



CITY OF ATLANTA

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Kasim Reed
Mayor

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

July 14, 2015

Dear Potential Proponents:

Re: FC-8829, Operations and Maintenance of the Atlanta Streetcar System

Attached is one (1) copy of **Addendum No. 5**, which is hereby made a part of the above-referenced project.

For additional information, please contact Lloyd A. Richardson, Contract Administrator, at (404) 864-8504, or by email at larichardson@atlantaga.gov.

Sincerely,

Adam L. Smith

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FC-8829, Operations and Maintenance of the Atlanta Streetcar System

Addendum No. 5

July 14, 2016

Page 2

ADDENDUM NO. 5

This Addendum No. 5 forms a part of the Request for Proposals and modifies the original solicitation package and any prior Addenda as noted below and is issued to incorporate the following:

1. Proposal Due Date

The Proposal due date is hereby extended to **Friday, August 5, 2016 at 2:00 P.M. EDT.**

2. Revision of City's response to Question No. 18 of Addendum No. 4 dated 7/13/16

Question No. 18: *4.6 Maintenance Responsibilities - Can the authority please provide the original equipment manufacturer manuals including maintenance, repair and overhaul instructions for the Atlanta Streetcar system vehicles, track, special track work, the VMF and all of its systems, equipment and tools associated with the VMF, the overhead contact system (OCS), and traction power substations (TPSS).*

Revised Response: *To obtain the original equipment manufacturer manual, please submit an Open Records Request to the Department of Public Works.*

3. Revision of City's response to Question No. 19 of Addendum No. 4 dated 7/13/16

Question No. 18: *4.6 Maintenance Responsibilities – Can the authority provide the maintenance records for all aspects of the Atlanta Streetcar system vehicles, track, special track work, the VMF and all of its systems, equipment and tools associated with the VMF, the overhead contact system (OCS), and traction power substations (TPSS)*

Revised Response: *To obtain the maintenance records, please submit an Open Records Request to the Department of Public Works*

4. Revision of Part V, Draft Professional Services Agreement, Section 16, Limitation of Liability

Section 16 is here by revised to read:

“General. THE MAXIMUM AGGREGATE LIABILITY OF CITY HEREUNDER IS LIMITED TO THE TOTAL OF ALL CHARGES ACTUALLY PAID AND ANY UNDISPUTED CHARGES THAT ARE DUE DURING THE CURRENT YEAR UNDER THE AGREEMENT. EXCEPT FOR PROVIDER’S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED “INDEMNIFICATION BY CONTRACTOR” 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

FC-8829, Operations and Maintenance of the Atlanta Streetcar System

Addendum No. 5

July 14, 2016

Page 3

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.

Exceptions to Limitations. The limitations set forth in the immediate subsection shall not apply to: (a) personal injury, wrongful death or tangible property damage; (b) any claim for infringement of intellectual property; (c) any breach of the Section entitled "Confidential Information"; or (d) 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."

5. Responses to three (3) questions.

Total of three (3) questions attached hereto as Attachment No. 1.

6. Inclusion to Appendix C, Required Federal Contract Clauses and Certifications

Additional Federal Certifications are hereby included in Appendix C and attached hereto as Attachment No. 2 and dated 7/14/16.

7. Revision of Form 9, Required Submittal Checklist

Form 9, Required Submittal Checklist is hereby removed and replaced with a new Form 9 attached hereto as Attachment No. 3 and dated 7/14/16.

Addendum No. 5 for **FC-8829, Operations and Maintenance of the Atlanta Streetcar System** is available for pick-up in the Plan Room: City Hall, 55 Trinity Avenue, Suite 1900.

The Proposal due date HAS been modified and Proposals are due on Friday, August 5, 2016 and should be time stamped in no later than 2:00 P.M. EDT and delivered to the address listed below:

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

**** All other pertinent information is to remain unchanged****

FC-8829, Operations and Maintenance of the Atlanta Streetcar System

Addendum No. 5

July 14, 2016

Page 4

Acknowledgment of Addendum No. 5

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

This is to acknowledge receipt of **Addendum No. 5, FC-8829, Operations and Maintenance of the Atlanta Streetcar System** on this the _____ day of _____, 201__.

Legal Company Name of Proponent

Signature of Authorized Representative

Printed Name

Title

Date

Attachment No. 1

Questions & Answers

Question 1: Section 16 currently provides a global liability cap on the part of the City in the amount of one year's contract value to the extent it is actually paid. This implies that the City can limit its own liability by simply not paying. Would the City consider revising this provision to eliminate the aggregate liability cap?

Answer Please see item 4 of this addendum.

Question 2: Section 15.1 requires the Contractor to indemnify the City for losses arising "in whole or in part" from the actions of the Contractor and contains no exception for those losses arising from the City's own negligence (or the Project Sponsors, or employees, agents, etc. thereof). Would the City consider an exception from this indemnification responsibility to the extent that such a loss arises from the actions of the City or the Project Sponsors, or agents thereof?

Answer State law sets forth an absolute prohibition against local governments indemnifying other parties. However, the City will consider maintaining insurance to cover claims or actions caused by the gross negligence or willful misconduct of City employees working on the Project.

Question 3: The RFP implies that the O & M contractor will get their spare parts from the City. Will the City confirm they will provide spare parts?

