rent will begin on the Commencement Date as outlined in Section 5 of the Lease Agreement.</b>
84.	Question:	Drawings: We need to obtain the underlying CAD drawings for the site – including civil and surveys. How do we obtain those? Also, we would like the CAD files for the West Terminal Building, Marta station, Skytrain Terminal and Plane Train Tunnel Easement.
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>).</b>
85.	Question:	Geotechnical Information: Is there any geotechnical information available for the site? How do we obtain that information? When does the City anticipate that the winning Proponent will conduct their geotechnical due diligence?
	<b>Response:</b>	<b>The RFP includes high level information. Upon selection, the winning proponent will be given the opportunity to perform further due diligence investigations.</b>
86.	Question:	Environmental Information: Are there any environmental surveys or phase 1/phase 2 studies of the sites? If so, how do we obtain them? When does the City anticipate that the winning Proponent will conduct their environmental due diligence?
	<b>Response:</b>	<b>See the Response to question 85.</b>
87.	Question:	Height Limitation: What are the height limitations for the hotel, travel plaza and mixed use sites? Can you give us a “best guess” height limitation

		to work on as of now?
	<b>Response:</b>	<b>The Travel Plaza height limitation is 50'+ AGL and the business park should be assumed as 1,090 MSL. For the Hotel see question 59.</b>
88.	Question:	Location: Can the first phase of the mixed use development be located on either the travel plaza site or the hotel site?
	<b>Response:</b>	<b>Yes.</b>
89.	Question:	Form DBE – 2 and DBE – 3: Our team is committed to and will meet the DBE goals as stated in the documents. However, in the case of construction, the specific subcontractors and suppliers will be determined in the preconstruction period once the scope is fully understood. At this early point in the process it is difficult to quantify how exactly how the goal will be met since bidding and the allocation of the work has not begun. Please advise how to fill out these forms at this early stage in the construction procurement.
	<b>Response:</b>	<b>Each proponent is required to submit a DBE form 3 with its Appendix A submissions, which will identify companies to be utilized to complete the job. Proponents should be able to estimate the percentage of the value of the work to be done to fulfill this requirement.</b>
90.	Question:	ACDBE contract participation goal: Can the 36% goal for the hotel and mixed used development be also exclusive of parking revenue? (commentary: Parking charges are similar in concept to room revenue or office rent – a charge for a fixed asset.)
	<b>Response:</b>	<b>No. Parking revenue is not excluded.</b>
91.	Question:	ACDBE contract participation goal: To meet the 36% goal, can the ACDBE participation amounts be generated from a contract relating to any area of the hotel, mixed use or travel plaza operations? For instance, would a contract relating to engineering services count toward the ACDBE goal of the hotel Operation?
	<b>Response:</b>	<b>No, there is a DBE goal that is applied during the construction phase and an ACDBE goal that will be applied when the project transitions from construction phase to the operations phase. The City will only be measuring participation relative to revenue generating activities during the operations phase. The City recognizes that there may be some scopes of work that lend themselves to participation credit during the</b>

		<b>operations phase, however the largest opportunity during this phase lies in the revenue generation. A firm that performs non-revenue generating activities can certainly still work on the project, but participation will not count towards the phase 2 goal.</b>
92.	Question:	Form ACDBE – 3: Our team is committed to and will meet the ACDBE goals as stated in the documents. However, we are a couple years away from acquiring the services in question; therefore, no selection or solicitation of subcontractors for this work will be complete at the time of our submission. Please advise how to fill out these forms at this early stage in the construction procurement.
	<b>Response:</b>	<b>The proponents should propose firms they have entered into an agreement with or have committed to work with in the future revenue generating opportunities.</b>
93.	Question:	ID Signage: Please clarify how the Hotel and Travel Plaza will be integrated into the automobile wayfinding signage throughout the airport. (Commentary: The hotel and travel plaza success is reliant on appropriate and sufficient signage.)
	<b>Response:</b>	<b>Road way signs for the developments are anticipated. Signs will be submitted for DOA review to ensure signs are designed to match or complement current road signs and locations are strategically located to benefit the developments and minimize distractions for Airport users.</b>
94.	Question:	Milestone Dates: The milestone dates in the RFP are very aggressive. What flexibility is there in the delivery dates of each development and the subsequent Residual Land? (Commentary: As an example, the hotel will take at approximately 2.5 to 3.0 years for delivery in a <u>best</u> case scenario.)
	<b>Response:</b>	<b>The City will consider a delivery date greater than 2 years.</b>
95.	Question:	Real Estate Tax: Will these developments be exempt from real estate tax?
	<b>Response:</b>	<b>No.</b>
96.	Question:	Future Tunnel Easement: Are the easement requirements for the tunnel simply that the lessee place deep pile foundations as shown in the drawing? May buildings/structures extend over the tunnel? If we prefer to use spread footing for some of our lighter structures, how far away do they need to be from the easement?

	<b>Response:</b>	<b>First question: Yes. Second question: There should be no influence placed on the Tunnel easement.</b>
97.	Question:	DOA Design Guidelines, Tenant Submittal Guidelines, City Rules (referenced section 33.1) and the Sustainability Initiative: How do we obtain a copy of these documents?
	<b>Response:</b>	<b>Please refer to the City of Atlanta website (<a href="http://www.atlantaga.gov">www.atlantaga.gov</a>).</b>
98.	Question:	Zoning: What is the property zoned? Are the uses outlined in the RFP approved uses from a zoning perspective?
	<b>Response:</b>	<b>The Development Tracts are zoned for Heavy Industrial. The uses outlined in the RFP are acceptable.</b>
99.	Question:	Infrastructure Investment: For infrastructure investment (such as the sewer line to College Park or the like) will a credit be received on the Ground Rent?
	<b>Response:</b>	<b>No.</b>
100.	Question:	City Design Review: How long should we schedule for the “Design Review” by the City for the Schematic Design, Design Development and Construction Drawings?
	<b>Response:</b>	<b>Two weeks per review.</b>
101.	Question:	Will you explain how this 26.5 acres project is related to the ARC's Aerotropolis effort? Does it equate to the City of Atlanta's participation in Aerotropolis?
	<b>Response:</b>	<b>This new development will help Hartsfield-Jackson Atlanta International Airport effectively compete with other major international gateway airports. The luxury Hotel will provide a level of service befitting our Airport's world-class standing. The variety of development options and long-term commitment will create a nucleus for new growth in the south Atlanta area including the Aerotropolis.</b>
102.	Question:	I would like to propose that the Authority reconsider the proposed site for the Travel Plaza and instead evaluate my attached proposal that would take approx. 2.2 acres of land and be highly functional with access possible from both roadways and highly visible for all departing and returning travelers. The site would also be outside of the RPZ for structural development.
	<b>Response:</b>	<b>The suggested new site is inside the RPZ and would not be suitable for this development. The ingress and egress are flexible and should be</b>

		<b>strategically placed to receive Travel Plaza traffic at more than one location. Roadway signage is anticipated for the Travel Plaza to enhance passengers' awareness and help with way finding.</b>
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