

**CITY OF ATLANTA**

**HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT**

**REQUEST FOR PROPOSALS**

**FC-9036, NOISE INSULATION PROGRAM DESIGN SERVICES AT  
HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT**



**ROOSEVELT COUNCIL, JR.  
INTERIM AVIATION GENERAL MANAGER  
DEPARTMENT OF AVIATION**

**ADAM L. SMITH, ESQ., CPPO, CPPB, CPPM, CPP,  
CPIC, CISCC, CIGPM, CPPC  
CHIEF PROCUREMENT OFFICER  
DEPARTMENT OF PROCUREMENT**

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## CITY OF ATLANTA

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DEPARTMENT OF PROCUREMENT  
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CIPC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
[asmith@atlantaga.gov](mailto:asmith@atlantaga.gov)

Kasim Reed  
Mayor

August 8, 2016

### ATTENTION INTERESTED PROPONENTS:

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-9036, Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport ("Airport"). The scope of this project will include normal architectural, civil, structural, mechanical, electrical engineering and specialty services. The successful Proponent will provide Noise Insulation Program acoustical treatment designs, as well as any related acoustical eligibility, environmental testing and any other noise insulation design or eligibility-related work as deemed necessary under the Federal Aviation Administration program guidance requirements .

A Pre-Proposal Conference will be held on Tuesday, August 23, 2016, at 2:00 P.M., at the Hartsfield-Jackson Technical Support Campus, 1255 South Loop Road, College Park, Georgia 30337. The purpose of the Pre-Proposal Conference is to provide proponents with detailed information regarding the City's procurement process and to address questions and concerns. There will be representatives from the City's Department of Aviation, 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 by each firm desiring to submit a proposal.

The last date to submit questions will be Friday, August 26, 2016, at 5:00 P.M. Questions may be sent to Mr. Leslie Page, Contracting Officer, via email at [lpag@atlantaga.gov](mailto:lpag@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 ("RFP") must be received by the Department of Procurement at 55 Trinity Avenue, S.W., City Hall, Suite 1900, Atlanta, GA 30303, no later than 2:00 P.M., on Wednesday, September 14, 2016. Any proposals received after this time will not be considered and will be rejected and returned.

**Request for Proposals**

**FC-9036, Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport**

**August 8, 2016**

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The names of submitted Proponents will be publicly read at 2:00 P.M. on the respective due date in Suite 1900, 1st Floor, 55 Trinity Avenue, S.W., City Hall, Atlanta, Georgia 30303.

This RFP is being made available by electronic means. If accepted by such means, then the Proponents acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Proponents possession and the version maintained by the DOP, the version maintained by the DOP shall govern.

If you have any questions regarding this project, please contact Mr. Leslie Page, Contracting Officer, at 404-382-1297, or by email at [lp@atlantaga.gov](mailto:lp@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 or bids 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* (AG)

Adam L. Smith

ALS:lhv

**CITY OF ATLANTA**  
**Hartsfield-Jackson Development Program Technical Support Campus**  
1255 South Loop Road, College Park, Georgia 30337  
Phone No.: 404-530-5500

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**D I R E C T I O N S**

**From Downtown Atlanta:**

- Take I-75/I-85 South
- Continue on I-75 at the I-75/I-85 Split
- Exit 238B – I-285 West
- Stay in right lane and follow signs for Loop Road
- Bypassing exit for I-285 West, continue on Loop Road through traffic light
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

**From East Atlanta:**

- Take I-285 South
- Get off I-285 at the I-75 exit
- Follow signs to I-285 West / Clark Howell Hwy / Loop Road
- Exit at Loop Road
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

**From South of Atlanta: (I-75)**

- Take I-75 North
- Exit 238B - I-285 West
- Keep to the right and exit at Clark Howell Hwy / Loop Road
- Follow signs for Loop Road, go through traffic light
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

