



CITY OF ATLANTA

Kasim Reed
Mayor

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

August 14, 2015

INTERESTED PROPONENT:

Re: FC-8284, Green Acres ATL Energy Park

Attached is one (1) copy of **Addendum No. 1**, 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.

Sincerely,

Adam L. Smith

ALS:mas



Addendum No. 1

Re: FC-8284, Green Acres ATL Energy Park

August 14, 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 extension;**
- **Modifications to RFP document; and**
- **Responses to questions.**

Proposals are due **Wednesday, September 9, 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

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

Addendum No. 1

Re: FC-8284, Green Acres ATL Energy Park

August 14, 2015

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Acknowledgement of Addendum No. 1

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

**MODIFICATIONS ARE INDICATED IN BOLD ITALIC FACE TYPE
PROJECT NUMBER FC-8284 GREEN ACRES ATL ENERGY PARK**

ADDENDUM No. 1

1. **Revision to:** Part 1: Information and Instructions to Respondents; 6. Proposal Deadline:
Change: "Wednesday, August 19, 2015"
To Read: "**Wednesday, September 9, 2015**".
2. **Revision to:** Part 2 General Contents of Proposals; (i) Financing Plan, Subsection 1.1.i.1.3:
Change: "\$6,800.00 per acre"
To Read: "**\$0.16 cents per square foot of leased property**".
3. **Revision to:** **Part 5: Ground Lease Agreement**
 - a. **Change** Subsection 13.02 City's Remedies to read as follows:
13.02 City's Remedies. Upon default by Lessee of this Lease Agreement, City may, at its option, notify Lessee in writing of the nature of the failure and of the City's intention to terminate this Lease Agreement for default. If Lessee does not cure such default failure within seven (7) calendar days from the receipt of notification, or sooner if safety to persons is involved, or fails to provide satisfactory evidence that such default will be corrected within a reasonable time, the City, by written notice to Lessee and without notice to Lessee's sureties, if any, shall terminate in whole or in part Lessee's right to proceed with the Permitted Uses, Work, any Improvements, the Operation and Maintenance and/or any Services and City may prosecute the Work to completion in a timely manner by another service provider or by any other reasonable method **which the City deems** expedient. **Additionally, if such default occurs during construction of the Premises or Improvement, City may require payment of the sum of \$10,000,000 by Lessee and/or its surety to restore the Premises to its original condition at the time of the Effective Date, time being of the essence,** City may take possession of and utilize any data, designs, licenses, equipment, materials, plant, tool, and property of any kind furnished by Lessee as necessary to complete, operate and maintain the ATL Energy Park. City may, also, elect to pursue any other remedy that the City may have under law or equity.
 - b. **Delete** Exhibit D Insurance and Bonding Requirements in its entirety,
Replace with Exhibit D Insurance and Bonding Requirements attached hereto.
 - c. In Exhibit E Background and Program Requirements, 1. Summary, 2nd paragraph:
Change the first sentence to read: "Lessee must initially size the facility to be capable of accepting, repurposing/reprocessing/recycling ATL generated Municipal Solid Waste, **including but not limited to waste streams generated by tenants, Airline operators,**

concessionaires, employees, and the traveling public, from the North, South and International Terminals as well as Concourses T, A, B, C, D, E, and F, initially excluding International waste streams, and COA Department of Public Works (DPW) chipped yard trimmings (the “Baseline Feedstock”) as described herein.”

