

**CITY OF ATLANTA**

**REQUEST FOR PROPOSALS**

**FC-8832: Urban Forestry 2016**



**Amy Phuong  
Commissioner**

**Department of Parks and Recreation**

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP,  
CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
Department of Procurement**



## CITY OF ATLANTA

Kasim Reed  
Mayor

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DEPARTMENT OF PROCUREMENT  
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Chief Procurement Officer  
[asmith@atlantaga.gov](mailto:asmith@atlantaga.gov)

April 22, 2016

### ATTENTION INTERESTED PROPONENT:

Your firm is hereby invited to submit to the City of Atlanta (the "City"), Department of Procurement (the "DOP"), a Proposal for **Project Number: FC-8832, Urban Forestry 2016**. The successful Proponent relative to this solicitation will solicit community input in order to design tree planting plans, submit those plans to the Department of Parks and Recreation for approval, execute the tree planting plans as specified, provide tree maintenance services as described, and grind stumps in the City's stump grinding backlog to create opportunities to replant trees. The Proponent must have experience in community outreach, urban reforestation planning, preparing sites for tree installation, selecting trees of high quality from growers, planting trees, maintaining trees, recording tree installations in Davey TreeKeeper 7, stump grinding, and related activities as well as the knowledge of the legal requirements involved in this type of operation.

A **Pre-Proposal Conference** will be held on **Tuesday, May 3, 2016, at 11 A.M., at 55 Trinity Avenue, S.W., Suite 1900 (1<sup>st</sup> Floor), City Hall South, Atlanta, GA 30303**. The purpose of the Pre-Proposal Conference is to provide Proponents with detailed information regarding the Procurement process and to address questions and concerns. There will be representatives from the Department of Parks and Recreation, Risk Management and the Office of Contract Compliance available at the conference to discuss this project and to answer any questions. Attendance to the Pre-Proposal Conference is strongly encouraged.

The last date to submit questions will be **Friday, May 6, 2016, no later than 5:00 P.M.** Questions may be sent to **Mano Smith, Contract Administrator, CPPO, CPPB, CPPM, CPP**, via email at [mosmith@atlantaga.gov](mailto:mosmith@atlantaga.gov), or facsimile at 404-658-7705. Questions will be responded to in the form of an addendum.

Your response to this Request for Proposal ("**Proposal**") must be received by designated staff of the Department of Procurement at 55 Trinity Avenue, S.W., City Hall, Suite 1900,



**Request for Proposal**

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Atlanta, GA 30303, **no later than 2:00 P.M., on Wednesday, May 25, 2016.** Any Proposal received after this time will not be considered and will be rejected and returned.

All Proposals will be publicly opened and read at 2:00 P.M. on the respective due date in Suite 1900, 1<sup>st</sup> Floor, 55 Trinity Avenue, S.W., City Hall, Atlanta, GA 30303.

If you have any questions regarding this project, please contact **Mano Smith, Contract Administrator, CPPO, CPPB, CPPM, CPP**, at 404-330-6351, or by email at [mosmith@atlantaga.gov](mailto:mosmith@atlantaga.gov). Any questions regarding the procedures for purchasing a copy of the document or obtaining a copy of the plan holder's list should be directed to Deondra Clausell, Administrative Assistant Senior, at 404-865-8708, or by e-mail at [dsclausell@atlantaga.gov](mailto:dsclausell@atlantaga.gov).

The City reserves the right to cancel any and all solicitations and to accept or reject, in whole or in part, any and all Proposals when it is for good cause and in the best interest of the City.

Thank you for your interest in doing business with the City.

Sincerely,



Adam L. Smith

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# REQUEST FOR PROPOSALS

## FC-8832: Urban Forestry 2016

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## **Part 1: Information and Instructions to Proponents**

1. **Services Being Procured:** This Request for Proposals (“**RFP**”) from qualified proponents (“**Proponent**” or “**Proponents**”) by the City of Atlanta (the “**City**”), on behalf of its Department of Parks and Recreation (“**DPR**”), seeks to procure the following services (“**Services**”):

The Proponent shall solicit community input in order to design tree planting plans, submit these same plans to DPR approval, execute the tree planting plans as specified, provide tree maintenance services as described, and grind stumps in the City’s stump grinding backlog to create opportunities to replant trees. The Proponent must have experience in community outreach, urban reforestation planning, preparing sites for tree installation, selecting trees of high quality from growers, planting trees, maintaining trees, recording tree installations in Davey TreeKeeper 7, stump grinding, and related activities as well as the knowledge of the legal requirements involved in this type of operation.

The initial term of the Agreement shall begin on the Commencement Date (as defined in the Agreement) and shall expire four (**4**) years or Twenty four (**24**) months from when the last tree is planted in the ground, unless earlier cancelled or terminated in accordance with the Agreement terms.

The Agreement shall also include an option to renew the term for a single or period of (**1**) year, which may only be exercised by the City in its sole discretion.

A more detailed Scope of Services sought in this procurement is set forth in **Exhibit A – Scope of Services** attached to the Services Agreement (“**Services Agreement**”); Contract No. **FC-8832: Urban Forestry 2016** included in this RFP at Part 5.<sup>1</sup> Reference **Exhibit A** for specific requirements.

2. **Method of Source Selection:** This procurement is being conducted in accordance with all applicable provisions of the City of Atlanta’s Code of Ordinances (“**Code**”), including its Procurement and Real Estate Code and the particular method of source selection for the services sought in this RFP is Code Section 2-1189 Competitive sealed proposals. By submitting a Proposal concerning this procurement, a Proponent acknowledges that it is familiar with all laws applicable to this procurement, including, but not limited to, the City’s Code of Ordinances and Charter, which laws are incorporated into this RFP by reference.
3. **Minimum Qualifications; Authority to Transact Business in Georgia:**
  - The Proponent must be a “for profit” or “not for profit” authorized to conduct

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<sup>1</sup> All capitalized terms contained in the Services Agreement are incorporated into this RFP.

business in the State of Georgia and the city of Atlanta.

- The Proponent must have been in business for a minimum of Five (5) years with a proven track record of community outreach, tree planting, and tree care on rights-of-way and public parkland.
  - The Proponent must employ an International Society of Arboriculture Certified Arborist or an urban forester with a minimum of a B.S. in an accredited Forestry or Horticultural program.
  - The Proponent must employ an ASLA-Certified Landscape Architect.
  - Each Proponent MUST submit with its Proposal, documentation that demonstrates it is duly authorized to conduct business in the State of Georgia.
4. **No Offer by the City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into an agreement and cannot be accepted by any Proponent to form an agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind City. A Proponent's offer is a firm offer and may not be withdrawn except under the rules specified in City's Code of Ordinances and other applicable law.
  5. **Proposal Deadline:** Your response to this RFP must be received by the City's Department of Procurement, 55 Trinity Avenue, S.W., City Hall South, Suite 1900, Atlanta, Georgia 30303-0307 **no later than 2:00 p.m., EST** (as verified by the Bureau of National Standards) on **Wednesday, May 25, 2016**. Any Proposal received after this time will not be considered and will be rejected and returned.
  6. **Pre-Proposal Conference:** A pre-proposal conference is scheduled for **Tuesday, May 3, 2016, at 11:00 A.M.**, at 55 Trinity Avenue, Suite 1900, City Hall South, Atlanta, Georgia 30303. Attendance at the pre-proposal conference and site tour is not required but is strongly encouraged. Any failure to fully investigate the requirements of this RFP shall not relieve any Proponent from the responsibility to properly estimate the difficulty or cost of successfully performing the Services being sought under this RFP. **Immediately following the Pre-Proposal Conference, a site tour will be available to the demonstration site.**
  7. **Procurement Questions; Prohibited Contacts:** All questions regarding this RFP should be submitted in writing to the City's contact person, **Mr. Mano Smith, CPPO, CPPB, CPPM, CPP, Contract Administrator**, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, by e-mail at **mosmith@atlantaga.gov**, on or before **Friday, May 6, 2016 by 5:00 P.M.** Questions received after the designated period will not be considered. Any response made by the City will be provided in writing to all Proponents by addendum. It is the responsibility of each Proponent to obtain a copy of any Addendum issued for this procurement by monitoring the City's website at [www.atlantaga.gov](http://www.atlantaga.gov). No Proponent may rely on any verbal response to any question submitted concerning this RFP. **Proponents and representatives of any Proponent are strictly prohibited from contacting any other City employees or any third-party representatives of the City on any matter having to do with this RFP. All communications by any Proponent concerning this RFP**

**must be made to the City's contact person or any other City representatives designated by the Chief Procurement Officer in writing.**

8. **Ownership of Proposals:** Each Proposal submitted to the City will become the property of the City, without compensation to a Proponent, for the City's use, in its discretion.
9. **Insurance and/or Bonding Requirements:** The Insurance and/or Bonding requirements for any Agreement that may be awarded pursuant to this RFP are set forth in **Appendix B-Insurance and Bonding Requirements** attached to the Services Agreement included in this RFP.
10. **Applicable City OCC Programs:** The City's Office of Contract Compliance ("OCC") Programs applicable to this procurement are set forth in **Appendix A; Office of Contract Compliance Submittals**, attached to the Services Agreement included in this RFP. By submitting a Proposal in response to this procurement, each Proponent agrees to comply with such applicable OCC Programs.
11. **Evaluation of Financial Information:** The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a Proposal. City will review the information included in **Form 4: Proponent Financial Disclosure Form** attached to this RFP and any additional information required on that form to be included in a Proposal. Further, if this RFP requires the provision of an Insurance Certificate of Accord and Endorsement, if a Services Agreement is awarded, the City will review the information included in **Appendix B: Insurance Requirements**.
12. **Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subcontractors or equipment manufacturers listed in the Proposal and to submit other material information relative to proposed subcontractors. City reserves the right to disapprove any proposed subcontractors whose technical or financial ability or resources or whose experience are deemed inadequate.
13. **Cancellation of Solicitation:** This solicitation may be cancelled in accordance to the City of Atlanta Code of Ordinances.
14. **Electronic Proposal Documents.** This RFP is being made available to all Proponents by electronic means. By responding to this RFP, Proponent acknowledges and accepts full responsibility to ensure that it is responding to the correct form of RFP, including any addenda issued by the City's Department of Procurement. Proponent acknowledges and agrees that in the event of a conflict between the RFP in the Proponent's possession and the version maintained by the Department of Procurement, the version maintained by the City's Department of Procurement shall govern. The RFP document is available at [www.atlantaga.gov](http://www.atlantaga.gov).
15. **Award of Agreement; Execution:** If the City awards an Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent an Agreement for execution substantially in the form included in this RFP.

16. **Gratuities and Kickbacks.** In accordance with the City of Atlanta’s Code of Ordinances, Section 2-1484, as may be amended, it shall be unethical for any person to offer, give or agree to give any employee or former employee or for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefore. Additionally, it shall be unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.
17. **Fraud and misrepresentation.** Any written or oral information provided by Contractor, directly or indirectly related to the performance of the services required by this Agreement, constitutes material representations upon which the City relies for the requirements of the Agreement and compliance with local, state and federal laws, rules and regulations. Contractor agrees to notify the City immediately of any information provided to the City that it knows and/or believes to be false and/or erroneous and immediately provide correct information to the City and take corrective action. Contractor further agrees to notify the City immediately of any actions or information that it believes would constitute fraud or misrepresentation to the City in performance of this Agreement, whether or not such information actually constitutes fraud and/or misrepresentations, by contacting the Integrity Line 1-800-884-0911. Contractor agrees to place signage provided by the City regarding the Integrity Line at the location to which Contractor’s employees report to perform the services required by this Agreement. Contractor acknowledges and agrees that a finding of fraud or other impropriety on the part of the Contractor or any of its subcontractors may result in suspension or debarment of the Contractor; and the City may pursue any other actions or remedies that the City may deem appropriate. Contractor agrees to include this clause in its subcontracts and take appropriate measures to ensure compliance with this provision.
18. **Georgia Open Records Act:** Information provided to the City is subject to disclosure under the Georgia Open Records Act (“GORA”). Pursuant to O.C.G.A. § 50-18-72(a)(34), “[a]n entity submitting records containing trade secrets that wishes to keep such records confidential under this paragraph shall submit and attach to the records an affidavit affirmatively declaring that specific information in the records constitute trade secrets pursuant to Article 27 of Chapter 1 of Title 10 [O.C.G.A. § 10-1-760 et seq.]”
19. **Representation.** By submitting a proposal to the City, Proponent acknowledges and represents that: (a) the accompanying proposal is made by a person or business entity (i.e., firm) that is neither a high cost lender nor a predatory lender, nor is the Proponent an affiliate of a high cost lender or a predatory lender, as defined by Code Section 58-102; (b) it has read all of the RFP documents (including, without limitation, the Agreement) and acknowledges that Proponent shall be bound by the terms and conditions stated therein; (c) the signatory to the proposal is the

Proponent (or Proponent's duly authorized agent or employee of the Proponent with the authority to bind Proponent hereto); (d) any information or disclosure provided on Form 3, are accurate representations up to and including the date Proponent submitted its proposal to the City; (e) the City will not agree to make any substantive revisions to the Agreement; and (f) it agrees that it will voluntarily notify the City immediately if any information or disclosure provided to the City during any part of this procurement process changes, is no longer accurate or would be misleading in any way.

## **Part 2: Contents of Proposals/Required Submittals**

- 1. General Contents of Proposals:** A Proponent must submit a complete proposal in response to this RFP in the format specified in this RFP; no other format will be considered. A proposal will consist of two (2) separate Volumes: Volume I will consist of information drafted and provided by the Proponent; and Volume II will consist of information provided by the Proponent on forms provided by the City in this RFP.
  
- 2. VOLUME I (Information drafted and provided by a Proponent):**
  - 2.1. Executive Summary:** Each Proponent is required to provide an overview of the Proponent's qualifications to provide the Services being procured through this RFP. At a minimum, the Executive Summary must contain the following information:
    - 2.1.1. Complete legal name of the Proponent and the name of the legal entities that comprise the Proponent. The Proponent 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.
    - 2.1.2. If Proponent is a corporation or limited liability company formed in the State of Georgia, Proponent must include a copy of its Certificate of Incorporation or its Certificate of Organization from the Georgia Secretary of State's office.
    - 2.1.3. If Proponent is a corporation or limited liability company formed outside the State of Georgia, Proponent must include a copy of its Certificate of Existence from the Georgia Secretary of State's office.
    - 2.1.4. Evidence of the Proponent's plan for complying with the City's Equal Business Opportunity goals (see **Appendix A**). Proponent's narrative, which is complimentary to the forms required at **Appendix A**, should include detailed information regarding the subcontractor(s) the Proponent intends to use (or, in the case of joint ventures ("JV"), the minority interest holder(s) of Proponent) and should indicate the role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each subcontractor (or JV minority interest holder) indicating that the firm concurs with the role and responsibility Proponent has described.
    - 2.1.5. A declarative statement as to whether the Proponent or any member of the Proponent's team has an open dispute with the City or is involved in any litigation associated with work in progress or completed in either the private or the public sector during the past five (5) years.

**2.2. Organizational Structure, Key Personnel, Industry Experience, Qualifications and Performance on Previous Projects.**

**2.2.1. Organizational Structure:**

- 2.2.1.1. Providing the Proponent's Organizational Chart both graphically and in narrative format. The Organizational chart and narrative should provide a description of the Proponent's views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel roles to that of the Principal-in-Charge and other key members of the management team;
- 2.2.1.2. Providing a description of how this organizational structure will facilitate managing the Services requested and how an efficient flow of information will be realized from the organizational structure; and
- 2.2.1.3. Providing the names of proposed candidates for each function on the chart.

**2.2.2. Personnel:**

- 2.2.2.1. Provide position descriptions for each position in the organizational chart describing the scope of duties and responsibilities, normal working hours, reporting and supervisory responsibilities, and number of all staff members.
  - 2.2.2.1.1. For each Resume provided, each Proponent must provide a minimum of two, one to two page letters of recommendation from clients for whom that individual has held a similar role within the past five (5) years. The letter must state at a minimum:
    - 2.2.2.1.1.1. the role the individual held in the project;
    - 2.2.2.1.1.2. the original contract schedule to start and complete the project;
    - 2.2.2.1.1.3. the actual start and completion dates of the project;
    - 2.2.2.1.1.4. whether the individual was full-time on the project and the Client's perceived key contribution that individual made in completing the Client's project either within the Client's original planned total cost or original schedule duration or both; and

- 2.2.2.1.1.5. the quality of the tree installations since the Client's acceptance at turnover (i.e. rates of survival and exercise of warranties for replacement of dead material;)
- 2.2.2.1.1.6. Submission of these names constitutes a commitment to use these individuals if the Proponent is selected, and changes may be made only with the prior written consent of the City.
- 2.2.2.1.1.7. Proponent should explain in detail the number of years and extent of Proponent's and the Proponent's subcontractor's or subconsultant's experience creating and executing tree planting plans for parks and right of ways.
- 2.2.2.1.2. A letter of reference (on the reference's letterhead) from the Proponent's contract holders, include a contact name, address, phone number, e-mail address and fax number.
- 2.2.2.1.3. A detailed history for Proponent's and subcontractor's or subconsultant's work performing community outreach, stump grinding, tree installation, maintaining trees, and recording tree installations in Davey TreeKeeper.

2.3. **Management Plan/ Approach** – Describe in detail the Proponent's proposed operating, management and personnel plan. The plan must include, at a minimum, each of the following:

2.3.1. Management Plan: Describe how the Proponent will design, plan, manage, and maintain tree installations as listed under the scope of services of this RFP. Describe the management individual(s) who will be the point(s) of contact for coordination with the City.

2.3.1.1. Provide Proponent's proposed seasonal maintenance plan for new tree installations as detailed in the scope of service portion of this RFP.

2.3.1.2. Proponent's approach to team leadership and how the Proponent will:

2.3.1.2.1. ensure proper communications among pertinent project team members;

2.3.1.2.2. assure the City that scope of Services will be performed within any established time and budget constraints;

2.3.1.2.3. establish and maintain the necessary cooperative relationships;

2.3.1.2.4. coordinate all necessary project activities within that team relationship;

2.3.1.3. Proponent's proposed method to:

3.2.5.2.1. Identify and resolve issues during the project duration; and

2.3.1.4. Make critical decisions

### 3. VOLUME II (Information required by a Proponent on forms provided by the City):

- 3.1. **Illegal Immigration Reform and Enforcement Act** – Each Proponent must complete and submit a Contractor's Affidavit, attached hereto at **Form 1: Illegal Immigration Reform and Enforcement Act Forms** with its proposal. This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("**Act**"). Pursuant to the Act, the Proponent must provide with its proposal proof of its registration with and continuing and future participation in the E-Verify Program established by the United States Department of Homeland Security. Under state law, the City cannot consider any proposal which does not include a completed Contractor's Affidavit. It is not the intent of this notice to provide detailed information or legal advice concerning the Act. All Proponents intending to do business with the City are responsible for independently apprising themselves of and complying with the requirements of the Act and assessing its effect on City procurements and their participation in those procurements. For additional information on the E-Verify program or to enroll in the program, go to <https://e-verify.uscis.gov/enroll>.
- 3.2. **Contractor Disclosure Form** – Each Proponent must complete and submit **Form 2: Contractor Disclosure Form** with its proposal.
- 3.3. **Proponent's Financial Disclosure** – Each Proponent must complete and submit **Form 4: Proponent Financial Disclosures** with its proposal. The City's evaluation of financial information concerning a Proponent and its consideration of such information in determining whether a Proponent is responsive and responsible may involve a review of several items of information required to be included in a proposal. City will review the information included in Form 4 attached hereto and any additional information required on that form to be included in a proposal.
- 3.4. **Acknowledgement of Insurance and Bonding Requirements** – Each Proponent must complete and submit **Form 5: Acknowledgement of Insurance and Bonding Requirements** with its Proposal.

- 3.5. **Insurance and Bonding Requirements** – Each Proponent must complete and submit **Forms 6.1 and 6.2: Insurance and Bonding Requirements** with its Proposal. The insurance and bonding requirements for any agreement that the City may award pursuant to this RFP are set forth in **Appendix B: Insurance and Bonding Requirements**.
  - 3.6. **Acknowledgment of Addenda** – Each Proponent must complete and submit an acknowledgement with its proposal that it has received all Addenda issued by the City for this RFP. **Form 7: Acknowledgement of Addenda** has been included and may be used to satisfy this requirement.
  - 3.7. **Reference List** – Each Proponent must complete and submit a minimum of three (3) aquatics industry references as well as three (3) credit references with whom they have had a business partnership within the last three (3) years. A separate **Form 9** is required for each reference.
  - 3.8. **Contact Directory** – Each Proponent must complete and submit **Form 9: Contact Directory** with its proposal to include the names, positions/titles, firms, mailing addresses, phone and fax numbers and (when possible) e-mail addresses for at least two individuals, one (1) primary and one (1) secondary, who are authorized to represent Proponent for purposes of this RFP and to whom notices regarding the Proponent’s qualification may be sent.
  - 3.9. **Cost Proposal** – Each Proponent must submit a Cost Proposal using the form provided by the City attached to the form of Agreement and marked as **Exhibit A.1 – Cost Proposal**. The Cost Proposal must support Proponent’s complete Management Plan.
  - 3.10. **Office of Contract Compliance Submittals** – The City’s OCC Programs applicable to this procurement and any Agreement that may be awarded pursuant to this RFP are set forth in **Appendix A** attached hereto.
- 4. Total Cost Proposal (Firm Fixed Total Cost).** Submit one (1) stamped “Original” and seven (7) copies in a **separate envelope**).