**From Southwest of Atlanta: (I-85)**

- I-85 North
- Exit 68 - I-285 Bypass, follow to I-285 East
- Exit 59 - Loop Road / Clark Howell Hwy /Airport Cargo
- Follow signs for Loop Road
- Bypass exit for I-285 West, staying in two right lanes to Loop Road
- Continue through traffic light
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

**From West of Atlanta:**

- From I-20, take I-285 South
- Exit 59 – Loop Road / Clark Howell Hwy /Airport Cargo
- Follow signs for Loop Road
- Bypass exit for I-285 West, staying in two right lanes to Loop Road
- Continue through traffic light
- The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)

**From the Airport:**

- Take Airport Blvd toward I-85 North, stay in the right lane
  - Exit Right onto North Inner Loop Road
  - Continue on N Inner Loop Road, crossing over Aviation Blvd, and road then becomes South Inner Loop Road
  - Stay on S Inner Loop Road until you see the "Road Closed" signs
  - The H-JDP Tech Campus is the second building on the left (grey stone w/ blue awning)
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# **PART 1: INFORMATION AND INSTRUCTIONS TO PROPOSERS**

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

This Request for Proposals ("RFP") is being solicited by the City of Atlanta ("City") on behalf of the Department of Aviation ("DOA") from qualified Proponents ("Proponents") and seeks to procure the Services (as hereinafter defined):

**1. Services Being Procured:** DOA seeks to procure the following services ("Services"):

Noise Insulation Program Design Services ("NIPDS") for the implementation and execution of those projects to be identified in the department current plan and other projects as assigned by the Department of Aviation (DOA) (the "Program"), Bureau of Planning and Development (P&D). All services provided by Consultant will be accomplished in accordance with the City and DOA's P & D Policies and Procedures. The initial term of this RFP will be for three (3) years, with one (1) optional two (2) year renewal, each to be exercised at the sole discretion of the City.

A more detailed Scope of Services sought in this procurement is set forth in Exhibit A – Services attached to the Services Agreement ("Services Agreement"); **Services Agreement No. 9036 – Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport (H-JAIA)**, included in this RFP at Part 5.<sup>1</sup>

**2. General Summary of Task Order Process:** All services will be performed in accordance with the Contract, if awarded, and any Task Order Issued under it. The City will select one (1) firm for planning services for an award of Contract pursuant to this RFP.

The award of a Contract pursuant to this RFP does not guarantee that any Task Orders will be issued under that Contract. Task Orders will be issued on an as-needed basis; no minimum amount of Services is guaranteed to any Proponent receiving an award of a Contract pursuant to this RFP.

**3. 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. The particular method of source selection for the Services sought in this RFP is Code Section 2-1193; Competitive Selection Procedures for Professional and Consultant Services. 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 Code and City Charter, which laws are incorporated into this RFP by reference.

The City will evaluate the written proposals and will determine which Proponent is best qualified to perform the work based on the evaluation criteria described in Part II & Part III of this RFP. A thorough investigation will be made into each firm's qualifications and past

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

performance on similar projects. Our emphasis will be on Proponent's proposal, past performance and references of each firm and not on company brochures or literature. Oral interviews/presentations will be conducted with Proponents in accordance with City's Code of Ordinances and other Applicable Law.