4. The following questions and/or clarifications were requested by various Respondents:

1.	Question:	We wish to request a 6-8 month extension on the due date of this RFP. The current timeline is too short to adequately find and secure partners for this project, create design materials and to create a useful proforma.
	Answer:	<i>The Proposal due date has been changed to September 9, 2015 in accordance with this Addendum No. 1.</i>
2.	Question:	The RFP does not provide sufficient information to allow the bidders to determine what the value to the bidder would be if awarded this project. Can you elaborate on the ways that the Lessee will be compensated for this project?
	Answer:	<i>The Lessee will not be compensated pursuant to the Ground Lease. Lessee is responsible for generating its own revenue streams through tipping fees and the sale of recycled/repurposed/reprocessed material, as indicated within the terms of the Ground Lease.</i>
3.	Question:	Does this contract include hauling from the airport to the facility or will this be a separate project.
	Answer:	<i>As indicated within Exhibit E, Section 2.2.1 of the Ground Lease, delivery of the Baseline Feedstock from the airport to the facility will be accomplished through a separate agreement.</i>
4.	Question:	The Airport does not have a robust internal recycling infrastructure to collect materials for Green Acres e.g. recycling bins in common areas, grey water reclamation tanks, etc. Is the Airport willing to add this infrastructure prior to the 2017 deadline?
	Answer:	<i>Although the City cannot commit to the addition of certain recycling infrastructure at the Airport, the Airport implemented its recycling program in December 2014 and anticipates implementing a zero waste policy, plan and sustainable food court initiative (SFCl) by the end of 2015.</i>
5.	Question:	Part 2: General Contents of Proposals, Volume 1 (c) 1, states that the “Complete legal name of the Respondent and the name of the legal entities that comprise the Respondent. The Respondent must provide the domicile where each entity comprising it is organized, including entity name, brief history of the entity, contact name, address, phone number, and facsimile number, as well as the legal structure of the entity and a listing of major satellite offices.” It will take onerous amount of paperwork for a large corporation to comply with this section. Can you explain the information that the City is attempting to gather. There may be an easier way to provide the information without overwhelming everyone with paper.

	Answer:	<i>The Executive Summary is intended to provide “an overview of the Respondent’s qualifications” to design, construct, finance, operate and maintain the ATL Energy Park. As such, Respondent should provide a narrative of the requested information.</i>
6.	Question:	Part 2: General Contents of Proposals, Volume 1 (c) 2, states that the “The general and specific capabilities and experience of the Respondent’s Team. Each Respondent must identify examples where team members have worked together to complete a project and discuss how the team was formed and how the team will function as an integrated unit.” Similar to the question above, this can become an onerous exercise for large companies with complicated structures. Can you explain the information that the City is attempting to gather. There may be an easier way to provide the information without overwhelming everyone with paper.
	Answer:	<i>The Executive Summary is intended to provide “an overview of the Respondent’s qualifications” to design, construct, finance, operate and maintain the ATL Energy Park. As such, Respondent should provide a narrative of the requested information.</i>
7.	Question:	Does the ban on incineration include gasification? To be clear, what I mean by gasification is the technology that transforms MSW into energy without burning it. Instead, gasification converts the materials into a gas by creating a chemical reaction. This reaction combines those carbon-based materials (known as feedstock) with small amounts of air or oxygen, breaking them down into simple molecules, primarily a mixture of carbon monoxide and hydrogen, and removing pollutants and impurities. What’s left is a clean “synthesis gas” (syngas) that can be converted into electricity and valuable products. With gasification, MSW and other types of wastes are no longer useless, but feedstocks for a gasifier. Instead of paying to dispose of and manage the waste for years in a landfill, using it as a feedstock for gasification reduces disposal costs and landfill space, and converts those wastes to electricity and fuels. http://www.gasification.org/page_1.asp?a=82&b=79&c=85
	Answer:	<i>No, please see Exhibit E Background and Program Requirements, Subsection 3.3.1, 3.3.1.6 and the Conceptual Process Graphic contained in Attachment B to Exhibit E.</i>
8.	Question:	<ul style="list-style-type: none"> a. How much waste will this site receive annually? b. In our calculations, an annual calendar is 260 days. Please let us know if the Airport follows a different calendar.
	Answer:	<ul style="list-style-type: none"> <i>a. The City will not guarantee the amount of waste the site will receive annually. Please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, provided for informational purposes only, for more information.</i> <i>b. The Airport operates twenty four (24) hours a day, seven (7) days a week, three hundred sixty five (365) days per year.</i>
9.	Question:	What has been the typical growth in waste at the Airport over the last