Answer The City will not provide any spare parts. Complete cost of maintenance functions and provision of spare parts will need to be included in the cost proposal.

Attachment No. 2

Appendix C, Required Federal Contract Clauses and Certifications

*Note: Inclusion of additional Federal Certifications.
These forms must be submitted with your proposal.*

BUY AMERICA CERTIFICATION

NOTICE TO BIDDERS

Your bid will not be considered unless one of the certifications on this form is completed, signed and returned with your bid. If you submit an incomplete Buy America certificate or an incorrect certificate of non-compliance through inadvertent or clerical error; within 10 days of receipt of bids, you may submit to City of Atlanta, for review by the FTA Chief Counsel, an explanation of the circumstances surrounding the submission of the incomplete or incorrect certification.

COMPLIANCE FORM

CERTIFICATE FOR COMPLIANCE WITH SECTION 165 (a) "Procurement of Steel, Iron or Manufactured Products"

The Bidder hereby certifies that it will comply with the requirements of Section 165 (a) of the Surface Transportation Assistance Act of 1982, as amended, and the applicable regulations in 49 CFR Part 661

Date:	Firm:
Name:	Signature:
Title:	

NON-COMPLIANCE FORM

CERTIFICATE FOR NON-COMPLIANCE WITH SECTION 165 (a) "Procurement of Steel, Iron or Manufactured Products"

The Bidder hereby certifies that it **cannot** comply with the requirements of Section 165 (a) of the Surface Transportation Assistance Act of 1982, as amended, but it may qualify for an exception to the requirement pursuant to Section 165 (b) (2) or (b) (4) of the Surface Transportation Assistance Act of 1982, and its regulations in 49 CFR Part 661.7

Identify items that are not compliant in the space below:

Date:	Firm:
Name:	Signature:
Title:	

Attachment No. 3

Revised Form 9, Required Submittal Checklist

Required Submittal (FORM 9)
Required Submittal Checklist

The following submittals shall be completed and submitted with each Proposal see table below “Required Proposal Submittal Check Sheet.” Please verify that these submittals are in the envelope before it is sealed. *Disclaimer:* It is each Proponents sole responsibility to ensure that their proposal to the City is inclusive of all required submittal documents outlined on the below-referenced checklist; as well as within other parts of the solicitation document.

Submit one (1) Original Proposal, signed and dated, and seven (7) complete copies of the Original Proposal including all required attachments.

In addition to the hard copy submissions, each Proponent shall submit two (2) digital versions of its Proposal Submission in Adobe Portable Document Format (“PDF”) on compact disk (CDs). CD One (1) version should be a duplicate of the hard copy of the Proposal with no deviations in order or layout of the hard copy proposal. CD Two (2) version should be a redacted version of the hard copy Proposal Submission. Please refer to the Georgia Open Records Acts (O.C.G.A. § 50-18-72) for information not subject to public disclosure.

The City assumes no liability for differences in information contained in the Proponent’s printed Proposal Submission and that contained on the CDs. In the event of a discrepancy, the City will rely upon the information contained in the Proponent’s printed material (Hard Copy). Each CD should be labeled with the Project Number, Project Name, and the CD Number.

	Required Proposal Submittal Check Sheet
1	<p>Volume A – Informational Proposal:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Approach to Streetcar Operations and Maintenance <input type="checkbox"/> Experience and Qualifications of Lead Firm <input type="checkbox"/> Team Organization and Credentials. Conceptual Submittal (Project Approach)
2	<p>Volume B – All Required Submittal Forms (if any of the required submittal documents are not submitted or incomplete within your Proposal submittal package, your firm may be deemed non-responsive). <u>Required Submittals include but are not limited to:</u></p> <ul style="list-style-type: none"> <input type="checkbox"/> Form 1; Illegal Immigration Reform and Enforcement Act Forms <input type="checkbox"/> Form 2; Contractor Disclosure Form <input type="checkbox"/> Form 3; Proponent Financial Disclosure <input type="checkbox"/> Form 4.1; Certification of Insurance Ability <input type="checkbox"/> Form 4.2; Certification of Bonding Ability <input type="checkbox"/> Form 5; Acknowledgment of Addenda <input type="checkbox"/> Form 6; Proponent Contact Directory <input type="checkbox"/> Form 7; Reference List <input type="checkbox"/> Form 8; Proposal Guarantee <input type="checkbox"/> Form 9; Required Submittal Checklist <input type="checkbox"/> Appendix A - Office of Contract Compliance Forms 1 – 5 <p>Additional Required Federal Certifications</p> <ul style="list-style-type: none"> <input type="checkbox"/> Certification of Primary Participant Regarding Debarment, Suspension and Other Responsibility Matters <input type="checkbox"/> Certification of Lower-Tier Participant Regarding Debarment, Suspension and Other Voluntary Exclusions <input type="checkbox"/> Certification of Lobbying <input type="checkbox"/> Disclosure of Lobbying Activities <input type="checkbox"/> Buy America Certification
3	Separate Sealed Envelope – Cost Proposal (Volume C)
4	<p>Proponent’s Official Company Name: Company Physical Address:</p>
5	<p>President/Vice President/Owner Name: Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address:</p>
6	<p>Primary Point-of-Contact Concerning RFP: Title: _____ Office Telephone Number: _____ Direct Cell Telephone Number: _____ Email Address:</p>