**5. Submission of Proposals:**

- 5.1. A Proposal must be submitted in sealed envelope(s) or package(s) and the outside of the envelope(s) or package(s) must clearly identify the name of the project: **FC- Urban Forestry 2016** and the name and address of the Proponent. All Proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP,  
CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
Department of Procurement  
55 Trinity Avenue, S.W.  
City Hall South, Suite 1900  
Atlanta, Georgia 30303-0307**

A Proponent is required **to submit one (1) stamped original and seven (7) copies of its Informational Proposal.** Each Informational Proposal must be submitted on 8½" x 11" single-sided, double-spaced, typed pages, using 12–point font size and such pages **MUST be inserted in a standard three-hole ring binder.** Each Informational Proposal must contain and index and separate sections for the information requirements set forth in this RFP, as well as for the forms required to be submitted. **Proponents must ensure all pages of submitted proposal are numbered according to provided index and sectional tabs.**

## **6. Selection for Competitive Sealed Proposals:**

**The City will carefully evaluate the responsiveness and responsibility of each Proponent. The selection criteria shall include but not be limited to, those factors contained in subsection 2-1188(k) of the City of Atlanta Code of Ordinances; and the following** (the responsibility is solely on the Proponent to adhere to all evaluation factors as outlined in the City of Atlanta Code of Ordinances):

- (1) Previous experience demonstrating competence to perform the services involved in the solicitation;
- (2) Past performance of previous contracts with respect to time of completion and quality of services;
- (3) The fee or compensation demanded for the services;
- (4) The ability to comply with applicable laws;
- (5) The ability to comply with the schedule for the performance of the services, as required by the City;
- (6) The financial ability to furnish the necessary bonds;
- (7) The financial condition of the offeror;
- (8) The ability to provide staffing of management personnel, satisfactory to the City; and
- (9) The offeror's compliance with the requirements of equal employment opportunity (EEO) and, where applicable, equal business opportunity (SBE) programs, as may be required by ordinance.

**Additionally, the evaluation criteria will include but may not be limited to, a review of the following factors:**

- Clear understanding of the goals and objectives demonstrated by offering a comprehensive plan to accomplish goals;
- Qualifications and experience of all proposed team members;
- Demonstration that programs and services offered will meet the needs of those in the community;
- Responsiveness to all items noted as Required Submittals within the solicitation Document; and
- Reference submission and satisfactory review; and price.

## **7. Responsiveness and responsibility for each Proponent can be observed as the following:**

- A. The **responsiveness** of a Proponent is determined by the following:
1. A timely and effective delivery of all documents, and other information required by the City; and
  2. The completeness of all material, documents and information required by the City in the response to this RFP.
- B. The **responsibility** of a Proponent is determined by the following:
1. The ability, capacity and skill of the Proponent to perform the Agreement or provide the Work required;
  2. The capability of the Proponent to perform the Agreement or provide the Work promptly, or within the time specified without delay or interference;
  3. The character, integrity, reputation, judgment, experience and efficiency of the Proponent;
  4. The quality of performance of previous contracts or work;
  5. The previous existing compliance by the Proponent with laws and ordinances relating to the Agreement or Work;
  6. The sufficiency of the financial resources and ability of the Proponent to perform Agreement or provide the Work;and
  7. The quality, availability and adaptability of the supplies or contractual Work to the particular use required.

The following submittals **MUST** be completed and submitted with each Proposal. If any documents are not submitted with your proposal package, your firm may be deemed non-responsive.

**8. Required Submittals:** The following submittals must be completed and submitted with each Proposal.

Item #	Required Proposal Submittal Check Sheet <sup>3</sup>	Check (v)
<b>VOLUME I CHECKLIST (Submitted in the ordered tabbed sections)</b>		
1.	Executive Summary	
2.	Organizational Structure, Key Personnel, Industry Experience, Qualifications and Performance on Previous Projects	
3.	Management Plan/ Approach	
<b>VOLUME II CHECKLIST All documents should be ordered and tabbed in the Volume II Binder/section as follows:</b>		
1.	Form 1: Illegal Immigration Reform and Enforcement Act	
2.	Form 2: Contractor Disclosure Form	
3.	Form 4: Proponent Financial Disclosure Form	
4.	Form 5: Acknowledgement of Insurance and Bonding Requirements	
5.	Form 6.1: Certification of Insurance Ability	
5.	Form 6.2: Certification of Bonding Ability	
6.	Form 7; Acknowledgment of Addenda	
7.	Form 8; Respondent Contact Directory	
8.	Form 9; Reference Form	
9.	Appendix A: City's OCC Programs; Office of Contract Compliance Submittals; SBE Forms 1, 2, 3 and 4 (to be completed by Proponent and submitted with Proposal) <sup>4</sup>	
<b>COST PROPOSAL</b>		
10	Exhibit A.1- Cost Proposal (to be completed by Proponent and submitted in a separate sealed envelope)	

<sup>3</sup> This table is included for Proponent's convenience and may be used to track the preparation and submittal of certain required information with its proposal.

<sup>4</sup> Appendix B; Insurance and Bonding Requirements is a part of the Services Agreement but is not a form that is required to be completed by a Proponent.

### **Part 3: Evaluation of Proposals**

An Evaluation Committee, consisting of City representatives, will review the RFP submittals in accordance with the submittal requirements and the evaluation criteria set forth below. In addition to the criteria that will be evaluated and scored; please make note of the above-referenced items that will be evaluated but not scored. All evaluation factors outlined in this RFP are important and can have an impact on the overall recommendation for an award.

An award shall be made to the most responsible and responsive Proponent whose proposal is determined in writing to be the most advantageous to the City, taking into consideration the evaluation factors set forth in this RFP. **If a Proponent fails submit any portion of the Required Submittals, they may be deemed non-responsive.**

All Proposals will be evaluated in accordance with the City's Code and the criteria specified on the Percentage Evaluation Form and considering the information required to be submitted in each Proposal. The Evaluation Committee will review the Proposals in accordance with this RFP. All Proposals will be evaluated using the criteria specified below:

**1. Executive Summary: (5%)**

Each Proponent is required to provide an overview of the Proponent's qualifications to provide the Services being procured through this RFP.

**2. Organizational Structure, Key Personnel, Industry Experience, Qualifications and Performance on Previous Projects (20%)**

Evaluators will consider the quality, comprehensiveness, and feasibility of the Proponent's organizational structure, experience and qualifications. Evaluators will consider the background, qualifications, and experience of the Proponent in aquatics facility maintenance. The City will consider the quality of past performance with regard to customer service, reliability of service, and facility maintenance.

**3. Management Plan/ Approach (15%)**

Evaluators will consider the quality, comprehensive nature, and feasibility of the Proponent's Operational and Management Plans. This will be compared to the Cost Proposal to assess complete value of services.

**4. Cost Proposal (25%)**

Evaluators will consider the comprehensiveness and feasibility of the Proponent's Cost Proposal and compare to Operational and Management Plans for value of services.

**6. Demonstration Planting Plan (10%)See Exhibit A.2.**

**6. Office of Contract Compliance Requirements (15%)**

The City's Office of Contract Compliance will evaluate the compliance of the Proposal with the City's Equal Business Opportunity Program and other applicable programs. This criterion is not scored on a sliding scale. Proponents who fail to evidence compliance with the City's programs shall be deemed non-responsive.

**7. Financial Capability (10%)**

The City's Department of Finance will evaluate the strength of Proponents' financial statements and other required financial information. Proponents who fail to submit all required financial information shall be deemed non-responsive. The review will focus primarily on the Proponent's Statement of Income, Balance Sheet, and Cash Flow Statements. Ratio Analysis will be included while determining the Proponent's financial strength as well as a review of the sources and uses of funds.

<b>EVALUATION FORM</b>			
<b>CATEGORIES</b>	<b>CATEGORY SCORE</b>	<b>RELATIVE WEIGHT</b>	<b>TOTAL CATEGORY SCORE</b>
<b>Executive Summary</b>		<b>5</b>	
<b>Organizational Structure, Key Personnel, Industry Experience, Qualifications and Performance on Previous Projects</b>		<b>20</b>	
<b>Management Plan/ Approach</b>		<b>15</b>	
<b>Cost Proposal</b>		<b>25</b>	
<b>Demonstration Planting Plan</b>		<b>10</b>	
<b>Office of Contract Compliance Requirements</b>		<b>15</b>	
<b>Financial Capability</b>		<b>10</b>	
<b>Total Score:</b>		<b>100%</b>	

For purposes of evaluating all of the Proposals timely received by the City, the City will assess a score between one (1) and ten (10) for each Category noted above. The total category score is calculated by multiplying the Category Score and the assigned Relative Weight (i.e., Category Score x Relative Weight = Total Category Score). The Total Score is calculated by adding each Total Category Score together. The result of the calculation of the Total Score will be used to determine which Proponent has received the highest Total Score.

#### **Part 4: Submittal Forms**

**All Respondents, including, but not limited to, corporate entities, limited liability companies, joint ventures, or partnerships, that submit a Proposal or Bid in response to this solicitation must fill out all forms in their entirety, and all forms must be signed, notarized or sealed with the corporate seal (if applicable), as required per each form's instructions.**

**If Respondent intends to be named as a Prime Contractor(s) with the City, then Respondent must fill out all the forms listed in this solicitation document; otherwise, Respondent may be deemed non-responsive.**

**FORM 1**  
**Illegal Immigration Reform and Enforcement Act Forms**  
**INSTRUCTIONS TO RESPONDENTS**

All Respondents must comply with the Illegal Immigration Reform and Enforcement Act of 2011, O.G.G.A § 13-10-90, et seq. (“IIREA”). Respondents must familiarize themselves with IIREA and are solely responsible for ensuring their compliance therewith. Respondents may not rely on these instructions for that purpose. These instructions are offered only as a convenience to assist Respondents in complying with the requirements of the City’s procurement process and the terms of this solicitation document.

1. The attached Contractor Affidavit must be filled out **COMPLETELY** and submitted with the respondent’s submission prior to the due date.
2. The Contractor Affidavit must contain an active Federal Work Authorization Program (“**E-Verify**”) User ID Number and Date of Registration.
3. Where the business structure of a Respondent is such that Respondent is required to obtain an Employer Identification Number (“**EIN**”) from the Internal Revenue Service, Respondent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Respondent itself (see Example 1 below). Where the business structure of a Respondent does not require it to obtain an EIN, each entity comprising Respondent must submit a separate Contractor Affidavit (see Example 2 below).

**Example 1**, ABC, Inc. and XYZ, Inc. form and submit a response as Happy Day, LLC. Happy Day, LLC must enroll in the E-verify program and submit a single Contractor Affidavit in the name of Happy Day, LLC which includes the Federal Work Authorization User ID Number issued to Happy Day, LLC.

**Example 2**, ABC, Inc. and XYZ, Inc. execute a joint venture agreement and submit a response under the name Happy Day, JV. If based on the nature of the JV agreement, Happy Day, JV is not required to obtain an EIN from the IRS, then the response submitted by Happy Day, JV must include both a Contractor Affidavit for ABC, Inc. and a Contractor Affidavit for XYZ, Inc.

4. All Contractor Affidavits must be executed by an authorized representative of the entity named in the Affidavit.
5. All Contractor Affidavits must be notarized.
6. All Contractor Affidavits must be submitted with the Respondent’s response to the solicitation document.
7. Subcontractor and sub-subcontractor affidavits are not required at the time of response submission, but will be required at contract execution or in accordance with the timelines set forth in IIREA.



**FORM 1**  
**Subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(3)**

By executing this Subcontractor Affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract with \_\_\_\_\_ (name of contractor) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the subcontractor with the information required by O.C.G.A. § 13-10-91(b). Additionally, the undersigned subcontractor will forward notice of the receipt of an affidavit from a sub-subcontractor to the contractor within five business days of receipt. If the undersigned subcontractor receives notice of receipt of an affidavit from any sub-subcontractor that has contracted with a sub-subcontractor to forward, within five business days of receipt, a copy of such notice to the contractor. Subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Subcontractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 201\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**FORM 1**  
**Sub-subcontractor Affidavit under O.C.G.A. § 13-10-91(b)(4)**

By executing this affidavit, the undersigned sub-subcontractor verifies its compliance with O.C.G.A. §13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services under a contract for \_\_\_\_\_ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract) and \_\_\_\_\_ (name of contractor) on behalf of the City of Atlanta has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established in O.C.G.A. § 13-10-91. Furthermore, the undersigned sub-subcontractor will continue to use the federal work authorization program throughout the contract period and the undersigned sub-subcontractor will contract for the physical performance of services in satisfaction of such contract only with sub-subcontractors who present an affidavit to the sub-subcontractor with the information required by O.C.G.A. § 13-10-91(b). The undersigned sub-subcontractor shall submit, at the time of such contract, this affidavit to \_\_\_\_\_ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Additionally, the undersigned sub-subcontractor will forward notice of the receipt of any affidavit from a sub-subcontractor to \_\_\_\_\_ (name of subcontractor or sub-subcontractor with whom such sub-subcontractor has privity of contract). Sub-subcontractor hereby attests that its federal work authorization user identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number

\_\_\_\_\_  
Date of Authorization

Name of Sub-Subcontractor: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Name of Public Employer: City of Atlanta \_\_\_\_\_

**I hereby declare under penalty of perjury that the forgoing is true and correct.**

Executed on \_\_\_\_\_, \_\_\_\_\_, 20\_\_ in \_\_\_\_\_ (city), \_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE  
ME ON THIS THE \_\_\_\_, DAY OF \_\_\_\_\_, 201\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

FORM 2

Contractor Disclosure Form

**DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE**

“Affiliate”	Any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or is under common control with the Respondent or a member of Respondent.
“Contractor”	Any person or entity having a contract with the city.
“Control”	The controlling entity: (i) possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or by contract or otherwise; or (ii) has direct or indirect ownership in the aggregate of fifty one (51%) or more of any class of voting or equity interests in the controlled entity.
“Respondent”	Any individual or entity that submits a response to a solicitation. If the Respondent is an individual, then that individual must complete and sign this Contractor Disclosure Form where indicated. If the Respondent is an entity, then an authorized representative of that entity must complete and sign this Contractor Disclosure where indicated. <b>If the Respondent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign this Contractor Disclosure Form where indicated, and each of the members or owners of the entity must also complete and sign separate Contractor Disclosure Form where indicated.</b>

**Instructions: Provide the following information for the entity or individual completing this Statement (the “Individual/Entity”).**

**A. Basic Information:**

1. Name of Respondent: \_\_\_\_\_
2. Name of the authorized representative for the Respondent: \_\_\_\_\_

**B. Individual/Entity Information:**

Principal Office Address: \_\_\_\_\_  
Telephone and Facsimile Numbers: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
Name and title of Contact Person for the Individual/Entity: \_\_\_\_\_

Is the individual/Entity authorized to transact business in the State of Georgia?

- Yes (Attach Certificate of Authority to transact business in Georgia from Georgia Secretary of State.)  
 No

**C. Questionnaire**

If you answer "YES" to any of the questions below, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your Proposal.

1. Please describe the general development of the Respondent's business during the past ten (10) years, or such shorter period of time that the Respondent has been in business.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are there any lawsuits, administrative actions or litigation to which Respondent is currently a party or has been a party (either as a plaintiff or defendant) during the past ten (10) years based upon fraud, theft, breach of contract, misrepresentation, safety, wrongful death or other similar conduct? **YES** **NO**

3. If "yes" to question number 2, were any of the parties to the suit a bonding company, insurance company, an owner, or otherwise? If so, attach a sheet listing all parties and indicate the type of company involved. **YES** **NO**

4. Has the Respondent been charged with a criminal offense within the last ten (10) years? **YES** **NO**

5. Has the Respondent received any citations or notices of violation from any government agency in connection with any of Respondent's work during the past ten (10) years (including OSHA violations)? Describe any citation or notices of violation which Respondent received. **YES** **NO**

6. Please state whether any of the following events have occurred in the last ten (10) years with respect to the Respondent. If any answer is yes, explain fully the circumstances surrounding the subject matter of the affirmative answer:

(a) Whether Respondent, or Affiliate currently or previously associated with Respondent, has ever filed a petition in bankruptcy, taken any actions with respect to insolvency, reorganization, receivership, moratorium or assignment for the benefit of creditors, or otherwise sought relief from creditors? **YES** **NO**

(b) Whether Respondent was subject of any order, judgment or decree not subsequently reversed, suspended or vacated by any court permanently enjoining Respondent from engaging in any type of business practice? **YES** **NO**

(c) Whether Respondent was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to Respondent which directly arose from activities conducted by Respondent. **YES** **NO**

7. Has any employee, agent or representative of Respondent who is or will be directly

involved in the project, in the last ten (10) years:

- |   |                          |                          |
|---|--------------------------|--------------------------|
|   | <b>YES</b>               | <b>NO</b>                |
| (a) directly or indirectly, had a business relationship with the City?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| (b) directly or indirectly, received revenues from the City?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| (c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 8. Whether any employee, agent, or representative of Respondent who is or will be directly involved in the project has or had within the last ten (10) years a direct or indirect business relationship with any elected or appointed City official or with any City employee?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 9. Whether Respondent has provided employment or compensation to any third party intermediary, agent, or lobbyist to directly or indirectly communicate with any City official or employee, or municipal official or employee in connection with any transaction or investment involving your firm and the City?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 10. Whether Respondent, or any agent, officer, director, or employee of your organization has solicited or made a contribution to any City official or member, or to the political party or political action committee within the previous five (5) years?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 11. Has the Respondent or any agent, officer, director, or employee been terminated, suspended, or debarred (for cause or otherwise) from any work being performed for the City or any other Federal, State or Local Government?  | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 12. Has the Respondent, member of Respondent's team or officer of any of them (with respect to any matter involving the business practice or activities of his or her employer been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?                       | <input type="checkbox"/> | <input type="checkbox"/> |
|   | <b>YES</b>               | <b>NO</b>                |
| 13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below <i>[Please be advised that you may be ineligible for award of contract if you have a personal or financial relationship that constitutes a conflict of interest that cannot be avoided]</i> :   |                          |                          |
| (a) Personal relationships: executives, board members and partners in firms submitting offers must disclose familial relationships with employees, officers and elected officials of the City of Atlanta. Familial relationships shall include spouse, domestic partner registered under section 94-133, mother, father, sister, brother, and natural or adopted children of an official or employee. | <b>YES</b>               | <b>NO</b>                |
|   | <input type="checkbox"/> | <input type="checkbox"/> |
| (b) Financial relationships: Respondent must disclose any interest held with a City employee or official or family members of a City employee or official, which may yield, directly or indirectly, a monetary or other material benefit to the Respondent or the Respondent's family members. Please describe:   | <b>YES</b>               | <b>NO</b>                |
|   | <input type="checkbox"/> | <input type="checkbox"/> |

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## D. REPRESENTATIONS

**Anti-Lobbying Provision.** All respondents, including agents, employees, representatives, lobbyists, attorneys and proposed partner(s), subcontractor(s) or joint venturer(s), will refrain, under penalty of the respondent's disqualification, from direct or indirect contact for the purpose of influencing the selection or creating bias in the selection process with any person who may play a part in the selection process.

**Certification of Independent Price Determination/Non-Collusion.** Collusion and other anticompetitive practices among offerors are prohibited by city, state and federal laws. All Respondents shall identify a person having authority to sign for the Respondent who shall certify, in writing, as follows:

"I certify that this bid proposal is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid or offer for the same supplies, labor, services, construction, materials or equipment to be furnished or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. By signing this document, I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent/Offeror."

**Certify Satisfaction of all Underlying Obligations. (If Applicable)** If a Contract is awarded through this solicitation, then such Contractor should know that before final payment is made to a Contractor by the City, the Contractor shall certify to the City in writing, in a form satisfactory to the City, that all subcontractors, material men suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Contractor by the City or will be paid in full utilizing the monies constituting final payment to the Contractor.

**Confidentiality.** Details of the proposals will not be discussed with other respondents during the selection process. Respondent should be aware, however, that all proposals and information submitted therein may become subject to public inspection following award of the contract. Each respondent should consider this possibility and, where trade secrets or other proprietary information may be involved, may choose to provide in lieu of such proprietary information, an explanation as to why such information is not provided in its proposal. However, the respondent may be required to submit such required information before further consideration.