		decade?
	Answer:	<i>Please see Exhibit E Background and Program Requirements, Attachment A Waste Characterization Study, Table 5.2 on page 52, provided for informational purposes only.</i>
10.	Question:	Please provide current disposal costs for each of the materials that the Airport requests to be reused, repurposed or recycled as part of this bid.
	Answer:	<i>With regard to the Baseline Feedstock, assume \$30 per load of delivered MSW from ATL and \$0.00 per ton for chipped yard trimmings from City of Atlanta Department of Public Works.</i>
11.	Question:	How should a successful proponent calculate their DBE/EBO percentages? Are they based on the entire project or each component e.g. construction and revenue
	Answer:	<i>Proponents calculate the goal base on each component, construction and revenue.</i>
12.	Question:	There are many minor changes we would want to request in the Lease, and would hope the City would be willing to negotiate its terms with the successful bidder.
	Answer:	<i>The City is transparent regarding the terms and conditions of the Ground Lease and will not materially change the Ground Lease.</i>
13.	Question:	How will the recyclables delivered from the airport be collected to ensure there is no cross contamination of organics in the recyclables?
	Answer:	<i>The City is currently in the process of establishing policies and procedures at the Airport, through its forthcoming zero waste policy, zero waste plan and sustainable food court initiative (SFCI), that address "mixing" with our tenants and concessionaires. However, the Airport cannot implement these policies and procedures on the traveling public and will not and cannot guarantee that cross contamination will not occur.</i>
14.	Question:	<ul style="list-style-type: none"> a. What is the composition of the single stream recyclables? b. What commodities are acceptable materials in the single stream?
	Answer:	<p><i>Regarding the Baseline Feedstock originating from the Airport,</i></p> <ul style="list-style-type: none"> <i>a. Please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, provided for informational purposes only.</i> <i>b. Please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, Section 3, provided for informational purposes only.</i>
15.	Question:	How many tons of single stream materials are collected now?
	Answer:	<i>Regarding the Baseline Feedstock originating from the Airport, please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, Section 3, provided for informational purposes only, for information regarding 2012.</i>
16.	Question:	<ul style="list-style-type: none"> a. How many tons of source separated materials are being collected now? b. OCC (cardboard) and paper, aluminum, plastic?

	Answer:	Regarding the Baseline Feedstock originating from the Airport, a. The tonnage is unknown, however the 2012 recycling rate was five (5) percent. b. Please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, Section 3 provided for informational purposes only.
17.	Question:	Will all source separated materials, including compactor loads of OCC be delivered to the ATL Energy Park?
	Answer:	Baseline Feedstock will be delivered to the ATL Energy Park in accordance with Exhibit E, Section 2.2.1 of the Ground Lease.
18.	Question:	Will recyclables collected by airlines be delivered to the ATL Energy Park?
	Answer:	Baseline Feedstock will be delivered to the ATL Energy Park in accordance with Exhibit E, Section 2.2.1 of the Ground Lease.
19.	Question:	What practices will the airport put in place to insure that organics are not mixed with recyclables?
	Answer:	See response to Question No. 13.
20.	Question:	How many total tons of waste does the airport generate annually?
	Answer:	For historical information, please refer to Exhibit E Background and Program Requirements, Attachment A Waste Characterization Study provided for informational purposes only.
21.	Question:	How many tons of recyclables does the airport currently generate annually?
	Answer:	Please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, provided for informational purposes only.
22.	Question:	How many tons of recyclables from the airport are rejected for contamination on an annual basis?
	Answer:	This information is not available.
23.	Question:	Will the hauling of waste and recyclables from the airport remain as a separate contract?
	Answer:	Yes.
24.	Question:	Is including a locally-based real estate developer a necessary requirement if all other proposal criteria are met?
	Answer:	A developer is not required.
25.	Question:	Is there a restriction on a Joint Venture party assigning its contractual rights and obligations to another entity?
	Answer:	Please refer to the Ground Lease, Section 19 Limitations on Assignment, Transfer, and Subletting. Additionally, in accordance with City Code Section 2-1189(d), from the date proposals are received by the Chief Procurement Officer through the date the contract is awarded, no offeror may make substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams of members of offerors' teams.
26.	Question:	To change JV partners, must we have prior approval? From whom?
	Answer:	Yes, proponents must have prior approval by the user agency, the