4. **Minimum Qualifications; Eligibility to Propose; Authority to Transact Business in Georgia:**
  - 4.1. Each Joint Venture Partner must have a minimum of ten (10) years 'experience in architectural design services and shall have key personnel who have performed work on airport / aviation noise mitigation or insulation project(s).
  - 4.2. Proponent's Key Personnel must be able to demonstrate and document successful experience providing similar scope of services to airport/aviation noise mitigation or insulation project(s).
  - 4.3. Proponent must submit, with its Proposal, documentation (e.g., certificate of good standing issued by the Secretary of the State of Georgia) of each JV firm or the JV firm itself that evidences that it is authorized to conduct business in the State of Georgia.
5. **No Offer by City; Firm Offer by Proponent:** This procurement does not constitute an offer by City to enter into a Services Agreement and cannot be accepted by any Proponent to form a Services Agreement. This procurement is only an invitation for offers from interested Proponents and no offer shall bind the City. A Proponent's offer is a firm offer and may not be withdrawn except under the rules specified in the City's Code of Ordinances and other Applicable Law.
6. **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, September 14, 2016**. Any Proposal received after this time will not be considered and will be rejected and returned.
7. **Pre-Proposal Conference:** Each Proponent is strongly encouraged to attend the Pre-Proposal Conference scheduled for **Tuesday, August 23, 2016, at 2:00 P.M.**, at Technical Support Campus, 1255 South Loop Road, College Park, GA 30337. Each Proponent must be fully informed regarding all existing and expected conditions and matters which might affect the cost or performance of the Services.
8. **Procurement Questions; Prohibited Contacts:** Any questions regarding this RFP shall be submitted in writing to the City's contact person, Mr. Leslie Page, Contracting Officer, Department of Procurement, 55 Trinity Avenue, SW, Suite 1900, Atlanta, Georgia 30303-0307, by e-mail [lp@atlantaga.gov](mailto:lp@atlantaga.gov), on or before **Friday, August 26, 2016**. 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' website at [www.atlantaga.gov](http://www.atlantaga.gov) and its Department of Procurement's Plan Room, which is open during posted business hours, Suite 1900, 1<sup>st</sup> Floor, 55 Trinity Avenue, S.W., City Hall South, Atlanta, Georgia 30303. No Proponent may rely on any verbal response to any question submitted concerning this RFP. All 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.

9. **Ownership of Proposals:** By submitting a Proposal, each Proponent acknowledge and agrees that its 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.
10. **Insurance Requirements:** The Insurance requirements for any Services Agreement that may be awarded pursuant to this RFP are set forth in **Exhibit D: Insurance Requirements** attached to the Services Agreement included in this RFP.
11. **Applicable City OCC Programs:** The City's 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.
12. **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 **Exhibit D: Insurance Requirements**. A Proponent must include with that form (a) notarized letter(s) from its proposed insurer(s) indicating that the financial capacity of the Proponent is such that the insurer(s) is/are willing to issue insurance for the Proponent if a Services Agreement is awarded to it. Further, if this RFP requires a successful Proponent that is awarded an Services Agreement pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty Services Agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if a Services Agreement is awarded to it.
13. **Special Rules Applicable to Evaluation of Proposals:** A Proponent may be required to submit, in writing, the addresses of any proposed subconsultants listed in the Proposal and to submit other material information relative to proposed subconsultants. City reserves the right to disapprove any proposed subconsultants whose technical or financial ability or

resources or whose experience are deemed inadequate.

**14. Examination of Proposal Documents:**

**14.1.** Each Proponent is responsible for examining with appropriate care the complete RFP and all Addenda and for informing itself with respect to all conditions which might in any way affect the cost or the performance of any Services. Failure to do so will be at the sole risk of the Proponent, who is deemed to have included all costs for performance of the Services in its Proposal.

**14.2.** Each Proponent shall promptly notify the City on or before 5:00 p.m. (EST), **Friday, August 26, 2016**, in writing should the Proponent find discrepancies, errors, ambiguities or omissions in the Proposal Documents, or should the City's intent or meaning appear unclear or ambiguous, or should any other question arise relative to the RFP. Replies to such notices may be made in the form of an Addendum to the RFP, which will be issued simultaneously to all potential Proponents who have obtained the RFP from the City.

**14.3.** The City may in accordance with Applicable Law, by Addendum, modify any provision or part of this RFP at any time prior to the Proposal due date and time. The Proponent shall not rely on oral clarifications to the RFP unless they are confirmed in writing by the City in an issued Addendum.

**14.4.** Each Proponent must confirm Addenda have been received and acknowledge receipt by executing **Form 7: Acknowledgment of Addenda** attached to this RFP at Part 4.