**Equal Employment Opportunity (EEO) Provision.** All bidders or offerors will be required to comply with sections 2-1200 and 2-1414 of the City of Atlanta Code of Ordinances, as follows: During the performance of the agreement, the Contractor agrees as follows:

- a. The Contractor shall not discriminate against any employee, or applicant for employment, because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation. As used here, the words "shall not discriminate" shall mean and include without limitation the following:

Recruited, whether by advertising or other means; compensated, whether in the form of rates of pay, or other forms of compensation; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of the EEO clause.

- b. The Contractor shall, in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, gender identity, age, disability, or political affiliation.
- c. The Contractor shall send to each labor union or representative of workers with which the Contractor may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitments under the equal employment opportunity program of the City of Atlanta and under the Code of Ordinances and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skilled trades who are below the journeyman level with the U.S. Bureau of Apprenticeship and Training.
- d. The Contractor shall furnish all information and reports required by the contract compliance officer pursuant to the Code of Ordinances, and shall permit access to the books, records, and accounts of the Contractor during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.
- e. The Contractor shall take such action with respect to any subcontractor as the city may direct as a means of enforcing the provisions of paragraphs (a) through (h) herein, including penalties and sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will enter into such litigation as is necessary to protect the interest of the city and to effectuate the equal employment opportunity program of the city; and, in the case of contracts receiving federal assistance, the Contractor or the city may request the United States to enter into such litigation to protect the interests of the United States.
- f. The Contractor and its subcontractors, if any, shall file compliance reports at reasonable times and intervals with the city in the form and to the extent prescribed by the contract compliance officer. Compliance reports filed at such times directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and its subcontractors.
- g. The Contractor shall include the provisions of paragraphs (a) through (h) of this equal employment opportunity clause in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.
- h. A finding, as hereinafter provided, that a refusal by the Contractor or subcontractor to comply with any portion of this program, as herein provided and described, may subject the offending party to any or all of the following penalties:

- (1) Withholding from the Contractor in violation all future payments under the involved contract until it is determined that the Contractor or subcontractor is in compliance with the provisions of the contract;
- (2) Refusal of all future bids for any contract with the City of Atlanta or any of its departments or divisions until such time as the Contractor or subcontractor demonstrates that there has been established and there shall be carried out all of the provisions of the program as provided in the Code of Ordinances;
- (3) Cancellation of the public contract;
- (4) In a case in which there is substantial or material violation of the compliance procedure herein set forth or as may be provided for by the contract, appropriate proceedings may be brought to enforce those provisions, including the enjoining, within applicable law, of Contractors, subcontractors or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

**Prohibition on Kickbacks or Gratuities/Non-Gratuity.** The undersigned acknowledges the following prohibitions on kickbacks and gratuities:

- a. It is unethical for any person to offer, give or agree to give any employee or former employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- b. It is unethical for any employee or former employee to solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter pertaining to any program requirement or a contract or subcontract or to any solicitation or proposal therefor.
- c. It is also unethical for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

**Declaration**

Under penalty of perjury, I declare that I have examined this Contractor Disclosure Form and all attachments to it, if applicable, and, to the best of my knowledge and belief all statements contained herein and in any attachments, if applicable, are true, correct and complete.

I certify that this offer is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting an offer for the same supplies, services, construction, or professional or consultant services, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of city, state and federal law and can result in fines, prison sentences, and civil damages awards. I agree to abide by all conditions of this solicitation and offer and certify that I am authorized to sign for this Respondent.

***For entities that are newly formed (formed within the last three years):***

- I certify that the Respondent is newly formed and does not have sufficient information to respond to Part C of this Form.**

*Sign here if you are an individual:*

**Printed Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Subscribed and sworn to or affirmed by** \_\_\_\_\_ **(name) this** \_\_\_ **day of**  
\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

---

*Sign here if you are an authorized representative of a responding entity or partnership:*

**Printed Name of Entity or Partnership:** \_\_\_\_\_

**Signature of authorized representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_, 20\_\_

**Subscribed and sworn to or affirmed by** \_\_\_\_\_ **(name), as the**  
\_\_\_\_\_ **(title) of** \_\_\_\_\_ **(entity or partnership name)**  
**this** \_\_\_ **day of** \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)

My commission expires: \_\_\_\_\_

## **FORM 3**

### **Proponent Financial Disclosure**

**Instructions:** It is necessary for the City to evaluate, verify, and understand the Proponent's financial capability and stability to undertake and perform the Services contemplated in this Solicitation. To accomplish this task, the Proponent must provide accurate and legible financial disclosures to the City as requested below.

A "Proponent" is an individual, entity or partnership submitting a proposal or bid in response to a Solicitation.

1. If the Proponent is an individual, financial disclosures for that individual must be provided.
2. If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.
3. If the Proponent is a newly formed entity or partnership (formed within the last three years), financial disclosures for that entity or partnership must be provided together with full financial disclosure from the entity's or partnership's owners. Financial Disclosure includes a full response to all questions and requests for documentation listed in this Form 3.

For example, if the Proponent is a newly formed entity (formed within the last three years) made up of two separate entities (e.g., a majority interest owner and a minority interest owner), then financial disclosure is required from the Proponent entity, and financial disclosure is also required from each of the two owners (majority entity owner and minority entity owner) as well.

The Proponent (and its owners, if applicable) must submit hard copies of all financial disclosures in response to this Form 3.

**Part A - General Information:**

Name of the Proponent: \_\_\_\_\_

Name of individual, entity or partnership completing this Form: \_\_\_\_\_

Relationship of individual, entity or partnership completing this Form to the Proponent: \_\_\_\_\_

Contact information of individual, entity or partnership completing this Form: \_\_\_\_\_

Address \_\_\_\_\_

Phone Number(s) \_\_\_\_\_

Email: \_\_\_\_\_

**Part B: Financial Information:**

1. The Proponent, and its owners, if applicable, should demonstrate its financial capability and stability by selecting and providing documentation from one of the following three groups of requests (see below). Please circle which group, (a), (b), or (c), is selected and provide the supporting documentation with the proposal/bid.

(a) Financial statements for the three (3) most recent consecutive fiscal years, audited by a Certified Public Accountant (“CPA”), including:

- (i) Income Statement;
- (ii) Balance Sheet; and
- (iii) Statement of Cash Flows.

(b) Financial statements for the three (3) most recent consecutive fiscal years, either reviewed or compiled by a Certified Public Accountant (“CPA”), including:

- (i) Income Statement;
- (ii) Balance Sheet; and
- (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable.

(c) Unaudited, self-prepared financial statements for the three (3) most recent consecutive fiscal years, including:

- (i) Income Statement;
- (ii) Balance Sheet;
- (iii) Satisfactory proof of Proponent’s ability to obtain a Performance Bond for the amount described in Appendix B, if applicable;
- (iv) Two (2) banks or other institutional lenders’ references; and
- (v) Dunn and Bradstreet report for the last two (2) years.

2. Fill in the blanks below to provide a summary of all of the Proponent's assets and liabilities for the three (3) most recent years (calculated from the date of the end of the fiscal year).

ALL FIGURES BELOW MUST BE REPRESENTED IN U.S. CURRENCY (\$).

Standard currency of Proponent's Financial Statements: \_\_\_\_\_

The exchange rate used: \_\_\_\_\_ = US \$ \_\_\_\_\_

Most recent three (3) years

	<u>Year: 20</u> (Thousands)	<u>Year: 20</u> (Thousands)	<u>Year: 20</u> (Thousands)
Current Assets	\$.....	\$.....	\$.....
Current Liabilities	\$.....	\$.....	\$.....
Property & Equip.	\$.....	\$.....	\$.....
Working Capital	\$.....	\$.....	\$.....
Sales/ Revenue	\$.....	\$.....	\$.....
Total Assets	\$.....	\$.....	\$.....
Total Liabilities	\$.....	\$.....	\$.....
Interest Charges	\$.....	\$.....	\$.....
Net Income	\$.....	\$.....	\$.....
Net-Worth	\$.....	\$.....	\$.....

3. Do you plan to use or require an open line of credit for the project? Yes or No.

If yes, the Proponent must provide the source of the line of credit on bank letterhead for the bank providing the line of credit. The bank contact information must include: contact name, title, address, telephone, fax and e-mail address.

**Declaration**

Under penalty of perjury, I declare that I have examined this Affidavit Disclosure form and all attachments to it, if applicable, and, to the best of my knowledge and belief, and all statements contained in it and all attachments, if applicable, are true, correct and complete.

Whether you are an individual executing this form or you are an authorized representative of an entity executing this form, the person signing below must sign or affirm in the presence of a Notary Public. The Notary Public's signature and seal must be provided, together with the date of the notarial act.

***For entities that are newly formed (formed within the last three years):***

- I certify that the Respondent is newly formed and does not have sufficient information to respond to Part C of this Form.**

*Sign here if you are an individual:*

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name) this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)  
My commission expires: \_\_\_\_\_

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*Sign here if you are an authorized representative of a responding entity:*

Printed Name of Entity: \_\_\_\_\_

Signature of authorized representative: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_

Subscribed and sworn to or affirmed by \_\_\_\_\_ (name), as the \_\_\_\_\_ (title) of \_\_\_\_\_ (entity name) this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

\_\_\_\_\_  
Notary Public of \_\_\_\_\_ (state)  
My commission expires: \_\_\_\_\_

**FORM 5**  
**Acknowledgement of Insurance and Bonding Requirements**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_,  
Proponent, acknowledge that if selected as the successful Proponent for **FC-8832:  
Urban Forestry 2016**. Proponent shall comply completely and promptly with all  
insurance requirements contained in the Agreement attached to this Solicitation and appendices  
thereto, pertaining to insurance.

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

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

Corporate Proponent:  
[Insert Corporate Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant  
Secretary (Seal)

Non-Corporate Proponent:  
[Insert Proponent Name]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Notary Public (Seal)  
My Commission Expires: \_\_\_\_\_

**FORM 6.1**

**Certification of Insurance Ability Instructions:**

Offeror **MUST** submit a **completed copy of this form executed by their insurance company.**  
Failure to submit completed form will result in the Offeror being deemed non-responsive.

I, \_\_\_\_\_ [*insert* \_\_\_\_\_] *an individual's name*], on behalf of \_\_\_\_\_ [*insert insurance company full name*], a \_\_\_\_\_ [*insert type of entity LLC, LLP, corporation, etc.*](**"Insurer"**), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia (**"City"**) on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [*insert date*]:

(a) Insurer is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact insurance business in the State of Georgia;

(b) Insurer has reviewed the Agreement attached to the solicitation for Project Number **FC: 8832 Urban Forestry 2016** (**"Project"**) and its corresponding **Appendix B for Insurance Requirements**;

(c) Insurer certifies that if, as of the date written above, (**"Offeror"**) was selected as the successful Offeror for the Project, Insurer would provide insurance to Offeror for this Project in accordance with the terms set forth in the corresponding **Appendix for Insurance Requirements**; and

**PLEASE NOTE: If this Form 6.1 is executed by an Attorney-in-Fact, then Insurer must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 6.1. If Offeror is unable to provide City with insurance that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.**

By executing this certification, Insurer represents that all of the information provided by Insurer herein is true and correct as of the date set forth above.

**Insurer:** [*insert company name on line provided below*]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary  
(Seal)

**FORM 6.2**

**Certification of Bonding Ability Instructions:**

Offeror **MUST** submit a **completed copy of this form executed by their surety**. Failure to submit completed form will result in the Offeror being deemed non-responsive.

I, \_\_\_\_\_ [insert \_\_\_\_\_ an individual's name], on behalf of \_\_\_\_\_ [insert surety company full name], a \_\_\_\_\_ [insert type of entity LLC, LLP, corporation, etc.](**"Surety"**), hereby represent and certify each of the following to the City of Atlanta, a municipal corporation of the State of Georgia (**"City"**) on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ [insert date]:

(a) Surety is licensed by the Insurance and Safety Fire Commissioner of the State of Georgia to transact surety business in the State of Georgia;

(b) Surety has reviewed the Agreement attached to the solicitation for Project Number **FC: 8832: Urban Forestry 2016** ("Project") and its corresponding **Appendix B for Insurance Requirements**;

(c) Surety certifies that if, as of the date written above, \_\_\_\_\_ (**"Offeror"**) was selected as the successful Offeror for the Project, Surety would provide bonding to Offeror for this Project in accordance with the corresponding **Appendix for Insurance Requirements**; and

(d) **Surety only:** The Surety states that Offeror's uncommitted bonding capacity (not taking into account this Project) is approximately \$ \_\_\_\_\_ (U.S.). Surety's statement set forth in this Section (d) does not represent a limitation of the bonding capacity of Offeror or that Offeror will have the bonding capacity noted above at the time of contract execution for this Project.

**PLEASE NOTE: If this Form 6.2 is executed by an Attorney-in-Fact, then Surety must attach a copy of a duly executed Power-of-Attorney evidencing such authority in addition to correctly completing this Form 6.2. If Offeror is unable to provide City with bonds that comply with the terms of the corresponding Appendix for Insurance Requirements within ten (10) days of receiving notice of intent to award the Project from the City, the City may, in its sole discretion, retain Offeror's security submitted with its offer and/or disqualify Offeror from further consideration for the award of the Agreement.**

By executing this certification, Surety represents that all of the information provided by Surety herein is true and correct as of the date set forth above.

**Surety:** [insert company name on line provided below]

\_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title

\_\_\_\_\_  
Corporate Secretary/Assistant Secretary  
(Seal)

**FORM 7**

**Acknowledgment of Addenda**

Each Respondent must complete and submit an acknowledgement with its solicitation that it has received all Addenda issued for this solicitation. This form has been included and may be used to satisfy this requirement.

This is to acknowledge receipt of the following **Addenda** for **FC- 8832: Urban Forestry 2016**

None (Check if None)

1. \_\_\_\_\_;
2. \_\_\_\_\_;
3. \_\_\_\_\_; and
4. \_\_\_\_\_.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**Corporate Proponent:**  
**[Insert Corporate Name]**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Corporate Secretary/Assistant  
Secretary (Seal)**

**Non-Corporate Proponent:**  
**[Insert Proponent Name]**

\_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

\_\_\_\_\_  
**Notary Public (Seal)**  
**My Commission Expires:**

**FORM 8**

**RESPONDENT CONTACT DIRECTORY**

This Respondent Contact Directory should include the names, positions/titles, firms, mailing addresses, phone and fax numbers and e-mail addresses for each of the following as it pertains to each of the firms in a Respondent's team:

1. At least two individuals authorized to represent the firm for purposes of this Solicitation; and
2. All of Respondent's subcontractors (if any).

<b>NAME</b>	<b>POSITION/TITLE</b>	<b>MAILING ADDRESS</b>	<b>PHONE NUMBER</b>	<b>FAX NUMBER</b>	<b>EMAIL ADDRESS</b>

**FORM 9**

**Reference List**

Each Respondent must provide a list of at least three (3) references using the below-referenced format. The City is interested in reviewing references that are able to attest to a Proponent's performance ability and credibility in a particular industry or trade.

Reference:            Name  
                              Address  
                              City, State, Zip  
                              Phone  
                              Fax

Project Title:

Contact Person: \_\_\_\_\_

Direct Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date(s) of Project: \_\_\_\_\_

Description of Services:

Total Amount of Contract Including Change Orders:

Proponent's Role and Responsibilities:

Current Completion Status:

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*(Use the Same Format to Provide the Additional References)*

**Part 5: Draft Services Agreement**

**DRAFT SERVICES AGREEMENT; CONTRACT NO.**

This Services Agreement ("Agreement") is entered into and effective as of \_\_\_\_\_ (the "Effective Date") between the City of Atlanta ("City") and the service provider ("Service Provider") set forth below.

<b>Contract Name:</b>	<b>Contract No.FC-8832 Urban Forestry 2016</b>
<b>Service Provider</b>	<b>City of Atlanta</b>
<b>Name:</b>	<b>Using Agencies : Department of Parks and Recreation ("<u>DPR</u>")</b>
<b>Address:</b>	<b>Address: 233 Peachtree Street, NE Suites 1700 Atlanta, Georgia 30303</b>
<b>Phone:</b>	<b>Phone:404.546.6786</b>
<b>Fax:</b>	<b>Fax:</b>
<b>Authorized Representative:</b>	<b>Authorized Representative: Amy Phuong</b>

**1. Background.**

1.1 City desires to obtain from Service Provider the services ("Services") described generally on Exhibit A attached.

1.2 The total not to exceed compensation amount payable by City during the initial term of this Agreement is \$\_\_\_\_\_ ("Maximum Payment Amount"). More detailed terms concerning compensation payable under this Agreement are set forth on Exhibit A.

**2. Term.**

2.1 **Initial Term.** The initial term of the Agreement shall begin on the Commencement Date (as defined in the Agreement) and shall expire four (4) years or Twenty four (24) months from when the last tree is planted in the ground, unless earlier cancelled or terminated in accordance with the Agreement terms.

The Agreement shall also include an option to renew the term for a single or period of (1) year, which may only be exercised by the City in its sole discretion.

2.2 **Renewal Terms.** City shall have the right at its sole discretion to renew this Agreement for one (1) additional one (1) year term according to the following procedure:

2.2.1 If City desires to exercise an option to renew, it will submit legislation authorizing such renewal for consideration by City's Council and Mayor prior to the expiration of the prior Term. The legislation will establish that the date of such renewal will be the day immediately following the expiration day of the prior Term;

2.2.2 If such legislation is enacted, within (5) five days of such enactment, City will notify Service Provider of such renewal, at which time Service Provider shall be bound to provide Services during such renewal Term, without the need for the Parties to execute any further documents evidencing such renewal, it being acknowledged by Service Provider that its initial execution of this Agreement is deemed its agreement to continue to provide Services during any renewal Term.

### **3. Interpretation.**

3.1 All capitalized terms used in this Agreement shall have the meanings ascribed to them in the Contract Documents and on Exhibit B attached hereto.

3.2 If there is a conflict between any of the Contract Documents, precedence shall be given in the following order:<sup>5</sup>

1. Agreement
2. Exhibit A – Scope of Services
3. Exhibit A.1-Cost Proposal
4. Exhibit B – Definitions
5. Exhibit C --Legislation
6. Exhibit D - City Security Policies
7. Exhibit E - Dispute Resolution Procedures
8. Appendix A - Office of Contract Compliance Requirements
9. Appendix B - Insurance and Bonding Requirements
10. Appendix C- Additional Required Submittals (IIREA and State Business License)

**4. Authorization.** If applicable, this Agreement is authorized by legislation adopted by City which is attached as Exhibit C.

### **5. Services.**

5.1 **Description of Services.** Service Provider agrees to provide to City the Services per this Agreement. Exhibit A sets forth the following: (a) the period of time during which the Services will be provided; (b) a description of the Services to be provided; (c) the amounts payable and payment schedule for the Services; and (d) any additional provisions applicable to the Services. If any services to be performed are not specifically included on Exhibit A, but are reasonably necessary to accomplish the purpose of this Agreement, they will be deemed to be implied in the scope of the Services to the same extent as if specifically described on Exhibit A.

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<sup>5</sup> For purposes of this provision, authorized changes to an item listed in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

5.2 **Resources.** Unless otherwise expressly provided in this Agreement, all equipment, software, Facilities and Service Provider Personnel required for the proper performance of Services shall be furnished by and be under the control of Service Provider. Service Provider shall be responsible, at its sole cost, for procuring and using such resources in proper and qualified and high quality working and performing order.

5.3 **Change Documents.**

5.3.1 This section will govern changes to the Agreement, whether such changes involve an increase in the Maximum Payment Amount or not. Changes in the Services or other aspects of this Agreement shall be made by written document ("Change Document" or "Unilateral Change Document").<sup>6</sup> All changes shall be implemented pursuant to this subsection (the "Change Document Procedures") and any Applicable Law.

5.3.2 Potential Change Documents that may be issued concerning this Agreement include, but are not limited to:

(a) Change Documents to the Agreement involving an increase to the Maximum Payment Amount executed between City and Service Provider which may or may not require legislative approval under Code Section 2-1292;

(b) Change Documents to the Agreement involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount executed between City and Service Provider pursuant to Code Section 2-1292(d); and

(c) Unilateral Change Documents to the Agreement issued by City pursuant to Code Section 2-1292(d) involving no increase to the Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount.

Change Documents that do not involve an increase in the Maximum Payment Amount will be executed pursuant to Code Section 2-1292(d) either bilaterally or unilaterally by City.

5.3.3 City may propose a change in the Services or other aspects of this Agreement by delivering written notice to Service Provider describing the requested change ("Change Request"). Within ten (10) days of receipt of City's Change Request, Service Provider shall evaluate it and submit a written response ("Proposed Change Document"). A Change Request which involves the reduction of Services shall be effective upon written notice to Service Provider.