		Department of Procurement, City of Atlanta Department of Finance Risk Management and the Mayor’s Office of Contract Compliance, before making any changes to the Joint Venture team and/or subcontractors.
27.	Question:	RFP refers to a “Developer” as a need Respondent. In the event the respondents meet and satisfy the qualifications to design, build and operate the” Park”, is a developer needed given this is a unique project, unlike other real estate projects?
	Answer:	A developer is not required.
28.	Question:	Although the City of Atlanta is leasing the land to the selected Waste Management Developer, will the City request that the developer seek and achieve a LEED Certification for the project? If so, what level, Platinum, Gold, Silver?
	Answer:	While it is the City’s Policy to achieve a LEED certification for all new construction and renovations it is not a requirement for the ATL Energy Park. Please review the City of Atlanta’s Sustainable Building Ordinance number 03-O-1693, which can be found on the City’s WEB site.
29.	Question:	As RFP is written to date, it is hard to comment on the Lease given the uncertainty of the complete economics of the waste streams and other factors. Can you provide sound business guidance? Can you provide more information on the requirements of the RFP, specifically: <ul style="list-style-type: none"> a. Can we use sludge which was not mentioned in the RFP? b. Can the bidder require that waste streams be separated into single-stream recycling from the Airport? c. Can the Lessee transload at the facility? d. What is the current tipping fee paid by the Airport? e. Does the current tipping fee paid by the city include transport and tipping fee? If so, in what proportion? f. Please clarify the economics in the RFP regarding tipping fees. g. May the Lessee negotiate the tipping fee after the proposal? h. Can you provide a complete and detailed report of the current waste characterization of Airport and its affiliate operations? i. Can you provide the average annual tonnage of waste created by the Airport and subject of this RFP? j. Can untreatable waste be dumped at an offsite landfill?
	Answer:	29. No. The City cannot provide business guidance. a. No. Please refer to Exhibit E Background and Program Requirements, 3.2.7. b. No. c. Yes; however, the ATL Energy Park may not be used as a waste

		<p><i>transfer site.</i></p> <p><i>d. See response to question No. 10.</i></p> <p><i>e. Tipping fee only. Transportation fees are paid separately.</i></p> <p><i>f. This question is unclear and does not allow for an authoritative response.</i></p> <p><i>g. Please see Exhibit E Background and Program Requirements, Subsection 2.2.2.</i></p> <p><i>h. No. However, please see Exhibit E Background and Program Requirements, Attachment A, Waste Characterization Study, provided for informational purposes only..</i></p> <p><i>i. No, the Respondent is solely responsible for verification and validation of feedstock estimates that are the subject of this RFP..</i></p> <p><i>j. Yes, if the untreatable waste can be legally placed in an offsite landfill. Respondent is responsible for establishing such relationship with the appropriate entity at the offsite landfill.</i></p>
30.	Question:	If permits are delayed can the required start date be pushed back from the current 2017 date?
	Answer:	<i>This is a possibility if the delay is not directly attributable to the Lessee and the time extension is accomplished in accordance with the Ground Lease, i.e. (Exhibit C Design and Construction Requirements, Attachment 1, Section 6.</i>
31.	Question:	Can you provide the formula upon which rental value will be calculated?
	Answer:	<i>No. The rental value will be calculated based on the Fair Market Value of the actual square footage leased and as approved by the Federal Aviation Administration, in accordance with the Ground Lease Section 5.02 Rent defined.</i>
32.	Question:	Would the Airport consider a minimum/maximum lease amount? All Capital Improvements will be funded through the JV and Respondents.
	Answer:	<i>No. Due to Federal Aviation Administration (FAA) regulations, the rental value must be calculated based on the Fair Market Value of the actual square footage leased, as approved by the FAA and in accordance with the Ground Lease.</i>
33.	Question:	Can there be option renewals on the ground lease?
	Answer:	<i>Please see Exhibit B Ground Lease Subsection 3.05.</i>
34.	Question:	Will JV have absolute rights of Ground lease for the entire period assuming no defaults?
	Answer:	<i>The terms of the agreement are contained within the Ground Lease.</i>
35.	Question:	What terms of the Ground Lease will the successful proponent be allowed to negotiate?
	Answer:	<i>Please see response to question No. 12.</i>
36.	Question:	Can we develop the area covered by the Ground Lease in phases?
	Answer:	<i>Possibly, but only in accordance with the terms of the Ground Lease.</i>
37.	Question:	Can we increase the size of the Ground Lease during the term, if the initial lease is for less than the entire area, but additional space is required for expansion?