**15. Rejection of Proposals; Cancellation of Solicitation; Waiver of Technicalities:** The City reserves the right to reject any Proposal or all Proposals or to waive any technical defect in a Proposal. The City also may cancel this procurement at any time in accordance with the City of Atlanta Code of Ordinances.

**16. Award of Services Agreement; Execution:** If the City awards a Services Agreement pursuant to this procurement, the City will prepare and forward to the successful Proponent a Services Agreement for execution substantially in the form Included In this RFP.

**17. Illegal Immigration Reform and Enforcement Act:** This RFP is subject to the Illegal Immigration Reform and Enforcement Act of 2011 ("Act"). IIREA was formerly known as the Georgia Security and Immigration Compliance Act or GSICA. Pursuant to 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. A completed Contractor Affidavit, set forth in **Part 4: Form 1; Illegal Immigration Reform and Enforcement Act Forms**, must be submitted on the top of Volume 1 of the Proposal at the time of submission, prior to the time for opening the Proposal. Under state law, the City cannot consider any Proposal which does not include

completed forms. Where the business structure of a Proponent is such that Proponent is required to obtain an Employer Identification Number (EIN) from the Internal Revenue Service, Proponent must complete the Contractor Affidavit on behalf of, and provide a Federal Work Authorization User ID Number issued to, the Proponent itself. Where the business structure of a Proponent does not require it to obtain an EIN, each entity comprising Proponent must submit a separate Contractor 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>. Additional information on completing and submitting the Contractor Affidavit precedes the Affidavit at **Part 4: Form 1**.

18. **Eligibility to Perform Future Services:** Neither the successful Proponent nor any of its constituent member firms is eligible to perform construction services for which the Proponent has performed design services. Any subconsultants or subcontractors hired by the successful Proponent may perform other services as determined by the City. Subconsultants/subcontractors are required to submit a written request to the Assistant General Manager of Planning and Development or designee in order to receive the determination.
19. **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.
20. **Fraud and Misrepresentation.** Any written or oral information provided by Consultant, 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. Consultant 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. Consultant 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. Consultant agrees to place signage provided by the City regarding the Integrity Line at the location to which Consultant's employees report to perform the services required by this Agreement. Consultant acknowledges and agrees that a finding of fraud or other impropriety on the part of the Consultant or any of its subconsultants may result in suspension or debarment of the Consultant and the City may pursue any other actions or remedies that the City may deem appropriate. Consultant agrees to include this clause in its subcontracts and take appropriate measures to ensure compliance with this provision.

21. **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.]."
22. **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 Service 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 4, 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 Service 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.
23. **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).
24. **Title VI Solicitation Notice.** The City of Atlanta, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract

entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

# **PART 2: CONTENTS OF PROPOSALS/REQUIRED SUBMITTALS**

## **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 documents:
  - 1.1. Informational Proposal two (2) Voiumes; and**
  - 1.2. Employee Classifications / Actual Billing Rates (Form provided by City at Part 5: Services Agreement: Exhibit A.2).** Employee Classifications / Actual Billing Rates will become part of the Services Agreement attached to this RFP following negotiations, if a Services Agreement is awarded pursuant to this procurement. The intent of Exhibit A.2 is to set forth the negotiated agreement between the successful Proponent, if any, and City concerning the employee classifications required to provide Services under the Services Agreement and the billing rates applicable to actual Services provided by such employees.
  
- 2. Informational Proposal Volume I:** The information drafted and submitted by Proponent in response to this RFP, which must be set forth in and include each of the following parts:
  - 2.1. Executive Summary: Cover Letter:** The cover letter must include a letter with the Proponent's name, address, telephone number and fax number, signed by a person authorized to act on behalf of the Proponent. The letter shall also include the name, title, address, e-mail address, telephone number and fax number of the person signing the letter and the name, title, address, e-mail address, telephone number and fax number of one (1) contact person to whom all future correspondence and/or communications may be directed by the City concerning this procurement, if that person is different from the person executing the letter. The letter must include a narrative statement of the Proponent's approach to providing the services solicited in this RFP.
  