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<sup>6</sup> Change Documents may assume numerous multiple forms and titles depending on the nature of the change involved (e.g. Change Order, Unilateral Change Order, Amendment, Contract Modification, Renewal, etc.).

5.3.4 Service Provider may, without receiving any Change Request, on its own submit a Proposed Change Document describing its own proposed requested change to the Agreement.

5.3.5 Each Proposed Change Document shall include the applicable schedule for implementing the proposed change, any applicable changes to the Charges (either increased or decreased) and all other information applicable to the proposed change. Each Proposed Change Document shall constitute an offer by Service Provider and shall be irrevocable for a period of sixty (60) days. City shall review and may provide Service Provider with comments regarding a Proposed Change Document, and Service Provider shall respond to such comments, if any. A Proposed Change Document from Service Provider will become effective only when executed by an authorized representative of City.

5.3.6 City may propose any changes to the Agreement, including, but not limited to, changes that it contends do not involve an increase to the Maximum Payment Amount, a change in the Charges or changes in the terms or amounts of compensation under the Maximum Payment Amount, and Service Provider shall, in good faith, evaluate such proposed Change Request. If City and Service Provider are able to reach agreement on such Change Request, each will execute a Change Document concerning such Change Request pursuant to Code Section 2-1292(d). Nothing in this Agreement shall, in the event of disagreement between City and Service Provider concerning a proposed Change Request, or otherwise, prohibit City from issuing a Unilateral Change Document to Service Provider, pursuant to Code Section 2-1292(d), and City and Service Provider agree to resolve their dispute pursuant to the Dispute Resolution Procedures set forth in Exhibit E. During the pendency of such dispute, Service Provider shall continue to perform the Services, as changed by such Unilateral Change Document.

5.4 **Suspension of Services.** City may, by written notice to Service Provider, suspend at any time the performance of any or all of the Services to be performed under this Agreement. Upon receipt of a suspension notice, Service Provider must, unless the notice requires otherwise, (a) immediately discontinue suspended Services on the date and to the extent specified in the notice; (b) place no further orders or subcontracts for materials, services or facilities with respect to suspended Services, other than to the extent required in the notice; and (c) take any other reasonable steps to minimize costs associated with the suspension.

## **6. Service Provider's Obligations.**

6.1 **Service Provider Personnel.** Service Provider shall be responsible, at its own cost, for all recruiting, hiring, training, educating and orienting of all Service Provider Personnel, all of whom shall be fully qualified and shall be authorized under Applicable Law to perform the Services.

6.2 **Service Provider Authorized Representative.** Service Provider designates the Service Provider Authorized Representative named on page 1 of this Agreement ("Service Provider Authorized Representative") and, such Person shall: (a) be a project executive and employee within Service Provider's organization, with the information, authority and resources

available to properly coordinate Service Provider’s responsibilities under this Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Service Provider; (c) have day-to-day responsibility and authority to address issues relating to the Services; and (d) devote adequate time and efforts to managing and coordinating the Services.

6.3 **Qualifications.** Upon City’s reasonable request, Service Provider will make available to City all relevant records of the education, training, experience, qualifications, work history and performance of Service Provider Personnel.

6.4 **Removal of Personnel Assigned to City Contract.** Within a reasonable period, but not later than seven (7) days after Service Provider’s receipt of notice from City that the continued assignment to the City Contract of any Service Provider Personnel is not in the best interests of City, Service Provider shall remove such Service Provider Personnel from City’s Contract. Service Provider will not be required to terminate the employment of such individual. Service Provider will assume all costs associated with the replacement of any Service Provider Personnel. In addition, Service Provider agrees to remove from City’s Contract any Service Provider Personnel who has engaged in willful misconduct or has committed a material breach of this Agreement immediately after Service Provider becomes aware of such misconduct or breach.

6.5 **Subcontracting.** Unless specifically authorized in this Agreement, Service Provider will not enter into any agreement with or delegate or subcontract any Services to any Third Party without the prior written approval of City, which City may withhold in its sole discretion. If Service Provider subcontracts any of the Services (after having first obtained City’s prior written approval, in its sole discretion), Service Provider shall: (i) be responsible for the performance of Services by the subcontractors; (ii) remain City’s sole point of contact for the Services; and (iii) be responsible for the payment to any subcontractors.

6.6 **Key Service Provider Personnel and Key Subcontractors.**

6.6.1 **The following Persons are identified by Service Provider as Key Service Provider Personnel under this Agreement:**

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

6.6.2 **The following Persons are identified by Service Provider as Key Subcontractors under this Agreement:**

- (a) \_\_\_\_\_;
- (b) \_\_\_\_\_; and
- (c) \_\_\_\_\_.

6.6.3 Service Provider shall not transfer, reassign or replace any Service Provider Key Personnel or Key Subcontractor, except as a result of retirement, voluntary resignation, involuntary termination for cause in Service Provider's sole discretion, illness, disability or death, during the term of this Agreement without prior written approval from City.

6.7 **Conflicts of Interest.** Service Provider shall immediately notify City in writing, specifically disclosing any and all potential or actual conflicts of interests, which arise or may arise during the execution of its work in the fulfillment of the requirements of the Agreement. City shall make a written determination as to whether a conflict of interest actually exists and the actions to be taken to resolve the conflict of interest.

6.8 **Commercial Activities.** Neither Service Provider nor any Service Provider Personnel shall establish any commercial activity, issue concessions, or permits of any kind to third Parties for establishing any activities on City property.

## **7. City's Authorized Representative.**

7.1 **Designation and Authority.** City designates the City Authorized Representative named on page 1 of this Agreement (the "City Authorized Representative") who shall: (a) serve as primary interface and the single-point of communication for the provision of Services; (b) have day-to-day responsibility to address issues relating to this Agreement; and (c) to the extent provided under the Code, have the authority to execute any additional documents or changes on behalf of City.

7.2 **City's Right to Review and Reject.** Any Service or other document or item to be submitted or prepared by Service Provider hereunder shall be subject to the review of the City Authorized Representative. The City Authorized Representative may disapprove, if in the City Authorized Representative's sole opinion the Service, document or item is not in accordance with the requirements of this Agreement or sound professional service principles, or is impractical, uneconomical or unsuited in any way for the purposes for which the Service, document or item is intended. If any of the said items or any portion thereof are so disapproved, Service Provider shall revise the items until they meet the approval of the City Authorized Representative. However, Service Provider shall not be compensated under any provision of this Agreement for repeated performance of such disapproved items.

## **8. Payment Procedures.**

8.1 **General.** City will not be obligated to pay Service Provider any amount in addition to the Charges for Service Provider's provision of the Services. Service Provider Personnel hourly rates, reimbursable expenses and other compensable items under this Agreement are set forth on Exhibit A.

8.2 **Invoices.** Service Provider shall prepare and submit to City invoices for payment of all Charges in accordance with Exhibit A. Each invoice shall be in such detail and in such format as City may reasonably require. To the extent not set forth on Exhibit A, Service Provider shall invoice City monthly for Services rendered.

8.3 **Taxes.** The Charges are inclusive of all taxes, levies, duties and assessments (“Taxes”) of every nature due in connection with Service Provider’s performance of the Services. Service Provider is responsible for payment of such Taxes to the appropriate governmental authority. If Service Provider is refunded any Tax payments made relating to the Services, Service Provider shall remit the amount of such refund to City within forty-five (45) days of receipt of the refund.

8.4 **Payment.** City shall endeavor to pay all undisputed Charges within thirty (30) days of the date of the receipt by City of a properly rendered and delivered invoice. Notwithstanding the forgoing, unless otherwise provided on Exhibit A, all undisputed Charges on an invoice properly rendered and delivered shall be payable within forty-five (45) days of the date of receipt by City.

8.5 **Disputed Charges.** If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify Service Provider in writing of the basis for any dispute within thirty (30) days of the later of: (a) receipt of the invoice; or (b) discovery of the basis for any such dispute. City and Service Provider agree to use all reasonable commercial efforts to resolve any disputed amount in any invoice within thirty (30) days of the date City notifies Service Provider of the disputed amount.

8.6 **No Acceptance of Nonconforming Work.** No payment of any invoice or any partial or entire use of the Services by City constitutes acceptance of any Services.

8.7 **Payment of Other Persons.** Prior to the issuance of final payment from City, Service Provider shall certify to City in writing, in a form satisfactory to City, that all subcontractors, materialmen, suppliers and similar firms or persons engaged by Service Provider in connection with this Agreement have been paid in full or will be paid in full utilizing the monies constituting final payment to Service Provider.

**9. Service Provider Representations and Warranties. As of the Effective Date and continuing throughout the Term, Service Provider warrants to City that:**

9.1 **Authority.** Service Provider is duly incorporated or formed, validly existing and is in good standing under the laws of the state in which it is incorporated or formed, and is in good standing in each other jurisdiction where the failure to be in good standing would have a material adverse affect on its business or its ability to perform its obligations under this Agreement. Service Provider has all necessary power and authority to enter into and perform its obligations under this Agreement, and the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorized by all necessary actions on its part. This Agreement constitutes a legal, valid and binding obligation of Service Provider, enforceable against it in accordance with its terms. No action, suit or proceeding in which Service Provider is a party that may restrain or question this Agreement or the provision of Services by Service Provider is pending or threatened.

9.2 **Standards.** The Services will be performed in a workmanlike manner in accordance with the standards imposed by Applicable Law and the practices and standards used in well managed operations performing services similar to the Services.

9.3 **Conformity.** The development, creation, delivery, provision, implementation, testing, maintenance and support of all Services shall conform in all material respects to the description of such Services in the Contract Documents.

9.4 **Materials and Equipment.** Any equipment or materials provided by Service Provider shall be new, of clear title, not subject to any lien or encumbrance, of the most suitable grade of their respective kinds for their intended uses, shall be free of any defect in design or workmanship and shall be of merchantable quality and fit for the purposes for which they are intended.

## **10. Compliance with Laws.**

10.1 **General.** Service Provider and its subcontractors will perform the Services in compliance with all Applicable Laws.

10.2 **City's Socio-Economic Programs.** Service Provider shall comply with Appendix A and any applicable City socio-economic programs, including, but not limited to, City's SBE and EEO Programs, and requirements set forth in the Code in the performance of the Services.

10.3 **Consents, Licenses and Permits.** **Service Provider will be responsible for, and** the Charges shall include the cost of, obtaining, maintaining and complying with, and paying all fees and taxes associated with, all applicable licenses, authorizations, consents, approvals and permits required of Service Provider in performing Services and complying with this Agreement.

## **11. Confidential Information.**

11.1 **General.** Each Party agrees to preserve as strictly confidential all Confidential Information of the other Party for two (2) years following the expiration or termination of this Agreement; provided, however, that each Party's obligations for the other Party's Confidential Information that constitutes trade secrets pursuant to Applicable Laws will continue for so long as such Confidential Information continues to constitute a trade secret under Applicable Law. Any Confidential Information that may be deemed Sensitive Security Information by the Department of Homeland Security or any other similar Confidential Information related to security will be considered trade secrets. Upon request by City, Service Provider will return any trade secrets to City. Each Party agrees to hold the Confidential Information of the other in trust and confidence and will not disclose it to any Person, or use it (directly or indirectly) for its own benefit or the benefit of any other Person other than in the performance of its obligations under this Agreement.

11.2 **Disclosure of Confidential Information or Information Other Party Deems to be Confidential Information.** Each Party will be entitled to disclose any Confidential Information if compelled to do so pursuant to: (i) a subpoena; (ii) judicial or administrative order; or (iii) any other requirement imposed upon it by Applicable Law. Prior to making such a disclosure, to the extent allowed pursuant to Applicable Law, each Party shall provide the other with thirty six (36) hours prior notice by facsimile of its intent to disclose, describing the content of the information to be disclosed and providing a copy of the pleading, instrument, document, communication or other written item compelling disclosure or, if not in writing, a detailed

description of the nature of the communication compelling disclosure with the name, address, phone number and facsimile number of the Person requesting disclosure. Should the non-disclosing Party contest the disclosure, it must: a) seek a protective order preventing such disclosure; or b) intervene in such action compelling disclosure, as appropriate. This Section shall be applicable to information that one Party deems to be Confidential Information but the other Party does not.

## **12. Work Product.**

12.1 Except as otherwise expressly provided in this Agreement, all reports, information, data, specifications, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored by Provider or any of its contractors exclusively for the City under this Agreement, and all intellectual property rights associated with the foregoing items (collectively, the "Work Product") shall be and remain the sole and exclusive property of the City. Any of Provider's or its contractors' works of authorship comprised within the Work Product (whether created alone or in concert with City or Third Party) shall be deemed to be "works made for hire" and made in the course of services rendered and, whether pursuant to the provisions of Section 101 of the U.S. Copyright Act or other Applicable Law, such Work Product shall belong exclusively to City. Provider and its contractors grant the City a non-exclusive, perpetual, worldwide, fully paid up, royalty-free license to all Work Product not exclusively developed for City under this Agreement.

12.2 If any of the Work Product is determined not to be a work made for hire, Service Provider assigns to City, worldwide and in perpetuity, all rights, including proprietary rights, copyrights, and related rights, and all extensions and renewals of those rights, in the Work Product. If Service Provider has any rights to the Work Product that cannot be assigned to City, Service Provider unconditionally and irrevocably waives the enforcement of such rights and irrevocably grants to City during the term of such rights an exclusive, irrevocable, perpetual, transferable, worldwide, fully paid and royalty-free license, with rights to sublicense through multiple levels of sublicensees, to reproduce, make, have made, create derivative works of, distribute, publicly perform and publicly display by all means, now known or later developed, such rights.

12.3 City shall have the sole and exclusive right to apply for, obtain, register, hold and renew, in its own name or for its own benefit, all patents, copyrights, applications and registrations, renewals and continuations and all other appropriate protection.

12.4 To the extent exclusive title or complete and exclusive ownership rights in any Work Product created by Service Provider Personnel may not originally vest in City by operation of Applicable Law, Service Provider shall, immediately upon request, unconditionally and irrevocably assign, transfer and convey to City all rights, title and interest in the Work Product.

12.5 Without any additional cost to City, Service Provider Personnel shall promptly give City all reasonable assistance and execute all documents City may reasonably request to enable City to perfect, preserve, enforce, register and record its rights in all Work Product.

Service Provider irrevocably designates City as Service Provider's agent and attorney-in-fact to execute, deliver and file, if necessary, any documents necessary to give effect to the provisions of this Section and to take all actions necessary, in Service Provider's name, with the same force and effect as if performed by Service Provider.

### **13. Audit and Inspection Rights.**

#### **13.1 General.**

13.1.1 Service Provider will provide to City, and any Person designated by City, access to Service Provider Personnel and to Service Provider owned Facilities for the purpose of performing audits and inspections of Service Provider, Service Provider Personnel and/or any of the relevant information relating to the Services and this Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of Charges and invoices; (b) examine Service Provider's performance of the Services; (c) monitor compliance with the terms of this Agreement; and (d) any other matters reasonably requested by City. Service Provider shall provide full cooperation to City and its designated Persons in connection with audit functions and examinations by regulatory authorities.

13.1.2 All audits and inspections will be conducted during normal business hours (except with respect to Services that are performed during off-hours).

13.1.3 Service Provider shall promptly respond to and rectify the deficiencies identified in and implement changes suggested by any audit or inspection report.

13.1.4 If any audit or inspection of Charges or Services reveals that City has overpaid any amounts to Service Provider, Service Provider shall promptly refund such overpayment and Service Provider shall also pay to City interest on the overpayment amount at the rate of one-half percent (0.5%) per month (or such maximum rate permissible by Applicable Law, if lower) from the date the overpayment was made until the date the overpayment is refunded to City by Service Provider.

13.2 **Records Retention.** Until the later of: (a) six (6) years after expiration or termination of this Agreement; (b) the date that all pending matters relating to this Agreement (e.g., disputes) are closed or resolved by the Parties; or (c) the date such retention is no longer required to meet City's records retention policy or any record retention policy imposed by Applicable Law, if more stringent than City's policy, Service Provider will maintain and provide access upon request to the records, data, documents and other information required to fully and completely enable City to enforce its audit rights under this Agreement.

### **14. Indemnification by Service Provider.**

14.1 **General Indemnity.** Service Provider shall indemnify and hold City, its agencies and its and their respective officers, directors, employees, advisors, and agents, successors and permitted assigns, harmless from any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon:

- (a) Service Provider's or Service Provider Personnel's performance, non-performance or breach of this Agreement;
- (b) compensation or benefits of any kind, by or on behalf of Service Provider Personnel, or any subcontractor, claiming an employment or other relationship with Service Provider or such subcontractor (or claiming that this Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Agreement or the provision of Services by such Service Provider Personnel or subcontractor);
- (c) any actual, alleged, threatened or potential violation of any Applicable Laws by Service Provider or Service Provider Personnel, to the extent such claim is based on the act or omission of Service Provider or Service Provider Personnel, excluding acts or omissions by or at the direction of City;
- (d) death of or injury to any individual caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider; and
- (e) damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Service Provider or any Person acting for, in the name of, at the direction or supervision of or on behalf of Service Provider.

14.2 **Intellectual Property Indemnification by Service Provider.** Service Provider shall indemnify and hold City Indemnitees, harmless from and against any losses, liabilities, damages, demands and claims, and all related costs (including reasonable legal fees and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from claims or actions based upon any of the materials and methodologies used by Service Provider (or any Service Provider agent, contractor, subcontractor or representative), or City's use thereof (or access or other rights thereto) in connection with the Services infringes or misappropriates the Intellectual Property Rights of a Third Party. If any materials or methodologies provided by Service Provider hereunder is held to constitute, or in Service Provider's reasonable judgment is likely to constitute, an infringement or misappropriation, Service Provider will in addition to its indemnity obligations, at its expense and option, and after consultation with City regarding City's preference in such event, either: (A) procure the right for City Indemnitees to continue using such materials or methodologies; (B) replace such materials or methodologies with a non-infringing equivalent, provided that such replacement does not result in a degradation of the functionality, performance or quality of the Services; (C) modify such materials or methodologies, or have such materials or methodologies modified, to make them non-infringing, provided that such modification does not result in a degradation of the functionality, performance or quality of the materials or methodologies; or (D) create a feasible workaround that would not have any adverse impact on City.

**15. Limitation of Liability.**

15.1 **General.** THE MAXIMUM AGGREGATE LIABILITY OF CITY HEREUNDER IS LIMITED TO THE TOTAL OF ALL CHARGES ACTUALLY PAID DURING THE CURRENT YEAR UNDER THE AGREEMENT. EXCEPT FOR PROVIDER'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION BY SERVICE PROVIDER" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY PROVIDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY OR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE, AND EVEN IF FORESEEABLE OR IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15.2 **Exceptions to Limitations.** The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; or (b) any claim involving a violation of any Applicable Law concerning homeland security, terrorist activity or security sensitive information, regardless of the manner in which such damages are characterized.

**16. Insurance and Bonding Requirements.** Service Provider shall comply with the insurance and bonding requirements set forth on Appendix B.

**17. Force Majeure.** Neither Party will be liable for default or delay in the performance of its obligations under this Agreement to the extent such default or delay is caused by a Force Majeure Event. Upon the occurrence of a Force Majeure Event, the non-performing Party will be excused from performance or observance of affected obligations for as long as: (a) the Force Majeure Event continues; and (b) the Party continues to attempt to recommence performance or observance to the extent commercially reasonable without delay. If any Force Majeure Event continues for thirty (30) consecutive days, City may, at its option during such continuation, terminate this Agreement, in whole or in part, without penalty or further obligation or liability of City.

**18. Termination.**

18.1 **Termination by City for Cause.** City may at its option, by giving written notice to Service Provider, terminate this Agreement:

(a) for a material breach of the Contract Documents by Service Provider that is not cured by Service Provider within seven (7) days of the date on which City provides written notice of such breach;

(b) immediately for a material breach of the Contract Documents by Service Provider that is not reasonably curable within seven (7) days;

(c) immediately upon written notice for numerous breaches of the Contract Documents by Service Provider that collectively constitute a material breach or reasonable grounds for insecurity concerning Service Provider's performance; or

(d) immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Service Provider's obligations under this Agreement or is in violation of any City Ethics Ordinances.

18.2 **Re-procurement Costs.** In addition to all other rights and remedies City may have, if this Agreement is terminated by City pursuant to the above subsection entitled "Termination by City for Cause," Service Provider will be liable for all costs in excess of the Charges for all terminated Services reasonably and necessarily incurred by City in the completion of the Services, including the cost of administration of any agreement awarded to other Persons for completion. If City improperly terminates this Agreement for cause, the termination for cause will be considered a termination for convenience in accordance with the provisions of the Section entitled "Termination by City for Convenience."