	Answer:	<i>Please refer to the terms of the Ground Lease.</i>
38.	Question:	In the event the Respondent requests certain information and materials to be “confidential”, are there any exceptions?
	Answer:	<i>Please refer to Section 17 of Part 1 of the RFP and, additionally, Exhibit B, Ground Lease, Section 32 and in particular Subsection 32.02.5.</i>
39.	Question:	May the proponent attach additional pages to forms as necessary? Are there any formatting requirements for additional pages attached to forms?
	Answer:	<ul style="list-style-type: none"> <i>a. Yes</i> <i>b. Additional pages must be formatted in the same manner as the City’s forms.</i>
40.	Question:	May a proponent submit multiple concepts for the RFP?
	Answer:	<i>Yes.</i>
41.	Question:	A “win-win” is for the Airport to achieve its 2020 goal of Zero Waste and the Respondent’s business to be sustainable operating 30 years or longer; if selected, will the Airport consider other revenue sharing proposals to facilitate economic viability of the project?
	Answer:	<i>Once Respondents offer has been evaluated and the Ground Lease awarded, the Respondent/Lessee may suggest additional revenue sharing opportunities that comply with the terms of the Ground Lease.</i>

Exhibit D
Insurance and Bonding Requirements
(Addendum No. 1 Revision)

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-8284 Green Acres ATL Energy Park
DESIGN

A. Preamble

The following requirements apply to all work under the Agreement. Compliance is required by Lessee. **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 Lessee submits to City its executed Agreement, Lessee 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 Lessee 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 Lessee.

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

2. Project Number & Name

The project number (FC-8284) and name (Green Acres ATL Energy Park) 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 Lessee 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 Lessee in writing. Lessee 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.

Lessee's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Agreement will not relieve Lessee from any liability under the Agreement. Lessee'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 Lessee'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

Lessee 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 Lessee 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.

Lessee 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.

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

Lessee must require and ensure that all of Lessee'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 Lessee.

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 Lessee must clearly indicate a waiver of subrogation in favor of the City of Atlanta.

B. Workers' Compensation and Employer's Liability Insurance

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

Workers' Compensation	Statutory
Employer's Liability:	
Bodily Injury by Accident/Disease	\$1,000,000 each accident
Bodily Injury by Accident/Disease	\$1,000,000 each employee
Bodily Injury by Accident/Disease	\$1,000,000 policy limit

C. Commercial General Liability Insurance

Lessee 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
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Medical Expense
- Fire Legal Liability
- Independent Contractor/Consultants/SubContractor/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. Commercial Automobile Liability Insurance

Lessee must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Lessee does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Lessee's personal automobile policy or the Commercial General Liability coverage required under this **Exhibit D**.

Additionally, in accordance with Section 22-181(b) of Chapter 22, Code of Ordinances of the City of Atlanta, all vehicles requiring access to the restricted areas of the airport must be covered by an automobile liability policy in the minimum amount of **Ten Million Dollars (\$10,000,000)** combined single limit for personal injury and property damage. The \$10,000,000 limit of liability will also be imposed on any parties transporting workers, materials and/or equipment to the Airport site from parking lots or similar facilities.

E. Professional Liability /Errors & Omissions Insurance

Lessee shall procure and maintain during the life of this contract Professional Liability/Errors & Omissions Insurance in an amount of **\$2,000,000** per occurrence and annual aggregate. The policy will fully address the Contractor/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:

- Damages arising from a failure of computer security, or a wrongful release of private information
- Cost to notify consumers of a release of private information and to provide credit-monitoring or other remediation services in the event of a covered incident.