  - 2.2. Detailed Executive Summary:** The purpose of the Detailed Executive Summary is to provide an overview of the Proponent's qualifications to accomplish the project. The Detailed Executive Summary must contain the following information:
    - 2.2.1. 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;
  
    - 2.2.2. The general and specific capabilities and experience of the Proponent's Team.** Each Proponent must identify examples where team members have worked together to complete a project and discuss how the team was formed and how the team will function as an integrated unit in providing services to the City;

**2.2.3. A description of the Proponent's plan for complying with the City's Disadvantaged Business Enterprise (DBE) goals. This section shall include detailed information regarding the essential subcontractors/subconsultants the Proponent intends to use and shall indicate the role and responsibilities these firms will be assigned. Each Proponent must provide a letter from each essential subcontractor/subconsultant indicating that the firm concurs with the role and responsibility Proponent has described; and**

**2.2.4. A declarative statement as to whether the Proponent or any member of the Proponent team has an open dispute with the City or is involved in any litigation associated with work in progress or completed in both the private and public sector during the past five (5) years.**

**2.3. Organizational Structure / Chart. The Proponent's Organizational Structure Section of the Proposal shall introduce the proposed Proponent team by:**

**2.3.1. Providing the Proponent's Management Organizational Chart both graphically and in narrative format. The Organizational Chart and narrative shall provide a description of the Proponents' views on how it will organizationally provide the Services, as well as depict the relationship of its key personnel to that of the Principal-in-Charge and other key members of the management team.**

**2.3.2. 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 to ensure all products are fully coordinated within the organization when provided.**

**2.3.3. Providing the names of proposed candidates for each major function on the chart.**

**2.3.4. Providing a narrative description of the role assigned to all proposed subconsultants.**

**2.3.5. Describing the capacity of the Team to complete design tasks, including the amount of resources that will be dedicated to Projects as they arise.**

**2.3.6. Proximity to ATL: Describe the Proponent team's current ability to effectively and conveniently perform the Scope of Services and to coordinate its efforts with the City and its other consultants. List office addresses and total number of employees, and the number of both professional and support employees located at those offices. Also, list Proponent geographical location of the office that will be primarily responsible for assigned projects and where the work will be accomplished. Local/metro Atlanta area for all services is most desired.**

**2.4. Overall Experience, Qualifications and Performance of the Prime Firms.**

**2.4.1. Describe the Proponent's experience and qualifications in architectural design services as widely described in the Scope of Services and as may be more fully described in a Task Order. Proponent must provide a narrative description of six (6) projects, including a minimum of one (1) airport noise mitigation/insulation project, demonstrating capability and qualifications in all areas identified below and each project shall encompass a combination of several of the areas of expertise:**

**2.4.1.1. Provide specific experience in architectural design (new construction or renovation) for single family residential, multi-family residential and commercial properties as a Firm and by individuals that make up the Team;**

**2.4.1.2. Provide specific Team experience on projects involving coordinated designs among architectural, electrical mechanical and structural disciplines;**

**2.4.1.3. Provide experience in generating concept level cost estimate and cost-benefit analysis;**

**2.4.1.4. Provide experience of completing design work initiated by others or by planning documents developed by others. Give specific details of the project and the approach utilized by the Team;**

**2.4.1.5. Provide Team and Individual experience working with Federal and other airport related agencies;**

**2.4.1.6. Provide specific design experience of project completion against established Construction Cost Limitations;**

**2.4.1.7. Provide specific Team experience on projects that utilized an accelerated approach to project implementation; and**