18.3 **Termination by City for Insolvency.** City may terminate this Agreement immediately by delivering written notice of such termination to Service Provider if Service Provider: (a) becomes insolvent, as that term may be defined under Applicable Law, or is unable to meet its debts as they mature; (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors; (c) is adjudicated bankrupt or makes an assignment for the benefit of its creditors generally; (d) fails to deny or contest the material allegations of an involuntary petition filed against it pursuant to any Applicable Law relating to bankruptcy, arrangement or reorganization, which is not dismissed within sixty (60) days; or (e) applies for or consents to the appointment of any receiver for all or any portion of its property.

18.4 **Termination by City for Convenience.** At any time during the Term of this Agreement, City may terminate this Agreement for convenience upon fourteen (14) days written notice of such termination. Upon a termination for convenience, Service Provider waives any claims for damages, including loss of anticipated profits. As Service Provider's sole remedy and City's sole liability, City will pay Charges for the Services properly performed prior to the notice of termination, plus all reasonable costs for Services performed after the termination, as specified in such notice, and reasonable administrative costs of settling and paying claims arising out of the termination of Services under purchase orders or subcontracts except to the extent any products under such purchase orders or subcontracts can be used by Service Provider in its business within the thirty (30) days following termination. If requested, Service Provider shall substantiate such costs with proof satisfactory to City.

18.5 **Termination for Lack of Appropriations.** If, during the Term of this Agreement, legislation establishing a Maximum Payment Amount for the following year is not enacted, this Agreement will terminate in its entirety on the last day of the annual term for which a Maximum Payment Amount has been legislatively authorized.

18.6 **Effect of Termination.** Unless otherwise provided herein, termination of this Agreement, in whole or in part and for any reason, shall not affect: (a) any liabilities or obligations of either Party arising before such termination or out of the events causing such termination; or (b) any remedies to which a Party may be entitled under this Agreement, at law or in equity. Upon termination of this Agreement, Service Provider shall immediately: (i) discontinue Services on the date and to the extent specified in the notice and place no further purchase orders or subcontracts to the extent that they relate to the performance of the terminated Services; (ii) inventory, maintain and turn over to City all work product, licenses, equipment, materials, plant, tools, and property furnished by Service Provider or provided by City for performance of the terminated Services; (iii) promptly obtain cancellation, upon terms satisfactory to City, of all purchase orders, subcontracts, rentals or any other agreements existing for performance of the terminated Services, or assign those agreements, as directed by City; (iv) comply with all other reasonable requests from City regarding the terminated Services; and (v) continue to perform in accordance with all of the terms and conditions of this Agreement any portion of the Services that are not terminated.

**19. Dispute Resolution.**

19.1 All disputes under the Contract Documents or concerning Services shall be resolved under this Section and Exhibit E. Both Parties shall continue performing under this Agreement while the Parties are seeking to resolve any such dispute unless, during that time, this Agreement is terminated or expires. A dispute over payment will not be deemed to preclude performance by Service Provider.

19.2 **Applicable Law.** The Contract Documents shall be governed by and construed in accordance with the substantive laws of the State of Georgia without regard to its choice of law principles.

19.3 **Jurisdiction and Venue.** The Parties hereby submit and consent to the exclusive jurisdiction of the state courts of Fulton County, Georgia or in the United States District Court for the Northern District of Georgia and irrevocably agree that all actions or proceedings relating to this Agreement will be litigated in such courts, and each of the Parties waives any objection which it may have based on improper venue or forum *non conveniens* to the conduct of any such action or proceeding in such court.

**20. General.**

20.1 **Notices.** Any notice under this Agreement shall be in writing and sent to the respective Party at the address on page 1 of this Agreement, or, if applicable, to the City's Department of Procurement at 55 Trinity Avenue, Suite 1790, Atlanta, Georgia, 30303, and shall be deemed delivered: (a) when delivered by hand or courier or by overnight delivery with signature receipt required; (b) when sent by confirmed facsimile with a copy sent by another means specified in this Section; or (c) three (3) days after the date of mailing by United States certified mail, return receipt requested, postage prepaid. Any Party may change its address for communications by notice in accordance with this Section.

20.2 **Waiver.** Any waiver by the Parties or failure to enforce their rights under this Agreement shall be deemed applicable only to the specific matter and shall not be deemed a waiver or failure to enforce any other rights under this Agreement, and this Agreement shall continue in full force and effect as though such previous waiver or failure to enforce any rights had not occurred. No supplement, modification, amendment or waiver of this Agreement will be binding on City unless executed in writing by the City Authorized Representative.

20.3 **Assignment.** Neither this Agreement, nor any rights or obligations under it, are assignable in any manner without the prior written consent of the other Party and any attempt to do so without such written consent shall be void *ab initio*.

20.4 **Publicity.** Service Provider shall not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Agreement without the prior written consent of City.

20.5 **Severability.** In the event that any provision of this Agreement is declared invalid, unenforceable or unlawful, such provision shall be deemed omitted and shall not affect the validity of other provisions of this Agreement.

20.6 **Further Assurances.** Each Party shall provide such further documents or instruments required by the other Party as may be reasonably necessary to give effect to this Agreement.

20.7 **No Drafting Presumption.** No presumption of any Applicable Law relating to the interpretation of contracts against the drafter shall apply to this Agreement.

20.8 **Survival.** Any provision of this Agreement which contemplates performance subsequent to any termination or expiration of this Agreement or which must survive in order to give effect to its meaning, shall survive the expiration or termination of this Agreement.

20.9 **Independent Contractor.** Service Provider is an independent contractor of City and nothing in this Agreement shall be deemed to constitute Service Provider and City as partners, joint venturers, or principal and agent, or be construed as requiring or permitting the sharing of profits or losses. Neither Party has the authority to represent or bind or create any legal obligations for or on behalf of the other Party.

20.10 **Third Party Beneficiaries.** This Agreement is not intended, expressly or implicitly, to confer on any other Person any rights, benefits, remedies, obligations or liabilities.

20.11 **Cumulative Remedies.** Except as otherwise provided herein, all rights and remedies under this Agreement are cumulative and are in addition to and not in lieu of any other remedies available under Applicable Law, in equity or otherwise.

20.12 **Entire Agreement.** The Contract Documents contain the entire Agreement of the Parties relating to their subject matter and supersede all previous communications, representations or agreements, oral or written, between the Parties with respect to such subject matter. This Agreement may only be amended or modified by a writing executed by

each Party's authorized representative and each such writing shall be deemed to incorporate the Contract Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. SERVICE PROVIDER MAY NOT UNILATERALLY AMEND OR MODIFY THIS AGREEMENT BY INCLUDING PROVISIONS IN ITS INVOICES, OR OTHER BUSINESS FORMS, WHICH SHALL BE DEEMED OBJECTED TO BY CITY AND OF NO FORCE OR EFFECT.

20.13 **Unauthorized Goods or Services.** Service Provider acknowledges that this Agreement and any changes to it by amendment, modification, change order or other similar document may have required or may require the legislative authorization of the City's Council and approval of the Mayor. Under Georgia law, Service Provider is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Service Provider's provision of goods or services to the City under an unauthorized contract, amendment, modification, change order or other similar document, including the possibility that the Service Provider may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Service Provider agrees that if it provides goods or services to the City under a contract that has not received proper legislative authorization or if Service Provider provides goods or services to the City in excess of the any contractually authorized goods or services, as required by the City's Charter and Code, the City may withhold payment for any unauthorized goods or services provided by Service Provider. Service Provider assumes all risk of non-payment for the provision of any unauthorized goods or services to the City, and it waives all claims to payment or to other remedies for the provision of any unauthorized goods or services to the City, however characterized, including, without limitation, all remedies at law or equity.

**IN WITNESS WHEREOF**, the Parties hereto by authorized representatives have executed this Agreement as of the Effective Date.

<b>CITY OF ATLANTA</b>  _____ <b>MAYOR</b>  _____ <b>ATTEST:</b>  _____ <b>MUNICIPAL CLERK</b>  <b>RECOMMENDED:</b>  _____ <b>COMMISSIONER OF PARKS AND RECREATION</b>  _____ <b>CHIEF PROCUREMENT OFFICER</b>  _____ <b>APPROVED AS TO FORM:</b>  _____ <b>CITY ATTORNEY</b>  _____	<b>SERVICE PROVIDER:</b>  <b>BY:</b> _____ <b>NAME:</b> _____ <b>TITLE:</b> _____  _____ <b>SECRETARY/ASSISTANT SECRETARY</b> <b>(SEAL)</b>  <b>LIMITED LIABILITY COMPANY:</b>  <b>BY:</b> _____ <b>NAME:</b> _____ <b>TITLE:</b> _____  _____ <b>NOTARY PUBLIC (SEAL)</b>  <b>MY COMMISSION EXPIRES:</b> _____
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## EXHIBIT A

### SCOPE OF SERVICES AND ADDITIONAL COMPENSATION TERMS

1. **Vision** City of Atlanta’s Tree Ordinance (Section 158-28: Policy, Purpose, and Intent) provides broad directives in regards to reforestation. It is the policy of the City that there shall be no net loss of trees within the boundaries of the City. Through this policy, the City will continue to enjoy the benefits provided by its urban forest. To this end, Department of Parks and Recreation seeks to establish the maximum amount of tree cover on public lands within the City; plant and maintain trees for long-term health and nonhazardous condition through professionally accepted arboricultural practices; improve the economic base of the city by raising property values; enhance the visual quality of the city and its neighborhoods; better public health by lessening air pollution; mitigate storm water runoff and flooding; minimize tree-related tripping hazards; maximize accessibility and usability of infrastructure; prevent damage to streets and sidewalks; and decrease right-of-way maintenance costs. Contracted tree installation along right-of-ways and on other public lands should conform to these broad directives. Atlanta identifies itself as a “City in the Forest,” thereby City of Atlanta contracted tree installations are central to maintaining this identity through reforestation and gaining the afore listed benefits.
  
2. **Background** This RFP seeks to continue the decade-long reforestation programming paid for through the City of Atlanta’s Tree Trust Fund. The Fund is dedicated to expanding the scope of forestry services offered by City of Atlanta. This RFP focuses on larger, technical tree installations that community volunteers could not reasonably be expected to perform. These installations will include locating tree planting sites, seeking community feedback for proposed tree plantings, incorporating feedback into tree planting plans, submitting tree planting plans for DPR approval, utility research to avoid tree planting conflicts, tagging trees within the City’s database, and tree maintenance among other services. Additionally, this RFP seeks to contract stump removal services to open up space for replanting. The Proponent will be expected to work with community members, political leadership, and City agencies in the delivery of services. As a public entity, City of Atlanta expects customer service excellence in engagement with citizens, business owners, and visitors.
  
3. **Scope of Service**
  - 3.1 Locate planting sites and plant twelve hundred (1200), 2.5 nursery caliper inch trees on rights-of-way, on private properties abutting rights-of-way under certain conditions, and other public lands. The first six hundred (600) trees must be planted in the first planting season (years: **2016 & 2017**) of the contract. The second six hundred (600) trees must be planted in the second planting season

(years: **2017 & 2018**) of the contract. The planting season is considered to begin on October 31<sup>st</sup> and run through April 1<sup>st</sup>.

- 3.2 Locate planting sites and plan tree installation utilizing the DPR-approved species palette (see **Exhibit A.3.**) Species selection will be made for both appropriateness to planting sites and species diversity. Tree planting of any one tree species will not exceed 10% of the twelve hundred (1200) tree total. Plantings from any one tree genus will not exceed 20% of the 1200 tree total. Plantings from any one tree family will not exceed 30% of the 1200 tree total.
- 3.3 Distribute plantings across the City. The Proponent will seek to plant across all of City of Atlanta's twelve City Council Districts, however City acknowledges reforestation needs vary across the City. No less than thirty (30) trees must be planted in each City Council District. By this requirement, three hundred and sixty trees (360) of the the 1200 tree total must be allocated to meet the minimum planting requirement for each City Council District.
- 3.4 Identify and plant trees according to reforestation and tree canopy restoration needs. Utilizing the City of Atlanta's Tree Canopy Analysis, the Proponent will attempt to prioritize the remaining eight hundred and forty (840) unallocated tree plantings into areas falling under the City's 48% tree canopy goal.
- 3.5 Plant a minimum of one hundred twenty 120 trees of the twelve hundred (1200) tree total on private properties abutting rights-of-way. Tree plantings on private property are conditional upon securing written permission from the property owner and planting of trees no further than twenty feet from rights-of-way.
- 3.6 Perform community outreach for tree planting. Minimal community outreach includes a flyer notifying private property owners adjacent to rights-of-way of proposed tree plantings, then a second flyer notifying property owners adjacent to rights-of-way of approved tree plantings and an approximate time frame for tree planting. The flyer must be approved by DPR. For tree planting on private property abutting rights of way, written permission from the property owner must be secured. The permission form must be approved by DPR. For plantings on other public lands, permission must be secured through the agency responsible for maintenance of those lands.
- 3.7 Grind twelve hundred (1200) stumps in existing tree wells or tree lawns for successive street tree plantings. DPR shall provide the locations for stump grinding. Stump grinding shall remove stumps to a depth, breadth, and width sufficient to plant 2.5 nursery caliper inch trees replant according to ANSI A300 tree planting standards.

- 3.8 The first six hundred (600) stumps must be ground within 12-months of commencement of the contract. The remaining six hundred (600) stumps must be ground within 24-months of commencement of contract.
- 3.9 Maintain all new plantings for two (2) years from planting. Watering requirements shall include ensuring each planting receives twenty-five (25) gallons of water once every ten (10) days. Mulching with pine straw or double ground hardwood mulch shall be performed once per season. Mulch material will be maintained six inches from the stem. Structural pruning shall be performed to give proper form avoiding traffic and building conflicts. Tree plantings will be kept free of invasive vines.
- 3.10 Track and report using Davey Tree or Davey Tree compatible database in the City's DAVEY TreeKeeper 7 database per DPR specifications. The proponent shall update the database on a quarterly basis as scheduled by DPR.

4. **Goals** The Proponent shall locate tree planting sites, plan, plant, and maintain plantings to establish long term viability of the plantings. The Proponent will provide stump grinding services.

- 4.1 The Proponent locates planting sites on rights-of-way, up to twenty feet off of rights-of-way with private property owner permission, parkland, and other public lands. The Proponent shall submit tree planting plans per specification and for DPR approval.
- 4.2 The Proponent selects trees, then installs trees per specification.
- 4.3 The Proponent performs specified maintenance on tree installations.
- 4.4 The Proponent performs stump grinding services on rights-of-way and on parkland as directed. Stump grinding may be performed for replanting on a site per DPR approval.

5. **Core Requirements** Contractual requirements shall include the following.

5.1 Stump Grinding Requirements

- 5.1.1 DPR shall provide the locations for stump grinding.
- 5.1.2 Stump grinding shall remove stumps to a depth, breadth, and width sufficient to plant 2.5 nursery caliper inch trees replant according to ANSI A300 tree planting standards.
- 5.1.3 While performing stump grinding, protective partitions shall be erected to prevent damaging private property or harming nearby people.
- 5.1.4 Neither depression nor tripping hazards must remain after the stump is ground. If a depression below grade remains, then backfill soil must be introduced. Remaining ground material may be no greater than six inches above grade.
- 5.1.5 If the site is to be used for tree planting, then a backfill soil approved by

DPR must be used.

## 5.2 Tree Planting Planning and Approval Requirements

- 5.2.1 The Contractor shall submit to the Commissioner a planting plan, in a format mutually agreed upon by the City and The Contractor ("Planting Plan".) At a minimum, the Planting Plan will include:
  - 5.2.1.1 A site plan mapping the locations of tree installations.
  - 5.2.1.2 The proposed date of planting each New Tree.
  - 5.2.1.3 The address or adjacent address where each New Tree will be planted, including street number, street name, quadrant, and Council District.
  - 5.2.1.4 The species of the New Tree and the size of the New Tree.
  - 5.2.1.5 The Planting Plan will indicate whether the New Tree is planted on public property, denoted by the label "Street" or, if the New Tree is a replacement tree, the Planting Plan will indicate this with the label "Replacement" or "R." The Planting Plan will indicate whether the New Tree will be located in a park, on a sidewalk, median, grass strip or in a planter. If the New Tree is located in a park, the Planting Plan will show the exact location in the park of where the tree will be planted. The Planting Plan shall also indicate whether the planting involves the cutting and removal of concrete.
  - 5.2.1.6 Notification to DPR of minimal community outreach requirements, including a flyer notifying private property owners adjacent to rights-of-way of proposed tree plantings, then a second flyer notifying property owners adjacent to rights-of-way of approved tree plantings and an approximate time frame for tree planting. The flyer must be approved by DPR. For tree planting on private property abutting rights of way, written permission from the property owner must be secured. The permission form must be approved by DPR. For plantings on other public lands, permission must be secured through the agency responsible for maintenance of those lands.
- 5.2.2 The DPR Commissioner or the City's Tree Conservation Commission may request certain species and specific locations for the New Trees.
- 5.2.3 The Proponent will make tree species selections from the DPR-approved species palette (see **EXHIBIT A.3.**) Tree planting of any one tree species will not exceed 10% of the 1200 tree total. Plantings from any one tree genus will not exceed 20% of the 1200 tree total. Plantings from any one tree family will not exceed 30% of the 1200 tree total.
- 5.2.4 Distribute plantings across the City. The Proponent will seek to plant equally across all of City of Atlanta's twelve City Council Districts, however City acknowledges reforestation needs vary across the City. No

less than thirty (30) trees of the twelve hundred (1200) tree total must be planted in each City Council District.

- 5.2.5 Identify and plant trees according to reforestation and tree canopy restoration needs. Utilizing the City of Atlanta's Tree Canopy Analysis, the Proponent will attempt to prioritize the remaining eight hundred and forty (840) unallocated tree plantings into areas falling under the City's 48% tree canopy goal.
- 5.2.6 Plant a minimum of one hundred twenty 120 trees of the twelve hundred (1200) tree total on private properties abutting rights-of-way. Tree plantings on private property are conditional upon securing written permission from the property owner and planting of trees no further than twenty feet from rights-of-way.
- 5.2.7 The Proponent shall perform underground utility research to avoid utility conflicts.
- 5.2.8 The DPR Commissioner, or his designee, will approve or disapprove with explanation each New Tree described in the Planting Plan at a rate of at least 50 small or large New Trees per three-week period, beginning from the date that the Planting Plan is submitted to the Commissioner. If the Commissioner is unable to provide feedback on at least fifty (50) New Trees per three-week period, those portions of this Agreement pertaining to the planting of New Trees will be automatically adjusted, without formal amendment, so that the Contractor will have a proportionate amount of additional time in which to plant the remaining New Trees.

### 5.3 Quality Standards for New Tree procurement

- 5.3.1 Trees must be free from injury, pests, disease, or nutritional disorders at the time that they are procured.
- 5.3.2 Trees must be of good vigor at the time that they are procured by the Contractor. Though the determination of vigor is subjective and depends upon the species of the tree, in general, the contractor shall procure trees that meet the following criteria:
  - 5.3.2.1 The tree's foliage should have a green or dark green color, large leaves and dense foliage in accordance with its species.
  - 5.3.2.2 The tree should have new branches, and the shoot growth should be at least 1 foot per year. At least one half of the branches should arise from points on the lower two thirds of a trunk.
  - 5.3.2.3 Bark texture and appearance on the trunk and branches of the New Tree should be smooth or shiny, as appropriate to the species.
  - 5.3.2.4 New Trees should be tapered, with an increase in diameter and a decrease in height. The Contractor should not procure New Trees with reverse tapers or no taper.
  - 5.3.2.5 The roots of the young New Trees should be light in color.

5.3.2.6 New Trees must be free of root defects at the time that they are procured by The Contractor, including but not limited to:

5.3.2.6.1 Kinked roots, in which taproots, major branch roots, or both are bent more than 90 degrees with less than 20 percent of the root system originating above the kink.

5.3.2.6.2 Circling or girdling roots which circle 80 percent or more of the root system by 360 degrees or more.

5.4 Procedures for Planting New Trees The Contractor shall ensure that, when New Trees are planted, the standards established by the International Society of Arboriculture in the "Trees and Shrub Transplanting Manual", are followed, including, but not limited to, the following:

5.4.1 Trees must be planted during the dormancy period, between October 31<sup>st</sup> and April 1<sup>st</sup>.

5.4.2 Planting holes shall be no less than one foot wider than the root ball or the container of the New Tree being planted. The Contractor will, if possible, create a planting whole three times the width of the root ball of the New Tree.

5.4.3 New Trees will not be planted deeper than their placement in their former location or container.

5.4.4 Spade compacted bottom and sides of the planting hole for the New Tree will be roughed or scarified to allow the penetration of the New Tree's developing roots.

5.4.5 Planting holes of the New Trees will have good water drainage from the bottom.

5.4.6 Once the New Tree is set in the planting hole, the planting hole will be backfilled with soil of good texture and structure. A backfill with native soil alone is adequate.