F. Valuable Papers Insurance

Lessee shall procure and maintain during the life of this contract Valuable Papers and Records Coverage Insurance in an amount of **\$250,000** per occurrence and annual aggregate. The policy will fully address the Lessee's cost to reconstruct damaged or destroyed valuable papers and records associated with the scope of work contained in this agreement.

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-8284 Green Acres ATL Energy Park
CONSTRUCTION

A. Preamble

The following requirements apply to all work under the Agreement. Compliance is required by Lessee. **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 Lessee submits to City its executed Agreement, Lessee 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 Lessee 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 Lessee.

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

2. Project Number & Name

The project number (FC-8284) and name (Green Acres ATL Energy Park) 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 Lessee 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 Lessee in writing. Lessee 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.

Lessee's failure to comply with all insurance and bonding requirements set forth in this Exhibit D and applicable to the Agreement will not relieve Lessee from any liability under the Agreement. Lessee'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 Lessee'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

Lessee 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 Lessee 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.

Lessee 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.

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

Lessee must require and ensure that all of Lessee'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 Lessee.

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 Lessee must clearly indicate a waiver of subrogation in favor of the City of Atlanta.

B. Workers' Compensation and Employer's Liability Insurance

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

Workers' Compensation	Statutory
Employer's Liability:	
Bodily Injury by Accident/Disease	\$1,000,000 each accident
Bodily Injury by Accident/Disease	\$1,000,000 each employee
Bodily Injury by Accident/Disease	\$1,000,000 policy limit

C. Commercial General Liability Insurance

Lessee 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
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Medical Expense
- Fire Legal Liability
- Independent Contractor/Consultants/SubContractor/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. Commercial Automobile Liability Insurance

Lessee must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Lessee does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Lessee's personal automobile policy or the Commercial General Liability coverage required under this **Exhibit D**.

Additionally, in accordance with Section 22-181(b) of Chapter 22, Code of Ordinances of the City of Atlanta, all vehicles requiring access to the restricted areas of the airport must be covered by an automobile liability policy in the minimum amount of **Ten Million Dollars (\$10,000,000)** combined single limit for personal injury and property damage. The \$10,000,000 limit of liability will also be imposed on any parties transporting workers, materials and/or equipment to the Airport site from parking lots or similar facilities.

E. Pollution Liability

Lessee shall procure and maintain Pollution Liability Insurance in an amount not less than **\$1,000,000** each occurrence/aggregate.

- Completed operations coverage shall remain in effect for no less than three (3) years after the end of the agreement.
- This coverage can also be satisfied with an endorsement to the General Liability policy.

F. Property Insurance

Lessee shall procure and maintain Property Insurance covering all forms of risk on all Tenant Improvements and any other interests of Lessee, if applicable, in or about the agreed Premises, including inventory, supplies, and other property of Lessee located at said Premises, insuring against the perils of fire, lightning, extended coverage, perils vandalism, malicious mischief, glass breakage and sprinkler leakage, in an amount equal to the full replacement value of Tenant Improvements and any other interests of Lessee in or about said Premises.

G. Performance and Payment Bonds

At, or prior to, Lessee's execution of the Agreement, Lessee must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to

one hundred percent (100%) of the construction cost 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 bonds must be renewed annually at one hundred percent (100%) of the cost as specified in the Agreement. The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Lessee may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.

1. In addition, Lessee must provide to City a fixed price contract or contracts for all work to be performed within the Premises, which contract(s) shall be insured by, and shall provide to the City, a Payment Bond in an amount equal to one hundred percent (100%) of the work specified in such contract(s) and acceptable to the City's Chief Financial Officer and in such form as approved by the City Attorney. The Payment Bond shall name the City as the Obligee, shall meet the other requirements of the Agreement, and shall remain in full force and effect until: (i) all Improvements are completely and fully paid for, (ii) certificates of occupancy have been issued for the Premises, (iii) final lien waivers have been obtained from all contractors and subcontractors; (iv) the City has approved the final construction of the Improvements; and (v) the applicable limitations period under Georgia law for the commencement of a suit against the Payment Bond has lapsed.
2. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance of its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.
3. The surety company issuing the bonds must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.
4. 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 bonds.
5. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds 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 Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

6. For additional information regarding Payment and Performance Bonds, please see **Exhibit D-1** attached hereto and incorporated herein by this reference.