**2.4.1.8. Provide construction administration.**

## **2.5. Key Personnel Resumes:**

**2.5.1. Identify and provide resumes for the Key Personnel that the team will use to fill the following positions:**

**2.5.1.1. Principal-in-Charge;**

**2.5.1.2. Project Manager;**

**2.5.1.3. Sr. Design Engineer;**

**2.5.1.4. Design Engineer**

**2.5.1.5. Design Architect;**

- 2.5.1.6. Specifications Writer;
- 2.5.1.7. Contract Administrator;
- 2.5.1.8. Quality Control Coordinator
- 2.5.1.9. Senior Engineer (Acoustical Testing)
- 2.5.1.10. Senior Engineer (Electrical)
- 2.5.1.11. Project Supervisor (Environmental )
- 2.5.1.12. Senior Engineer (Mechanical)
- 2.5.1.13. Senior Engineer (Structural)

**2.5.2. Resumes must be organized as follows:**

- 2.5.2.1. Name and Title;
- 2.5.2.2. Professional Background;
- 2.5.2.3. Current and Past Relevant Employment;
- 2.5.2.4. Education;
- 2.5.2.5. Licenses and Certifications;
- 2.5.2.6. List of relevant project(s), including:
  - 2.5.2.6.1. Client Name;
  - 2.5.2.6.2. Project description;
  - 2.5.2.6.3. Role of the individual;
  - 2.5.2.6.4. Project actual or expected completion date; and
  - 2.5.2.6.5. Client List/Reference Contact.

**2.5.3. Submission of these key 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. In the event there is a need to replace Key Personnel during the course of the project, Proponent must describe its back-up personnel plan. Proponent shall carefully balance experience and billing rate in the selection of personnel to maximize value to the City.**

**2.6. Management Plan. Based on the Proponent's Organizational Structure, describe how the Proponent will manage the Services, specifically addressing the following:**

**2.6.1. Proponent's approach to Team leadership. Describe how the Proponent will:**

- 2.6.1.1. Ensure proper communication and coordination among pertinent joint venture and project team members;
- 2.6.1.2. Assure that each project scope of work will be kept within the established time and budget constraints;
- 2.6.1.3. Establish and maintain the necessary cooperative relationships;

- 2.6.1.4. Coordinate all necessary program activities within that team relationship to ensure program deliverable is seamless;
- 2.6.1.5. Identify the tools that are intended to be used to manage the various project elements; and
- 2.6.1.6. Proponent's proposed method to:
  - 2.6.1.6.1. Identify and resolve issues during the program duration; and
  - 2.6.1.6.2. Make critical decisions
- 2.6.2. Proponent may provide in this section additional bench strength that could be available for projects and/or any additional information the Proponent considers valuable in showing experience to provide the services that may be required.

**2.7. Quality Control Approach.** The selected Proponent will be responsible for ensuring that the Work is accomplished in accordance with the DOA's Design Policy and Procedures. Proponent will be evaluated on its Design Quality Control Approach. For instance, did the Proponent:

- 2.7.1. Describe how its design team will approach Design Quality Control, including coordination of the design between the various disciplines, checking and correcting design documents, design schedule control, validation of construction schedule projections and design features enabling control of construction costs;
- 2.7.2. Describe its approach to Quality Control during design and construction of the Project;
- 2.7.3. Describe how Quality Control design reviews and Team approvals will be achieved;
- 2.7.4. Describe how Proponent will organize multi-discipline response to Department of Aviation (DOA) review comments;
- 2.7.5. Describe the authority of the Principal-in-Charge to achieve this process;
- 2.7.6. Describe the Proponent's Corrective Action Plan;
- 2.7.7. Include a plan (approach and timeframe) for review and approval of initial construction submittals (shop drawings product data, and samples, etc.), review of revised submittals and review of Request for Information (RFI);
- 2.7.8. Plan for coordination with permitting agencies; and
- 2.7.9. Describe how the Proponent's organizational structure supports this plan and identify responsible and accountable parties.