5.4.7 The Contractor will not add fertilizer to the backfill soil unless absolutely necessary for the survival of the New Tree. If fertilizer must be added, a low rate will be used. Approximately 1.5 pounds of nitrogen per cubic yard of backfill shall be utilized for bare root plants, and approximately 2.5 pounds of nitrogen per cubic yard of backfill shall be utilized for balled and burlapped trees.

5.4.8 After placing the backfill soil in the planting hole, the soil will be slightly mounded to allow for settling; a ridge or dike around the perimeter of the hole will be formed to facilitate watering.

5.4.9 The backfill soil will be gently tamped, but not compacted, and soaked for

settling.

## 5.5 Post-planting Care for tree installations

- 5.5.1 The amount of pruning, if any, to be performed on each New Tree shall be determined by the New Tree's response to planting. Other than removal of weak, broken, or diseased branches, no pruning shall be performed on a New Tree until after the first growing season. Subsequent pruning for clearance or form shall follow International Society of Arboriculture prescribed pruning practices.
- 5.5.2 The Contractor shall provide mulching for all New Trees.
- 5.5.3 The Contractor shall perform fertilizer application after the New Tree's first full growing season.
- 5.5.4 The Contractor shall monitor the water availability for the New Tree and shall adjust the watering of the New Tree according to the species water requirements and the site conditions, while meeting the minimum watering requirements.
- 5.5.5 The Contractor shall not stake New Trees without receiving prior written approval from the Commissioner or her/his designee. Staking shall be permitted only in the following circumstances:
  - 5.5.5.1 Protective staking may be used for New Trees that are able to stand without support to provide a barrier from potential harms such as foot traffic, mowers, and vehicles.
  - 5.5.5.2 Anchor staking may be used to hold a root ball in place during the period of reestablishment for New Trees with otherwise adequate support.
  - 5.5.5.3 When staking is permitted by the Commissioner or her/his designee, the Contractor shall determine the extent of staking by considering the New Tree's strength, form and condition at planting, expected wind conditions, the amount of vehicle or foot traffic, and the level of follow up maintenance.
  - 5.5.5.4 The Contractor shall perform periodic follow up inspections on New Trees that are staked. The Contractor shall remove the staking from a New Tree as soon as the New Tree is capable of providing its own anchorage and support.
- 5.5.6 The Proponent must guarantee all trees planted within the season for a period of two (2) years from the date of planting. Exceptions will be made for Acts of God or vandalism.

## 5.6 Reporting requirements

- 5.6.1 The Proponent will track planting and maintenance with the City of Atlanta's Davey TreeKeeper 7 database. The following fields must be tracked in TreeKeeper:
  - 5.6.1.1 Address or adjacent address
  - 5.6.1.2 Species
  - 5.6.1.3 Location
  - 5.6.1.4 Planting Date
  - 5.6.1.5 Diameter at Breast Height
  
- 5.6.2 Documentation. The Contractor shall send documentation of the status of the projects to the Commissioner as requested. To the extent practical and appropriate, The Contractor will send monthly documentation. All documentation will include all of the information set forth in the Planting Plan, except that the proposed date of planting shall be changed to the actual date of planting. The documentation shall also include the cost of the work performed to date, including, but not limited to, the cost of each tree, the labor costs, if any, and the cost of concrete cutting and removal, if applicable. The documentation shall also include all maintenance work performed on the planted new trees. The maintenance and care documentation shall be submitted in a mutually agreeable form that will permit and facilitate recording in the City's computer based work order system and any other information reasonably requested by the Commissioner. Stump grinding documentation will note the completion of stump grinding of assigned stumps.
  
- 5.6.3 Records. The Contractor shall maintain records and accounts in connection with the performance of this contract that will accurately document incurred costs, both direct and indirect, of whatever nature for a period of three years from the date of the last contracted payment by the City to the contractor. The City or its designated representatives shall have the right to examine and copy the records and accounts at all reasonable times, with advance notification. The City reserves the right to audit the contractor's costs and expenses related to its performance of this contract at any time between the commencement of this contract and one year from the date of final payment on the contract.

## EXHIBIT A.1

### COST PROPOSAL

#### **Note to Proponents:**

The basis for cost proposal should be provided by the Proponent and describe associated costs in meeting the specifications described in the Scope of Work. This should include, but is not limited to:

#### **Schedule of Payments**

In 2016, the initial payment upon signing is 40% of the total cost proposal (as listed in **Exhibit A.1: Cost Proposal.**)

On October 15, 2017, and upon completion of audit, the second payment shall be 40% of the total cost proposal.

On October 15, 2018, and upon completion of audit, the third payment shall be 10% of the total cost proposal.

On October 15, 2019, and upon completion of audit, the fourth payment shall be 10% of the total cost proposal.

**EXHIBIT A.1: COST PROPOSAL**

1. Community outreach costs such as flyering, site visits, community meetings, securing permissions, and other contact	\$ _____
2. Design costs such as locating prospective planting sites, performing utility research, generating planting plans,	\$ _____
3. Providing supporting documentation for planting plans for DPR approval, and other planning expenses.	\$ _____
4. Tree material costs, in total, and per tree based on species and size (use the attached species palette and species usage restrictions when formulating cost.)	\$ _____
5. Cost of two-year warranty on tree material.	\$ _____
6. Delivery costs for tree material, which includes shipping from nursery to planting site as well as interim staging costs.	\$ _____
7. Costs for tree installation, which includes labor and equipment.	\$ _____
8. Costs, in total and per tree, for a 2-year maintenance package.	\$ _____
9. Cost for stump grinding, in total and per stump, assuming an average stump size is from a 30" DBH tree.	\$ _____
10. Costs for reporting and tracking as well as other administrative overhead.	\$ _____
<b>Cumulative (4-Year) Proposal Total</b>	\$ _____

### **EXHIBIT A.2: Demonstration Site**

D.H. Stanton Park has been selected as a demonstration site for Proponents to provide planting plans and description of process. This site is adjacent to a currently undeveloped portion of the City's Beltline trail. By using the attached site plans and performing a site visit, Proponents will submit a tree planting and maintenance proposal utilizing the requirements listed in this RFP. This should include, but should not be limited to:

Design-Build: Locating prospective tree planting sites, performing utility research, generating, supporting documentation for planting plans for DPR approval, and planning expenses. Include a narrative explaining design choices for this site.

Material: The species, size, and location of trees on site (Use attached species palette and species usage restrictions when formulating cost. Include 2-year warranty cost.)

Delivery Cost of delivery from nursery to planting site, as well as interim staging costs.

Installation Equipment and labor costs.

2-Year Maintenance Package Describe associated tree maintenance and tree maintenance costs.

Reporting and Tracking Describe reporting and tracking to DPR, as well as Davey TreeKeeper usage.

### **EXHIBIT A.3: Planting Palette**

The Contractor will plant trees selected from the attached planting palette. See attached Exhibit A.3.

**EXHIBIT A.2: Demonstration Site**



# D.H. Stanton Park

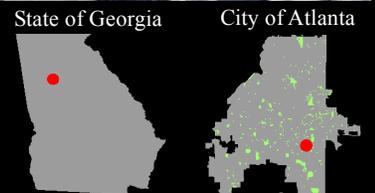
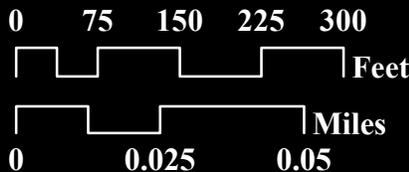
213 Haygood Ave. SE  
Atlanta, GA 30315

Neighborhood: Peoplestown

Council District: 1    NPU: V    Service Area: Southside    Acres: 8.32



-  City of Atlanta Parks
-  Completed Trails
-  Streets



Recreation Center: 1    Pool: 1    Playground: 1    Picnic Shelter: 0    Tennis: 0    Basketball Court: 0

This map is for planning purposes only and does not represent a survey.  
The validity of the data presented cannot be guaranteed. Created 05.2014 by DJCalvert@AtlantaGA.Gov  
City of Atlanta Department of Parks & Recreation Parks 2014 Mapbook

**EXHIBIT A.3: Planting Palette**

variety	common name	botanical name	max ht	max spread	drought tolerant	establishes well	compatible with overhead power lines	minimum soil space	urban growth environment	characteristics
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Use of multiple varieties and selections is desired

**Color Key**

	Difficult to find in trade
	Species on BeltLine, Inc's original list
	Office of Parks Addendum

	Florida Maple	<i>Acer barbatum</i>	20-25'	20-40'			X	3' wide strip	Commercial Corridor	similar to chalkbark maple
	Chalkbark Maple	<i>Acer leucoderme</i>	25-30'	25-30'	X	X	X	3' wide strip	Residential Corridor	needs some shade; mini sugar maple
	Japanese Maple	<i>Acer palmatum</i>	15'-25'	10'-25'				open lawn	Parkland	
	Red Buckeye	<i>Aesculus pavia</i>	20-25'	30-35'		X		larger than 3' strip	Commercial Corridor	
	Tag Alder	<i>Alnus serrulata</i>	15-20'			X		3' wide strip	Residential Corridor	
	Serviceberry	<i>Amelanchier arborea</i>	20-25'	15-20'		X	X	larger than 3' strip	Commercial Corridor	tasty berries
	Pawpaw	<i>Asimina triloba</i>	15-30'	15-20'			X	3' wide strip	Residential Corridor	tasty edible fruit
Fastigiata	European Hornbeam	<i>Carpinus betulus</i>	30-50'	20-30'	X	X		3' wide strip	Urban Core/Downtown	shallow roots; needs well-drained soils
	American Hornbeam	<i>Carpinus caroliniana</i>	20-30'	20-30'				3' wide strip	Commercial Corridor	
	Water Hickory	<i>Carya aquatica</i>	80-100'	50'				5' x 8' well or larger	Residential Corridor	
	Pignut Hickory	<i>Carya glabra</i>	60-70'	25-35'				5' x 8' well or larger	Residential Corridor	piedmont mesic
	Pecan	<i>Carya illinoensis</i>	70-100'	40-75'				5' x 8' well or larger	Residential Corridor	extremely difficult to transplant; long taproot
	Mockernut Hickory	<i>Carya tomentosa</i>	60-70'	50-60'				5' x 8' well or larger	Residential Corridor	upland piedmont
	Allegheny Chinkapin	<i>Castanea pumila</i>	25-50'	25-50'		X		larger than 3' strip	Residential Corridor	
	Deodora Cedar	<i>Cedrus deodara</i>	70-80'	40-50'	X			5' x 8' well or larger	Commercial Corridor	
	Eastern Redbud	<i>Cercis canadensis</i>	20-30'	30'		X	X	3' wide strip	Commercial Corridor	needs some shade
Forest Pansy	Forest Pansy Redbud	<i>Cercis canadensis</i>	20-30'	25-30'		X		3' wide strip	Residential Corridor	needs some shade
	White Cedar	<i>Chamaecyparis thyoides</i>	40-50'	10-20'				open lawn	Residential Corridor	
	Chinese Fringe tree	<i>Chionanthus retusus</i>	25-30'	25-30'		X	X	larger than 3' strip	Commercial Corridor	
	American Fringetree	<i>Chionanthus virginicus</i>	20'	20'		X	X	larger than 3' strip	Commercial Corridor	White, fragrant flowers
	Yellowwood	<i>Cladrastis kentukea</i>	40'	30'	X	X		larger than 3' strip	Residential Corridor	White, fragrant flowers; yellow fall color
	Pagoda Dogwood	<i>Cornus alternifolia</i>	25'	40'			X	3' wide strip	Residential Corridor	
	Flowering Dogwood	<i>Cornus florida</i>	20-30'	20'			X	larger than 3' strip	Residential Corridor	
	Kousa Dogwood	<i>Cornus kousa</i>	20-30'	20-30'			X	larger than 3' strip	Residential Corridor	
	Hazelnut	<i>Corylus avellana</i>	12-15'	10-12'	X		X	3' wide strip	Residential Corridor	
	American Smoketree	<i>Cotinus obovatus</i>	20-30'	20-30'			X	larger than 3' strip	Residential Corridor	
	Washington Hawthorne	<i>Crataegus phaenopyrum</i>	25-30'	20-25'			X	3' wide strip	Residential Corridor	red berries persist through winter
Winter King	Winter King Hawthorne	<i>Crataegus viridis</i>	25-30'	20-25'		X		3' wide strip	Residential Corridor	
	Swamp Cyrilla	<i>Cyrilla racemiflora</i>	15-20'	15-20'		X		open lawn	Residential Corridor	
	Persimmon	<i>Diospyros virginiana</i>	35-60'	20-35'				larger than 3' strip	Residential Corridor	upland piedmont
	American Beech	<i>Fagus grandifolia</i>	50-80'	40-60'				5' x 8' well or larger	Residential Corridor	
	China-fir	<i>Cunninghamia lanceolata</i>	40-70'	10-30'				open lawn	Residential Corridor	
	Fig	<i>Ficus carica</i>	15-30'	15-30'			X	3' wide strip	Residential Corridor	
	Ginkgo	<i>Ginkgo biloba</i> (MALE)	100'	60'+		X		5' x 8' well or larger	Urban Core/Downtown	specify for males only
Princeton Sentry	Ginkgo	<i>Ginkgo biloba</i> (MALE)	100'	60'+				5' x 8' well or larger	Urban Core/Downtown	
	Gordonia/Loblolly Bay	<i>Gordonia lasianthus</i>	30-40'	25'		X		larger than 3' strip	Commercial Corridor	
	Kentucky Coffee Tree	<i>Gymnocladus dioicus</i>	60-70'	40-50'	X	X		5' x 8' well or larger	Commercial Corridor	
	Two-winged Silverbell	<i>Halesia diptera</i>	20-30'	20'				larger than 3' strip	Residential Corridor	
	Carolina Silverbell	<i>Halesia tetraptera</i>	30-40'	20-35'				larger than 3' strip	Residential Corridor	needs some soil amendments
	Virginia Witchhazel	<i>Hamamelis virginiana</i>	20-30'	20-25'		X		open lawn	Commercial Corridor	
	Black Walnut	<i>Juglans nigra</i>	50-70'	50-70'	X			5' x 8' well or larger	Residential Corridor	difficult to transplant
	Eastern Redcedar	<i>Juniperus virginiana</i>	30-40'	10-20'	X	X		3' wide strip	Commercial Corridor	tough, dependable tree
	Chinese Flame Tree	<i>Koelreuteria bipinnata</i>	20-40'	15-35'		X		3' wide strip	Commercial Corridor	summer flowering
	Osage Orange	<i>Maclura pomifera</i>	20-40'	20-40'	X			larger than 3' strip	Residential Corridor	wood used for bow-making
	Yellow Magnolia collection	<i>Magnolia acuminata</i>	30'	25'				larger than 3' strip	Residential Corridor	
	Saucer Magnolia	<i>Magnolia x soulangiana</i>	25-35'	35-40'				larger than 3' strip	Residential Corridor	

	Star Magnolia	<i>Magnolia stellata</i>	15-20'	10-20'			X	larger than 3' strip	Residential Corridor	
	Sweetbay Magnolia	<i>Magnolia virginiana</i>	30-40'	20'				larger than 3' strip	Commercial Corridor	
	Dawn Redwood	<i>Metasequoia glyptostroboides</i>	75-100'	15-25'	X	X		5' x 8' well or larger	Commercial Corridor	does not handle pollution well
	Water Tupelo	<i>Nyssa aquatica</i>	35-50'	20-30'				larger than 3' strip	Commercial Corridor	can endure standing water
	Black Tupelo/Blackgum	<i>Nyssa sylvatica</i>	55'-75'	50'			X	larger than 3' strip	Commercial Corridor	
	American Tea Olive	<i>Osmanthus americanus</i>	20'	25-30'				open lawn	Residential Corridor	
	Fragrant Tea Olive	<i>Osmanthus fragrans</i>	20'-30'	20'			X	X	Residential Corridor	
	Hophornbeam	<i>Ostrya virginiana</i>	25-40'	25-40'	X			3' wide strip	Residential Corridor	pedmont lowland
	Sourwood	<i>Oxydendron arboreum</i>	25-50'	20'	X			open lawn	Residential Corridor	
	Persian Ironwood	<i>Parrotia persica</i>	20-40'	15-30'	X	X		larger than 3' strip	Commercial Corridor	questionable ethno-botanical value
	Swamp Redbay	<i>Persea palustris</i>	20-35'	10-25'				larger than 3' strip	Residential Corridor	
	Chinese Pistache	<i>Pistacia chinensis</i>	25-40'	25-40'	X	X		3' wide strip	Urban Core/Downtown	Gangly in youth; adult form much better
	Sycamore	<i>Platanus occidentalis</i>	70-100'	60-80'				5' x 8' well or larger	Commercial Corridor	drops many leaves, twigs and fruit
	Cottonwood	<i>Populus deltoides</i>	75-100'	50-75'	X	X		5' x 8' well or larger	Residential Corridor	
	Yoshino Cherry	<i>Prunus x yedoensis</i>	35'-45'	40'-50'				open lawn	Parkland	
	American Plum	<i>Prunus americana</i>								
	Hop Tree	<i>Ptelea trifoliata</i>	15-20'	15-20'			X	X	larger than 3' strip	Residential Corridor
	White Oak	<i>Quercus alba</i>	80-100'	50-90'	X			5' x 8' well or larger	Residential Corridor	stately but difficult to transplant
	Swamp White Oak	<i>Quercus bicolor</i>	60-80'	60-70'	X	X		5' x 8' well or larger	Commercial Corridor	does not handle pollution well
	Southern Red Oak	<i>Quercus falcata</i>	70-90'	70-90'	X			5' x 8' well or larger	Residential Corridor	
	Georgia Oak	<i>Quercus georgiana</i>	15-30'	15-30'				X	larger than 3' strip	Commercial Corridor
	Laurel Oak	<i>Quercus hemisphaerica</i>	40-60'	30-40'			X	5' x 8' well or larger	Commercial Corridor	not as long-lived as Q. phellos
	Turkey Oak	<i>Quercus laevis</i>	30-40'	20-35'				5' x 8' well or larger	Residential Corridor	
	Overcup Oak	<i>Quercus lyrata</i>	60-80'	40-50'	X	X		5' x 8' well or larger	Urban Core/Downtown	large acorns may be a nuisance
	Bur Oak	<i>Quercus macrocarpa</i>	80'	100'	X			5' x 8' well or larger	Residential Corridor	
	Blackjack Oak	<i>Quercus marilandica</i>	40-50'	30-40'	X			5' x 8' well or larger	Commercial Corridor	scrubby form, found in infertile, barren soils
	Swamp Chestnut Oak	<i>Quercus michauxii</i>	60-80'	50-70'			X	5' x 8' well or larger	Commercial Corridor	
	Chinkapin Oak	<i>Quercus muhlenbergii</i>	40-50'	40-60'	X			5' x 8' well or larger	Residential Corridor	prefers rich botomlands
	Nuttall Oak	<i>Quercus nuttallii</i>	55'-80'	60'	X	X		5' x 8' well or larger	Urban Core/Downtown	
	Cherrybark Oak	<i>Quercus pagoda</i>	70-80'	70-80'				5' x 8' well or larger	Residential Corridor	pedmont lowland
	Pin Oak	<i>Quercus palustris</i>	60-80'	40-50'	X	X		5' x 8' well or larger	Commercial Corridor	narrow oak
	Chestnut Oak	<i>Quercus prinus</i>	60-70'	60-70'	X	X		5' x 8' well or larger	Residential Corridor	dislikes poor drainage
	Northern Red Oak	<i>Quercus rubra</i>	60-80'	60-80'	X	X		5' x 8' well or larger	Commercial Corridor	fast growing tree
	Shumard Oak	<i>Quercus shumardii</i>	60-80'	40-50'	X	X		5' x 8' well or larger	Commercial Corridor	
	Post Oak	<i>Quercus stellata</i>	60-80'	40-50'	X	X		5' x 8' well or larger	Residential Corridor	slow growing
Cathedral	Live Oak	<i>Quercus virginiana</i>	60-70'	60-80'	X	X		5' x 8' well or larger	Commercial Corridor	broadleaf evergreen
	Black Locust	<i>Robinia pseudoacacia</i>	45-60'	25'	X	X		larger than 3' strip	Commercial Corridor	atmospheric nitrogen fixer
	Elderberry	<i>Sambucus canadensis</i>	12-25'	12-25'	X	X	X	open lawn	Residential Corridor	high wildlife value
	Sassafras	<i>Sassafras albidium</i>	30-60'	25-40'	X			larger than 3' strip	Residential Corridor	
	Japanese Pagoda Tree	<i>Sophora japonica</i>	40'	30-45'	X			larger than 3' strip	Commercial Corridor	native to China, Korea
	American Bladdernut	<i>Staphylea trifolia</i>	15'	10-15'				3' wide strip	Residential Corridor	
	Japanese Snowbell	<i>Styrax japonicus</i>	20-30'	25-35'				X	Commercial Corridor	some soil amendmets needed
	Pond Cypress	<i>Taxodium ascendens</i>	70-80'	15-20'			X	5' x 8' well or larger	Commercial Corridor/Urban Center	prefers moist, acidic soils
Autumn Gold	Bald Cypress	<i>Taxodium distichum</i>	50-80'	20-25'	X	X		5' x 8' well or larger	Urban Core/Downtown	25' wide, dry to wet soil, very fine texture
Falling Water	Weeping Bald Cypress	<i>Taxodium distichum</i>	25'	15'	X			5' x 8' well or larger	Residential Corridor	
Peve Minaret	Dwarf Bald Cypress	<i>Taxodium distichum</i>	15'	6'	X	X	X	5' x 8' well or larger	Commercial Corridor	
	Winged Elm	<i>Ulmus alata</i>	50-60'	30-40'			X	5' x 8' well or larger	Commercial Corridor	
	Sparkleberry	<i>Vaccinium arboreum</i>	15-25'	20-35'	X	X	X	3' wide strip	Residential Corridor	
	American Linden	<i>Tilia americana</i>	60-100'	45-60'			X	5' x 8' well or larger	Commercial Corridor	
		<i>Tulipifera liriiodendrum</i>								
Princeton	American Elm	<i>Ulmus americana</i>	80-100'	40-80'	X			5' x 8' well or larger	Urban Core/Downtown	vase-shaped; native; resistant to DED
Liberty	American Elm	<i>Ulmus americana</i>	80-100'	40-50'	X	X		5' x 8' well or larger	Urban Core/Downtown	vase-shaped; native; resistant to DED
	Sparkleberry	<i>Vaccinium arboreum</i>	15-25'	20-35'	X	X	X	3' wide strip	Residential Corridor	
Village Green	Zelkova	<i>Zelkova serrata</i>							Residential Corridor	
Musashino	Zelkova	<i>Zelkova serrata</i>							Urban Core/Downtown	

## **EXHIBIT B**

### **DEFINITIONS**

When used in the Contract Documents, the following capitalized terms have the following meanings:

“Applicable Law(s)” means all federal, state or local statutes, laws ordinances, codes, rules, regulations, policies, standards, executive orders, consent orders, orders and guidance from regulatory agencies, judicial decrees, decisions and judgments, permits, licenses, reporting or other governmental requirements or policies of any kind by which a Party may be bound, then in effect or which come into effect during the time the Services are being performed, and any present or future amendments to those Applicable Laws, including those which specifically relate to: (a) the business of City; (b) the business of Service Provider or Service Provider’s subcontractors; (c) the Agreement and the Contract Documents; or (d) the performance of the Services under this Agreement.