EXHIBIT D-1
PERFORMANCE AND PAYMENT BONDS
(Construction)

1. At, or prior to, Lessee's execution of the Agreement, Lessee must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to one hundred percent (100%) of the cost to fully construct the Improvements on the Premises (as such terms are defined 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 bonds must be kept in full force and effect, as stated therein, during the Term and any renewals, unless earlier released by the City.
2. The bonds must be issued as security for the faithful performance of this Agreement, including guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all subcontractors, bills and obligations arising out of the performance its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all performance, services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.
3. 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 bonds.
4. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds 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 Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

EXHIBIT D-1

ATTACHMENT 1

Performance 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.

the Agreement promptly; or (c) promptly pay the City the sum of \$10,000,000.00 to restore the Premises to its original condition at the time of the Agreement's Effective Date, time being of the essence. In said notice of election, the Surety shall indicate the date on which the remedy or performance will commence. The City shall determine the appropriate method for which to proceed and will promptly notify the Surety. It will then be the duty of the Surety to give prompt notice in writing to the City immediately upon completion of (a) the remedy and/or correction of each default, (b) the remedy and/or correction of each item of defective work, (c) the furnishing of each omitted item of work, and (d) the performance of the Agreement. The Surety shall not assert its Principal as justification for its failure to give notice of election or for its failure to promptly remedy the default or defaults or perform the Agreement.

It is expressly agreed by the Principal and the Surety that the City, if it desires to do so, is at liberty to make inquiries at any time of subcontractors, laborers, materialmen, or other parties concerning the status of payments for labor, materials, or services furnished in the prosecution of the work.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the City named herein or the legal successors of the City.

For the purposes of this bond, the name and address of the Authorized Agent of the City to whom correspondence and telecommunications may be addressed and/or with whom business concerning this bond may be conducted will be as follows:

To the extent applicable, it is agreed that this bond shall be the Performance Bond executed pursuant to and in accordance with the provisions of O.C.G.A. §§ 36-91-70, *et seq.*, shall be subject to increase in the penal amount of the bond pursuant to such statutes of the Agreement, 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

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.

No action can be instituted on this bond after one year from the completion of the Agreement and acceptance of the Project by the proper public authorities.

To the extent applicable, it is agreed that this bond shall be the Payment Bond executed pursuant to and in accordance with the provision of O.C.G.A. § 36-91-90, *et seq.*, and it shall be subject to increase in the penal amount of the bond pursuant to such statutes of the Agreement, 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

EXHIBIT D
INSURANCE & BONDING REQUIREMENTS
FC-8284 Green Acres ATL Energy Park
OPERATION & MAINTENANCE

A. Preamble

The following requirements apply to all work under the Lease. Compliance is required by Lessee. **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 Lease.** 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 Lease 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 Lessee submits to City its executed Lease, Lessee 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 Lessee does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the Lease, City may, in addition to any other rights City may have under the solicitation documents applicable to the Lease or under applicable law, make a claim against any proposal security provided by Lessee.

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

2. Project Number & Name

The project number (FC-8284) and name (Green Acres ATL Energy Park) 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 Lessee must submit the ratings for each company to the City.

For all Leases, regardless of size, companies providing insurance or bonds under the Lease 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 Lessee in writing. Lessee 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.

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

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 Lease, including any renewal or extension terms, and until all work has been completed to the satisfaction of City.

5. Notices of Cancellation & Renewal

Lessee 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 Lease and Exhibit D (including any attachments thereto) that Lessee 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.

Lessee shall provide the City with evidence of required insurance and bonding prior to the commencement of this Lease, 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 Lease 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.