“Charges” means the amounts payable by City to Service Provider under this Agreement.

“Code” means the Code of Ordinances for the City of Atlanta, Georgia, as amended.

“Contract Documents” include this Agreement and the exhibits and other documents attached or referenced herein as well as any authorized changes or addenda hereto.

“Facility” or “Facilities” means the physical premises, locations and operations owned or leased by a Party and from or through which Service Provider will provide any Services.

“Force Majeure Event(s)” means acts of war, domestic and/or international terrorism, civil riots or rebellions, quarantines, embargoes and other similar unusual governmental actions, extraordinary elements of nature or acts of God.

“Party” or “Parties” means City and/or Service Provider.

“Person” means individuals, partnerships, agents, associations, corporations, limited liability companies, firms or other forms of business enterprises, trustees, executors, administrators, successors, permitted assigns, legal representatives and/or other recognized legal entities.

“Service Provider Personnel” means and refers to Service Provider employees or subcontractors hired and maintained to perform Services hereunder.

“Third Party” means a Person other than the Parties.

## **EXHIBIT C**

### **AUTHORIZING LEGISLATION** (To Be Inserted in Final Agreement)

## EXHIBIT D

(Reserved)

## **EXHIBIT E**

### **DISPUTE RESOLUTION PROCEDURES**

## EXHIBIT E

### DISPUTE RESOLUTION PROCEDURES

- 1.** If Service Provider contends it is entitled to compensation or any other relief from City or if there are any disagreements over the scope of Services or proposed changes to the Services, Service Provider shall, without delay and within three (3) days of being aware of the circumstances giving rise to Service Provider's claim, provide written notice of its claim to City. If Service Provider fails to give timely notice as required by this subsection or if Service Provider commences any alleged additional work without first providing notice, Service Provider shall not be entitled to compensation or adjustment for any such work to the extent timely notice was not provided. Such notice shall include sufficient information to advise City of the circumstances giving rise to the claim, the specific contractual adjustment of relief requested and the basis for such request. Within ten (10) days of the date that Service Provider's written notice to City is required under this subsection, Service Provider shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Agreement.
- 2.** The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Service Provider and City each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Services.
- 3.** If a dispute or disagreement cannot be resolved informally Service Provider Authorized Representative and Authorized City Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the Authorized Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.
- 4.** If City and Service Provider are still unable to resolve their dispute, each agrees to consider submitting such dispute to mediation or other acceptable form of alternate dispute resolution.

**EXHIBIT F**

**(Reserved)**

## **EXHIBIT G**

### **Customer Service Standards**

## **EXHIBIT G**

### **Customer Service Standards**

#### **Employee Attitude**

All Employees Shall:

- ◆ Provide a friendly, professional, verbal, audible greeting to customers, including solid eye contact and a sincere smile;
- ◆ Speak clearly and enunciate fully to assure customer understanding;
- ◆ Extend full attention to customers at all times during the interaction by being alert and expressing an “I care” attitude;
- ◆ *Proactively* assist aquatics patrons and City staff who appear in need of help, directions and assistance;

#### **Employee Appearance**

- ◆ Maintain a well-groomed, neat, professional, clean appearance at all times.
- ◆ Limit accessories to those that are conservative, businesslike and professional.
- ◆ Uniforms (where applicable) must be clean and neat at all times, freshly laundered daily, and free of wrinkles, stains, tears, etc.
- ◆ Uniforms will be free of excessive wrinkles and shirts will be neatly tucked inside pants.
- ◆ Employee’s fingernails must be clean, trimmed, and no longer than 1 inch in length.

#### **Employee Knowledge**

- ◆ Employees are to be sensitive to foreign-language speakers and special-needs customers at all times and be extra diligent in servicing and responding to such customers.

#### **Employee Conduct**

- ◆ Personal use of radios/recorders/cell phones are not permitted while on duty.
- ◆ Employees will be respectful to others and act in a civil, courteous manner at all times by putting the customers first, and refrain from loud, boisterous, annoying behavior including slang, foul or inappropriate language.
- ◆ Employees must respond positively to customer concerns complaints by listening carefully, and remaining calm and objective to resolve the customer’s issue.

**APPENDIX A**

**OFFICE OF CONTRACT COMPLIANCE REQUIREMENTS**



## CITY OF ATLANTA

Kasim Reed  
Mayor

SUITE 1700  
55 TRINITY AVENUE, SW  
ATLANTA, GA 30303  
(404) 330-6010 Fax: (404) 658-7359  
Internet Home Page: [www.atlantaga.gov](http://www.atlantaga.gov)

OFFICE OF CONTRACT COMPLIANCE  
Larry Scott  
Director  
[lscott@atlantaga.gov](mailto:lscott@atlantaga.gov)

March 22, 2016

**RE: Project No.: FC- 8832, Urban Forestry 2016**

Dear Prospective City of Atlanta Bidder:

The Office of Contract Compliance (OCC) information is an integral part of every eligible City of Atlanta bid. All Bidders are required to make efforts to ensure that businesses are not discriminated against on the basis of their race, ethnicity or gender, and to demonstrate compliance with these program requirements at or prior to the time of Bid opening, or upon request by OCC. Bidders are required to ensure that prospective subcontractors, vendors, suppliers and other potential participants are not denied opportunities to compete for work on a City contract on the basis of their race, ethnicity, or gender, and must afford all firms, including Small Business Enterprises (SBE) opportunities to participate in the performance of the business of the City to the extent of their availability, capacity and willingness to compete. Please read all of the information very carefully. Pay close attention to the specific goals for SBE participation for this project and the SBO program reminders listed on page 6.

If you have any questions about the information included in this section of the solicitation, please contact the City of Atlanta Office of Contract Compliance at (404) 330-6010.

**The City of Atlanta looks forward to the opportunity to do business with your company.**

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**CITY OF ATLANTA**  
**SMALL BUSINESS OPPORTUNITY PROGRAM**  
**POLICY STATEMENT**

It is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City. The City must ensure that firms seeking to participate in contracting and procurement activities with the City are not prevented from doing so on the basis size as it relates to revenue and number of employees. The City is committed to ensuring that it is not a passive participant in any private scheme of discrimination. To ensure that businesses are not discriminated against with regard to prime contracting, subcontracting or other partnering opportunities with the City, the City has developed its' various diversity inclusion programs. The purpose of the Small Business Opportunity Program is to ensure that the City of Atlanta has a robust race-neutral approach to promoting full and equal business opportunity for all persons doing business with the City of Atlanta, to promote commerce by assisting Small Business Enterprises (SBEs) to actively participate in the City's procurement process, and ensure that the City of Atlanta utilizes programs that provide it with the best possible resources.

It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers and prohibit discrimination based upon race, religion, color, sex, national origin, marital status, physical handicap or sexual orientation through the City's Equal Employment Opportunity (EEO) Program. The purpose of these program is to mitigate the present and ongoing effects of the past and present discrimination against women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all bidders, without exception, including firms that are Small Business Enterprises themselves must comply with the City of Atlanta's SBO and EEO Program requirements. Goals for minority and female business enterprises are set for this project on page 6.

## Implementation of SBO Policy

The Office of Contract Compliance will review information submitted by Bidders pertaining to efforts to promote opportunities for small businesses to compete for business as subcontractors and/or suppliers. A Bidder is eligible to be further considered for award of a City contract upon a finding by OCC that the Bidder has engaged in, and provided with its bid submission documentation of efforts to ensure that its process of soliciting, evaluating and awarding subcontracts, placing orders, and partnering with other companies has been non-discriminatory. To assist prime contractors in this effort, the Office of Contract Compliance has set forth in this solicitation document the SBE goals within the relevant NAICS Codes, for this Project.

For subcontracting, the Subcontractor Project Plan must include **all** subcontractors (both small and non-small business enterprises) to be utilized on the project, detail the services to be performed, the dollar value of the work to be performed by each subcontractor, and the City of Atlanta SBE certification number and supplier id number as applicable.

For suppliers, the Subcontractor Project Plan must include **all** subcontractors (both small and non-small business enterprises), the supplies to be provided, including the dollar value of the supplies being provided and the City of Atlanta SBE certification number and supplier id number as applicable.

## Determination of Non-discrimination During Bid Process

No Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1372 on such Eligible Project. Accordingly, each Bidder shall submit with each Bid the following

1. Covenant of Non Discrimination. Each Bidder shall submit with her/his Bid a Covenant of Non-Discrimination which is set forth herein as Exhibit SBO1.
2. Outreach efforts documentation. Each bidder shall submit with her/his bid written documentation demonstrating the bidder's outreach efforts to identify, contact, contract with, or utilize businesses, including certified SBEs as subcontractors or suppliers on the contract. This information shall be set forth on Exhibit SBO2, which is included herein.
3. Subcontractor project plan. Each bidder shall submit with her/his bid a completed and signed subcontractor project plan, in a form approved and provided by the office of contract compliance, which lists the name, address, telephone number and contact person of each subcontractor or other business to be used in the contract, the NAICS Code and the type of work or service each business will perform, the dollar value of the work and the scope of work, the ownership of each business, certification number of each business, and any other information requested by the office of contract compliance. In order for the office of contract compliance to officially consider a firm to be an SBE, the SBE firm must be certified by or have a certification application pending with the office of contract compliance prior to the bidder's submission of the bid. The subcontractor project plan shall not be changed or altered after approval of the plan and award of the contract without the written approval of the director of the office of contract compliance. A written letter to the director of the office of contract compliance requesting approval to change the subcontractor project plan must be submitted prior to any change in the plan or termination of an SBE's contract.

## OCC Review of Bidder Submissions

The Office of Contract Compliance shall determine whether a Bidder has satisfied the non-discrimination requirements of section 2-1448 based on its review of the Covenant of Non Discrimination, the Outreach Efforts Documentation, the Subcontractor Project Plan, and its review of other relevant facts and circumstances, including complaints received as part of the bid process. In reviewing the documents submitted by a Bidder to determine whether the Bidder has satisfied the non-discriminatory practices requirement of this section, the Office of Contract Compliance will consider, among other things, the total project dollars subcontracted to or expended for services performed by other businesses, including certified SBEs, whether such businesses perform Commercially Useful Functions in the work of the contract based upon standard industry trade practices, whether any amounts paid to Supplier businesses are for goods customarily and ordinarily used based upon standard industry trade practices, and the availability of certified SBEs within the relevant NAICS Codes for such Eligible Project.

(a) **Receipt of Complaint of Discrimination in the Bid Process**

The office of contract compliance shall accept complaints of alleged discrimination during the bid process regarding any participant in the bid process. Where the complaint of discrimination is specific to the procurement which is under consideration by the city, the office of contract compliance may investigate said complaint, determine its validity, and determine whether the actions complained of impact the bidder's responsiveness on the specific procurement. Allegations of discrimination based on events, incidents or occurrences which are unrelated to the specific procurement will be placed in the bidder's file maintained in the vendor relations database and handled in accordance with the procedure established in the city's vendor relations subdivision, section 2-1465, et seq.

(b) **Determination of Violation of SBO Process**

Where the office of contract compliance investigates a complaint of discrimination that is related to the specific bid process, the details of that investigation, including findings, shall be recorded and maintained in the vendor relations database, pursuant to section 2-1471.

(c) **Office of Contract Compliance Determination of Non-Compliance**

When, based upon the totality of the circumstances, the office of contract compliance determines that a bidder fails to satisfy the requirements of section 2-1448(a) of a city bid solicitation, the director of the office of contract compliance shall present a written determination of non-compliance to the Chief Procurement Officer which states the determination and lists the reasons for the determination. A bid that does not comply with the requirements set forth in section 2-1448(a) shall be deemed non-responsive and rejected.

### **Small Business Opportunity Program Bid/RFP Submittals**

The Office of Contract Compliance will make any determination of non-responsiveness. The covenant of non-discrimination, the outreach efforts documentation, the subcontractor project plan, and any other information required by OCC in the solicitation document pursuant to section 2-1448 must be completed in their entirety by each bidder and submitted with the other required bid documents in order for the bid to be considered as a responsive bid. Failure to timely submit these forms, fully completed, will result in the bid being considered as a non-responsive bid, and therefore, excluded from consideration.

### **Monitoring Of SBO Policy**

Upon execution of a contract with the City of Atlanta, the successful bidder's Subcontractor Project Plan will become a part of the contract between the bidder and the City of Atlanta. The Subcontractor Project Plan will be monitored by the City of Atlanta's Office of Contract Compliance for adherence with the plan. The successful bidder will be required to provide specific EBO information on a monthly basis that demonstrates the use of subcontractors and suppliers as indicated on the Subcontractor Project Plan. The failure of the successful bidder to provide the specific EBO information by the specified date each month shall be sufficient cause for the City to withhold approval of the successful bidder's invoices for progress payments, increase the amount of the successful bidder's retainage, require joint check issuance, or evoke any other penalties as set forth in the City of Atlanta Code of Ordinances, Sections 2-1452 and 2-1456.

### **Implementation of EEO Policy**

The City effectuates its EEO policy by adopting racial and gender work force availability for every contractor performing work for the City of Atlanta. These percentages are derived from the work force demographics set forth in the 2000 Census EEO file prepared by the United States Department of Commerce for the applicable labor pool normally utilized for the contract.

### **Monitoring of EEO Policy**

Upon award of a contract with the City of Atlanta, the successful bidder must submit a Contract Employment Report (CER), describing the racial and gender make-up of the firm's work force. If the CER indicates that the firm's demographic composition does not meet the adopted EEO goals, the firm will be required to submit an affirmative action plan setting forth the steps to be taken to reach the adopted goals. The CER and the affirmative action plan, if necessary, will become a part of the contract between the successful bidder and the City of Atlanta. Compliance with the EEO requirements will be monitored by the Office of Contract Compliance.

**Equal Business Opportunity SBE GOALS for this Project**

**Project No.: FC-8832, Urban Forestry 2016**

The dominant NAICS code and trade to be engaged for the above referenced solicitation is:

**115310 Support Activities for Forestry**

The EBO goals for the trade categories listed in this project are:

**35% SBE**

Please be reminded that no Bidder shall be awarded a contract on an Eligible Project unless the Office of Contract Compliance determines that the Bidder has satisfied the non-discrimination requirements of section 2-1448 on such Eligible Project. Details of the O.C.C. review process for determination of non-discrimination are detailed on page 2 of this document.

## Small Business Opportunity Program Reminders

1. Certification. It is the prime contractor's responsibility to verify that all SBEs included on the Subcontractor Project Plan are certified by the City of Atlanta's Office of Contract Compliance, or have a certification application pending with the City of Atlanta's Office of Contract Compliance.
2. Reporting. The successful bidder must submit monthly SBO program participation reports to the Office of Contract Compliance in a manner as prescribed by the OCC monitor of Record.
3. Subcontractor Contact Form. It is required that bidders list and submit information on all subcontractors they solicit for quotes, all subcontractors who contact them with regard to the project, and all subcontractors they have discussions with regarding the project. Failure to provide complete information on this form will result in your bid being declared non-responsive.
4. SBO/EBO Ordinance. The SBO Program is governed by the provisions of the SBO/EBO Ordinance set forth in the City of Atlanta Code Division 12, section 2 - 1356 through 2 - 1480. The ordinance can be obtained from the City of Atlanta Clerk's Office at (404) 330-6032.
5. Supplier Participation. In order to receive full SBE credit, suppliers must manufacture or warehouse the materials, supplies, or equipment being supplied for use on the Eligible Project.
6. OCC Registry of Certified Firms. To access OCC's real time registry of vendors (certified or non-certified), visit our PRISM Compliance Management portal at: <https://pro.prismscompliance.com/default.aspx>. Next, click the drop down arrow under "Visit a Jurisdiction", select "City of Atlanta", and click "go!" Once there, you may search by Industry or Certification to obtain your desired results. You may also go to the website: [www.atlantaga.gov/contractcompliance](http://www.atlantaga.gov/contractcompliance) and scroll down to the section heading "Registry of Certified Firms" Click OCC's quarterly list to access the current directory of certified firms.

**COVENANT OF NON-DISCRIMINATION**

The undersigned understands that it is the policy of the City of Atlanta to promote full and equal business opportunity for all persons doing business with the City of Atlanta. The undersigned covenants that we have not discriminated, on the basis of race, gender or ethnicity, with regard to prime contracting, subcontracting or partnering opportunities. The undersigned further covenants that we have completed truthfully and fully the required forms SBO-2 and SBO-3. Set forth below is the signature of an officer of the bidding entity with the authority to bind the entity.

\_\_\_\_\_  
Signature of Attesting Party

\_\_\_\_\_  
Title of Attesting Party

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, the person who signed the above covenant in my presence.

\_\_\_\_\_  
Notary Public

Seal

**FORM SBO-1**

[Type text]

## SUBCONTRACTOR CONTACT FORM

List *all subcontractors or suppliers* (SBE and Non-SBE Certified) that were contacted regarding this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Name of Sub-contractor/Supplier	Contact Name, Address and Phone Number	City Of Atlanta Business License? (Yes or No)	Type of Work Solicited for	Business Ownership (see code below)	Certification No. and Expiration Date	Results of Contact

Business Ownership Code: AABE - African American Business Enterprise, HABE - Hispanic Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise

Company Name: \_\_\_\_\_ Project Name: \_\_\_\_\_ FC#: \_\_\_\_\_

Printed Signature: \_\_\_\_\_ Date: \_\_\_\_\_



(THIS PAGE SHALL BE SUBMITTED FOR EACH SBE FIRM)

## LETTER OF INTENT

Small Business Enterprise

**Proponent**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Firm:**

ACDBE Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Contact Person:**

Name: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

Expiration Date of SBE Certification: \_\_\_\_\_

**SBE is performing as:**

Prime Contractor  Sub contractor  Joint Venture Member

Work Item(s) to be performed by SBE	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL SBE			

The bidder/offeror is committed to utilizing the above-named SBE firm for the work described above. The estimated participation is as follows:

SBE contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

### AFFIRMATION:

The above-named SBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)

\_\_\_\_\_  
(signature) (date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(THIS PAGE SHALL BE SUBMITTED FOR EACH SBE FIRM)

## LETTER OF INTENT

Small Business Enterprise

**Proponent**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Firm:**

ACDBE Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**SBE Contact Person:**

Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

Expiration Date of SBE Certification: \_\_\_\_\_

**SBE is performing as:**

Prime Contractor  Sub contractor  Joint Venture Member

Work item(s) to be performed by SBE	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL SBE			

The bidder/offeror is committed to utilizing the above-named SBE firm for the work described above. The estimated participation is as follows:

SBE contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_%

### AFFIRMATION:

The above-named SBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Print name) (Title)

\_\_\_\_\_  
(signature) (date)

\* In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.