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 Lease, 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 Lease.

9. Mandatory Sub-Contractor/Consultant Compliance

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

Lessee must procure and maintain Automobile Liability Insurance in an amount not less than **\$1,000,000** Bodily Injury and Property Damage combined single limit. The following indicated extensions of coverage must be provided:

- Owned, Non-owned & Hired Vehicles
- Waiver of Subrogation in favor of the City of Atlanta

If Lessee does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Lessee's personal automobile policy or the Commercial General Liability coverage required under this **Exhibit D**.

Additionally, in accordance with Section 22-181(b) of Chapter 22, Code of Ordinances of the City of Atlanta, all vehicles requiring access to the restricted areas of the airport must be covered by an automobile liability policy in the minimum amount of **Ten Million Dollars (\$10,000,000)** combined single limit for personal injury and property damage. The \$10,000,000 limit of liability will also be imposed on any parties transporting workers, materials and/or equipment to the Airport site from parking lots or similar facilities.

E. Crime Policy

The Lessee shall procure and maintain a Crime policy covering all persons receiving or disbursing funds under this contract. The coverage shall be in an amount not less than **\$1,000,000** and shall be specifically endorsed to cover loss under this contract and shall name the City of Atlanta as Loss Payee.

F. Pollution Liability

Lessee shall procure and maintain Pollution Liability Insurance in an amount not less than **\$1,000,000** each occurrence/aggregate.

- Completed operations coverage shall remain in effect for no less than three (3) years after the end of the lease.
- This coverage can also be satisfied with an endorsement to the General Liability policy.

H. Property Coverage

Lessee shall procure and maintain all risk property coverage in an amount equal to replacement value for all equipment, furniture, fixtures, machinery and/ or personal property.

I. Performance and Payment Bonds

At, or prior to, Lessee's execution of the Lease, Lessee must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount of five million (\$5,000,000) 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 bonds must be renewed annually at one hundred percent (100%). The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Lessee may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.

1. In addition, Lessee must provide to City a fixed price contract or contracts for all work to be performed within the Premises, which contract(s) shall be insured by, and shall provide to the City, a Payment Bond in an amount equal to one hundred percent (100%) of the work specified in such contract(s) and acceptable to the City's Chief Financial Officer and in such form as approved by the City Attorney. The Payment Bond shall name the City as the Obligee, shall meet the other requirements of the Lease, and shall remain in full force and effect until: (i) all Improvements are completely and fully paid for, (ii) certificates of occupancy have been issued for the Premises, (iii) final lien waivers have been obtained from all contractors and subcontractors; (iv) the City has approved the final construction of the Improvements; and (v) the applicable limitations period under Georgia law for the commencement of a suit against the Payment Bond has lapsed.
2. The bonds must be issued as security for the faithful performance of this Lease, including, maintenance and guarantee provisions, its covenants, stipulations and Leases of the Lease, the payment of all bills and obligations arising out of the performance of its obligations under the Lease, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Lease against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Lease.
3. The surety company issuing the bonds must give the Aviation General Manager notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.
4. 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 bonds.
5. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Lease 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 Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type

of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Lease will not be executed by City until after the approval of the Bonds by City's Attorney.

6. For additional information regarding Payment and Performance Bonds, please see **Exhibit D-1** attached hereto and incorporated herein by this reference.

EXHIBIT D-1
PERFORMANCE AND PAYMENT BONDS
(Operation and Maintenance)

1. At, or prior to, Lessee's execution of the Agreement, Lessee must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to Five Million U.S. Dollars (\$5,000,000) 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 bonds must be renewed annually at \$5,000,000. The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Lessee may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.
2. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.
3. The surety company issuing the bonds must give the City notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.
4. 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 bonds.
5. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds 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 Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.

EXHIBIT D-1

ATTACHMENT 1

Performance 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.

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 one (1) year (i.e., twelve (12) full months) beginning from the Effective Date of the Agreement through the Term and any renewals or extensions thereof. This bond will be renewed on an annual basis in the amount of 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.

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

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.

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