### **First Source Jobs Program Policy Statement**

It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta, whenever possible. Whereas every contract with the City of Atlanta creates a potential pool of new employment opportunities, the following program is applicable to **construction projects only** and is subject to review by AWDA on a case by case basis for applicability. Once AWDA has made the determination that the First Source Jobs Program is applicable, the successful prime contractor (and all subcontractors associated with the awarded project) is expected to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this project, with residents of the City of Atlanta. **AWDA has determined that the first source Jobs program is applicable for this project.** For more specific information about the First Source Jobs Program contact:

**Michael Sterling  
Executive Director  
First Source Jobs Program  
Atlanta Workforce Development Agency  
818 Pollard Boulevard  
Atlanta, GA 30315  
(404) 546-3000**



## AGREEMENT

FC- \_\_\_\_\_

### ATLANTA WORKFORCE DEVELOPMENT AGENCY FIRST SOURCE JOB TRAINING AND EMPLOYMENT PLACEMENT PROGRAM

This Agreement is made on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ and entered into between the Atlanta Workforce Development Agency ("AWDA"), an agency implementing the City of Atlanta's First Source Job Training and Employment Placement Program ("Program"), having its principal office at 818 Pollard Boulevard, S.W. Atlanta, Georgia 30315, and Name of General Contractor ("Construction GC"), a Georgia for profit corporation, having its principal office at Insert Construction GC Address.

**WHEREAS**, Ordinance 10-O-0928, which created the City of Atlanta's First Source Job Training and Employment Placement Program, was adopted by the Atlanta City Council on February 4, 2013 and approved by the Mayor of Atlanta on February 13, 2013; and,

**WHEREAS**, according to the most recent U.S. Census Bureau statistics, some 25 percent of the City of Atlanta's residents live below the federal poverty level; and,

**WHEREAS**, the City of Atlanta, through implementation of the Program, desires to address the issues of poverty, unemployment, and underemployment by providing meaningful job and career opportunities to the city's residents; and,

**WHEREAS**, the City of Atlanta enters into numerous public works and improvement contracts that are funded by public tax dollars; and,

**WHEREAS**, various building and construction workers are required to fulfill and perform the work required under said contracts; and,

**WHEREAS**, in order to facilitate the successful implementation of the Program, AWDA and the Construction GC desire to enter into this Agreement to set forth the respective responsibilities and obligations of each party for the duration of the Construction Contract as entered into between the City of Atlanta and the Construction GC.

**NOW, THEREFORE**, in consideration of the mutual covenant herein contained, the AWDA and the Construction GC hereby agree as follows:

**Section 1. Definitions.** The following italicized terms shall have the following meanings. All definitions include both the singular and plural forms.

*Construction Contract* shall mean a contract entered into or funded by the City for the performance of work that requires construction or building trades skills and has a face value greater than the Threshold Amount.

*Construction General Contractor* ("Construction GC") shall mean any entity entering into a Construction Contract that exceeds the Threshold Amount.

*Entry-level* shall mean any non-managerial position that requires either no education above a high school diploma or certified equivalency, or less than two (2) years of training or specific preparation. This definition includes, but is not limited to apprentices.

*First Source Register* shall mean the register managed by AWDA providing the Construction GC and its Sub-contractors with Workforce Innovation and Opportunity Act (WIOA) eligible residents of the City of Atlanta from which to fill Entry-level construction positions.

*New Construction Position* shall mean any non-executive, non-professional engineering, non-office, or non-clerical job, or any job not filled by full-time employees on the Construction GC's payroll for at least three months prior to the Notice to Proceed for the Construction Contract.

*Sub-contractor* shall mean any contractor performing construction work either directly or indirectly for the Construction GC, pursuant to any Construction Contract and that meets the Threshold Amount.

*Threshold Amount* shall mean any Construction Contract in which the prime contract is \$500,000.00 or greater and the sub-contract(s) is \$250,000.00 or greater.

*Workforce Innovation and Opportunity Act* ("WIOA") shall refer to Public Law 113-128, passed by the U.S. Congress and signed into law by President Barack Obama in July 2014. The Act reauthorized the Workforce Investment Act of 1998. WIOA is a federal grant program designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers.

## **Section 2. General.**

- A. Construction GC shall, and shall cause the Construction GC's Sub-contractors to, use AWDA as its first source for the recruitment, referral, and placement of New Construction Positions through the First Source Register subject to the terms of this Agreement.
- B. AWDA will provide recruitment, referral, and placement services through the First Source Register to the Construction GC and its Sub-contractors.

## **Section 3. Responsibilities of AWDA.**

The AWDA shall:

- A. Provide recruitment and referral to the Construction GC and Sub-contractor(s), subject to the limitations set out in this Agreement.
- B. Screen applicants and provide Construction GC and Sub-contractor(s) with a list of applicants according to the terms of this Agreement.

## **Section 3. Responsibilities of the Construction GC.**

The Construction GC shall, and shall cause its Sub-contractor(s) to:

- A. Review and interview job applicants exclusively from the First Source Register – prior to reviewing job applicants from any other source – for all new entry-level Construction Positions.
- B. Make good faith efforts to fill 50 percent of entry-level positions with City of Atlanta residents who are listed on the First Source Registry.
- C. Provide signed letters of assent ("Exhibit C") indicating agreement to the terms of the First Source Job Training and Employment Placement Program with the submission of the proposal documents."

- D. Provide AWDA with Employer Projection of Positions Form (“Exhibit A”), which shall contain a list of all New Construction Positions for which the Construction GC is hiring, as well as the job qualifications for those positions. This notification shall occur after the Construction Contract has been awarded and before the Notice to Proceed (“NTP”) is issued.
- E. After issuance of the NTP, provide a final Employer Projection of Positions Form (“Exhibit A”) to AWDA.
- F. Provide names and position titles of all Non-New Construction Positions (“Exhibit B”). Non-New Construction Positions include any executive, professional engineering, office, or clerical jobs, or any jobs filled by full-time salaried employees on the Construction GC’s payroll for at least three months prior to the notice to proceed. This list shall be deemed exempted positions.
- G. Include provisions in all Construction Contracts entered into with Sub-contractors to represent and warrant adherence to the terms of this Agreement.
- H. Evaluate and interview all candidates provided by AWDA from the First Source Register and provide AWDA with the Post-Interview Evaluation Form (“Exhibit D”), within ten (10) days of the evaluation and interview.
- I. Provide AWDA with a completed Requisition Progress Report (“Exhibit E”) certifying compliance with this Agreement and detailing individuals who were hired, their address, start and end employment dates, and hours worked during that month.
- J. Maintain daily sign-in sheet logs and payroll records for all of its employees and make said sign-in sheet logs and payroll records available to AWDA upon request. AWDA shall not use such records for any purpose other than monitoring of compliance with this Agreement.
- K. Submit to AWDA with each payment application for the Construction Contract, the following items:
  - (i) A copy of all completed Employer Projection of Positions Forms (“Exhibit A”) which have been completed since the last requisition submitted;
  - (ii) A copy of all completed Post-Interview Evaluation Forms (“Exhibit D”) which have been completed since the last requisition submitted; and
  - (iii) The completed Requisition Progress Report (“Exhibit E”) which have been completed since the last requisition submitted.

**Section 4. Nondiscrimination.** No party to this Agreement shall discriminate against First Source Register referrals in any terms and conditions of employment, including retention, promotions, job duties, shift assignments, and training opportunities.

**Section 5. Events of Default.** Subject to construction schedules and safety requirements, AWDA, the Office of Contract of Compliance (“OCC”), and awarding departments shall have the right to engage in random inspections of job sites and have access to the employees of the Construction Contractor or Sub-contractor(s) and the records required under Ordinance 10-O-0928 (City of Atlanta Code of Ordinances, ARTICLE XI).

If AWDA, OCC, or an awarding department determine the Construction GC and/or Sub-contractor(s) are not in compliance with this Agreement, any or all of the following actions may be taken:

- Withhold progress payments of up to 10% of the Contract Amount;
- Refusal of all future bids on City projects until such time as the Construction GC and/or Sub-contractor come into compliance with this Agreement; or
- Termination of the Agreement.

**Section 6. Notices.** All notices, consents, approvals and other communications which may be or are required to be given by AWDA or the Construction GC under this Agreement shall be properly given only if made in writing and sent by (a) hand delivery, or (b) certified mail, return receipt requested, or (c) a nationally recognized overnight delivery service (such as Federal Express, UPS Next Day Air or Airborne Express), (d) by email to the email address listed below (provided that a copy of such notice is also delivered within 24 hours to the party by one of the methods listed in this Section 6(a), (b) or (c)), or (e) by facsimile to the facsimile number listed below (provided that a copy of such notice is also delivered within 24 hours to the party by one of the other methods listed in this Section 6(a), (b) or (c)), with all postage and delivery charges paid by the sender and addressed to the other parties as applicable as set forth below. Said notice addresses are as follows:

If notice is to City:

Atlanta Workforce Development Agency  
 818 Pollard Blvd., SW  
 Atlanta, GA 30315  
 ATTN: Business Relations Manager  
[akhanduri@atlantaga.gov](mailto:akhanduri@atlantaga.gov)

If notice is to Construction GC:

---



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Each party may change its address by written notice in accordance with this Section (effective five (5) days after the delivery of written notice thereof). Any communication addressed and mailed in accordance with this Section will be deemed to be given when received, unless rejected or returned by the recipient, in which case when mailed, any notice so sent by electronic or facsimile transmission will be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person will be deemed to be given when receipted for, or actually received, by the party identified above.

**Section 7. Amendments and Waivers.** Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the parties hereto. No course of dealing on the part of any party to this Agreement, nor any failure or delay by any party to this Agreement with respect to exercising any right, power, or privilege hereunder will operate as a waiver thereof.

**Section 8. Invalidity.** In the event that any provision of this Agreement is held unenforceable in any respect, such unenforceability will not affect any other provision of this Agreement.

**Section 9. Successors and Assigns.** This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and their respective permitted successors and

assigns. The Construction GC may not assign this Agreement or any of its rights hereunder or any interest herein without the prior written consent of AWDA, which consent may be withheld or conditioned in the sole discretion of AWDA; provided, however, that AWDA will not unreasonably withhold its consent to an assignment by the Construction GC of all or any of its rights under this Agreement.

**Section 10. Exhibits; Titles of Articles and Sections.** The exhibits attached to this Agreement are incorporated herein and will be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement will prevail. All titles or headings are only for the convenience of the parties and may not be construed to have any effect or meaning as to the Agreement between the parties hereto. Any reference herein to a Section or subsection will be considered a reference to such Section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit will be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

**Section 11. Applicable Law.** This Agreement is made under and will be construed in accordance with and governed by the laws of the State of Georgia.

No provision of this agreement shall be interpreted so as to require the Construction GC and/or Sub-contractor(s) to employ a worker not qualified for a position, or to employ or retain any particular employee, or to hire any worker as a result of such worker's membership in a labor union.

**Section 12. Entire Agreement.** This Agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

**Section 13. Termination of Agreement.** Without cause, AWDA may terminate this agreement at any time upon thirty (30) days' written notice to the Construction GC and AWDA.

IN WITNESS WHEREOF, this Agreement is executed by AWDA and the GC as of the date first written above.

**Atlanta Workforce Development Agency**

By: \_\_\_\_\_  
Michael T. Sterling  
Executive Director

**Approved as to form:**

By: \_\_\_\_\_  
Susan Garrett, Esq.  
Senior Assistant Attorney  
City of Atlanta

**Construction General Contractor:**

By: \_\_\_\_\_  
Name  
Title



**Exhibit A**  
**EMPLOYER PROJECTION OF POSITIONS FORM**

	Position Title	Qualifications	Number of Positions
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			



## **Exhibit B**

### **NON-NEW CONSTRUCTION POSITIONS**

Please provide a list of all full-time construction workers (names and position titles) that will work on the project site during the life of the project. Indicate the category of work for which they will be utilized. This list shall be deemed **exempted positions**.

AWDA will not need to be notified ten (10) days prior to their hiring or arrival on the project site as long as their names are reflected on this list.

A Non-New Construction Position is any executive, professional engineering, office, or clerical jobs, or any jobs filled by full-time salaried employees on the Construction GC's payroll for at least three months prior to the notice to proceed for the project.

	Name	Position Title
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		



AWDA

ATLANTA  
WORKFORCE  
DEVELOPMENT  
AGENCY

**Exhibit C**

**CONSTRUCTION GC/SUB-CONTRACTOR LETTER OF ASSENT**

I have read the First Source Job Training and Employment Placement Agreement and assent to the terms therein.

\_\_\_\_\_  
Construction GC or Sub-Contractor

\_\_\_\_\_  
Date



## **Exhibit D**

### **POST-INTERVIEW EVALUATION FORM**

#### **Instructions**

Construction GC and Sub-contractors must complete and submit this form to the Atlanta Workforce Development Agency within ten (10) days of interviewing a job candidate from the First Source Register.

Date of Interview: \_\_\_\_\_

Name of Candidate: \_\_\_\_\_

Did the candidate meet the qualifications of the position? Why or why not?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Was the candidate hired? \_\_\_\_\_

If not, please provide the reasons for your decision: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

If not, how could the candidate improve his/her employability? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



**Exhibit E**  
**REQUISITION PROGRESS REPORT**

	Name	Start Date	End Date	Hours Worked
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

**APPENDIX B**  
**INSURANCE AND BONDING REQUIREMENTS**

**APPENDIX B**  
**INSURANCE & BONDING REQUIREMENTS**  
**FC-8832 Urban Forestry 2016**

**A. Preamble**

The following requirements apply to all work under the agreement. Compliance is required by all Contractors/Consultants. **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 Appendix B and applicable to the agreement.**

**1. Evidence of Insurance Required Before Work Begins**

**No work under the agreement may be commenced until all insurance and bonding requirements contained in this Appendix B, 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.** Contractor/Consultant must provide City with a Certificate of Insurance that clearly and unconditionally indicates that Contractor/Consultant has complied with all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement. If the Contractor/Consultant is a joint venture, the insurance certificate should name the joint venture, rather than the joint venture partners individually, as the primary insured. In accordance with the solicitation documents applicable to the agreement at the time Contractor/Consultant submits to City its executed agreement, Contractor/Consultant must satisfy all insurance and bonding requirements required by this Appendix B and applicable by law, and provide the required written documentation to City evidencing such compliance. In the event that Contractor/Consultant does not comply with such submittal requirements within the time period established by the solicitation documents applicable to the agreement, City may, in addition to any other rights City may have under the solicitation documents applicable to the agreement or under applicable law, make a claim against any bid security provided by Contractor/Consultant.

**2. Minimum Financial Security Requirements**

All companies providing insurance required by this Appendix B 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. The ratings for each company must be indicated on the documentation provided by Contractor/Consultant to City certifying that all insurance and bonding requirements set forth in this Appendix B and applicable to the agreement have been unconditionally satisfied.

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, and
- iii) Companies must be authorized to conduct and transact insurance contracts by the Insurance Commissioner, State of Georgia.
- iv) All bid, 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 Contractor/Consultant in writing. Contractor/Consultant must promptly obtain a new policy or bond issued by an insurer acceptable to City and submits to City evidence of its compliance with these conditions.

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

3. **Insurance Required for Duration of Contract**

All insurance and bonds required by this Appendix B 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.

4. **Notices of Cancellation & Renewal**

Contractor/Consultant must, notify the City of Atlanta in writing at the address listed below by mail, hand-delivery or facsimile transmission, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement and Appendix B that concern the proposed cancellation, or termination of coverage.

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.

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

5. **Agent Acting as Authorized Representative**

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

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

6. **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.**

7. **Project Number & Name**

The project number and name must be referenced in the description section of the insurance certificate.

8. **Additional Insured Endorsements Form CG 20 26 07 04 or equivalent**

The City must be covered as Additional Insured under all insurance (except worker's compensation and professional liability) required by this Appendix B and such insurance must be primary with respect to the Additional Insured. **Contractor/Consultant must submit to City an Additional Insured Endorsement evidencing City's rights as an Additional Insured for each policy of insurance under which it is required to be an additional insured pursuant to this Appendix B. Endorsement must not exclude the Additional Insured from Products - Completed Operations coverage. The City shall not have liability for any premiums charged for such coverage.**

9. **Mandatory Sub-Contractor/Consultant Compliance**

Contractor/Consultant must require and ensure that all subContractor/Consultants/subconsultants at all tiers to be sufficiently insured/bonded based on the scope of work performed under this agreement.

10. **Self Insured Retentions, Deductibles or Similar Obligations**

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

A. **Workers' Compensation and Employer's Liability Insurance**

Contractor/Consultant 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**

**B. Commercial General Liability Insurance**

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

- Contractual Liability
- Broad Form Property Damage
- Premises Operations
- Personal Injury
- Advertising Injury
- Fire Legal Liability
- Medical Expense
- 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

**C. Commercial Automobile Liability Insurance**

Contractor/Consultant 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 Contractor/Consultant does not own any automobiles in the corporate name, non-owned vehicle coverage will apply and must be endorsed on either Contractor/Consultant's personal automobile policy or the Commercial General Liability coverage required under this Appendix B.

**D. Property Coverage/Inland Marine**

Contractor/Consultant 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.

E. **Performance Bond and Payment Bond**

Contractor/Consultant shall furnish a Payment Bond and a Performance Bond to the City in an amount equal to **100 percent of the total contract value** and for the duration of the entire term.

The person executing the Bonds on behalf of the surety shall 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 by an official of said surety. **Be a U.S. Treasury Circular 570 listed company.**

**APPENDIX B-1**  
**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.

**APPENDIX B-1**

**Payment Bond**

"City" City of Atlanta

"Project" **Urban Forestry 2016**

"FC No." **8832**

"Principal" (Legal Name and Business Address),

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Type of Organization ("X" one): \_\_\_\_\_ Individual

\_\_\_\_\_ Partnership

\_\_\_\_\_ Joint Venture

\_\_\_\_\_ Corporation

"Surety:" (Name and Business Address)

\_\_\_\_\_  
\_\_\_\_\_

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

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

"Penal Sum:" \_\_\_\_\_ Dollars (\$ \_\_\_\_).

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

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

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall make payment of all Subcontractors and all persons supplying labor, Materials, machinery and Equipment for the performance of said work, this obligation shall be void; otherwise of full force and effect.

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

To the extent applicable, it is agreed that this bond is executed pursuant to and in accordance with the provisions of O.C.G.A. Section 36-91-1 *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

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

**PRINCIPAL:** \_\_\_\_\_

\_\_\_\_\_  
President/Vice President (Sign)

\_\_\_\_\_  
President/Vice President (Type or Print)

Attested to by:

\_\_\_\_\_  
Secretary/Assistant                      Secretary                      (Seal)

**SURETY:** \_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact (Sign)

\_\_\_\_\_  
Attorney-in-Fact (Type or Print)

**APPROVED AS TO FORM**

\_\_\_\_\_  
Associate/Assistant City Attorney

**APPROVED**

\_\_\_\_\_  
City's Chief Financial Officer

## 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.

**Performance Bond**

"City" City of Atlanta

"Project" **Urban Forestry**

"FC No." **FC-8832**

"Principal" (Legal Name and Business Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Type of Organization ("X" one):

- Individual
- Partnership
- Joint Venture
- Corporation

"Surety:" (Name and Business Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

"Penal Sum:" \_\_\_\_\_.

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety hereto, as named above, are held and firmly bound to the City in the above Penal Sum for the payment of which well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, jointly and severally.

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

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

And the Surety to this bond, for value received, agrees that no modification, change, extension of time, alteration or addition to the terms of the Agreement or to the Work to be performed thereunder shall in any wise affect its obligation on this bond, and it does hereby waive notice of any such modification, change, extension of time, alteration or addition to the terms of the Agreement or the Work.

It is agreed that this bond is executed pursuant to and in accordance with the provision of O.C.G.A. Section 13-10-1 and 36-91-1, *et seq.* and is intended to be and shall be construed to be a bond in compliance with the requirements thereof, though not restricted thereto.

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

**PRINCIPAL:** \_\_\_\_\_

\_\_\_\_\_  
President/Vice President (Sign)

\_\_\_\_\_  
President/Vice President (Type or Print)

Attested to by:

\_\_\_\_\_  
Secretary/Assistant Secretary (Seal)

**SURETY:** \_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact (Sign)

\_\_\_\_\_  
Attorney-in-Fact (Type or Print)

**APPROVED AS TO FORM**

**APPROVED AS TO FORM**

\_\_\_\_\_  
Associate/Assistant City Attorney

\_\_\_\_\_  
County Attorney

**APPROVED**

**APPROVED**

\_\_\_\_\_  
City's Chief Financial Officer

\_\_\_\_\_

**[END OF DOCUMENT]**