**3. Informational Proposal Volume II: (Information required by a Proponent on forms provided by the City):**

**All respondents including all Joint Venture partners who have chosen to submit a Request for Proposal in this procurement and will be listed as a prime contractor with the City of Atlanta (the "City") must fill out all forms in their entirety, signed, notarized or sealed with your corporate seal (if needed).**

**If your intentions are for your company to be named as a Prime Contractor(s) with the City, then your company must fill out all forms listed in this solicitation document; otherwise your company may be deemed non-responsive. The required forms are as follows:**

**3.1 Illegal Immigration Reform and Enforcement Act Affidavits.** 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.

**3.2.1.** If the Proponent is an individual, then that individual must complete and sign the Contractor Disclosure (**Form 2**) where indicated.

**3.2.2.** If the Proponent is a partnership (including but not limited to, joint venture partnership), then each partner in the partnership must complete and sign a separate Contractor Disclosure (**Form 2**) where indicated.

**3.2.3.** If the Proponent is a legal entity (e.g., corporation, limited liability company), then an authorized representative of that entity must complete and sign the Contractor Disclosure (**Form 2**) where indicated.

**3.2.4.** If the Proponent is a newly formed entity (formed within the last three years), then an authorized representative of that entity must complete and sign the Contractor Disclosure (**Form 2**) where indicated, and each of the members or

owners of the entity must also complete and sign separate Contractor Disclosure Form where indicated.

**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. Failure to accurately report financial information shall be grounds for disqualification of Proponent or termination of any Agreement resulting from this solicitation. In addition, Proponent must provide evidence of its ability to submit the Performance Guarantee, including (a) notarized letter(s) from Proponent's proposed Insurer(s) and surety(ies) indicating that the financial capacity of the Proponent is such that the Insurer(s)/surety(ies) is/are willing to issue Insurance and Payment and Performance Bonds for the Proponent if a Contract is awarded to it. Further, if this RFP requires a successful Proponent that is awarded a Contract pursuant to this procurement to post some other type of performance guarantee (e.g. letter of credit, guaranty agreement, etc.), a Proponent must submit with its Proposal a notarized letter from an appropriate financial Institution (e.g. bank) indicating that it is willing to issue such performance guarantee for the Proponent if a Contract is awarded to it.

**3.3.1** If the Proponent is an individual, financial disclosures for that individual must be provided.

**3.3.2** If the Proponent is an entity or partnership, financial disclosures for that entity or partnership must be provided.

**3.3.3** 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.

**3.4 Acknowledgment of Insurance and Bonding Requirements.** Each Proponent must complete and submit **Form 5: Acknowledgement of 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 **Exhibit D: Insurance and Bonding Requirements**.

**3.5 Acknowledgment of Addenda.** Each Respondent 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.

**3.5.1** An authorized representative of the entity must complete and sign this Acknowledgment of Addenda where indicated.

**3.6 Proponent's Contact Directory.** Each Proponent must complete and submit **Form 8: Proponent's 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 Respondent for purposes of this RFP and to whom notices regarding the Respondent's qualification may be sent.

**3.7 List of Clients.** Each Proponent must complete and submit at least three (3) current client references, including at least one (1) airport client reference, that are able to attest to the Proponent's performance, ability and credibility. A separate **Form 9** is required for each reference.

**3.7.1** An authorized representative of the entity must complete this form where indicated.

**3.8 Airport Improvement Program.** Each Proponents must complete and submit **Form 10: Airport Improvement Program ("AIP")**, Certificates with its proposal.

**3.9 OCC Programs.** This criterion is based upon the responsiveness of a Proponent's **Disadvantaged Business Enterprise ("DBE")**, the requirement of which is described in **Appendix A** to the Agreement. This criterion is not scored on a sliding scale. Responsive Proponents will receive a score of 15 points. Proponents who fail to evidence a compliant DBE program shall be deemed non-responsive.

**4. Employee Classifications/Actual Billing Rates Volume III.** Each Proponent must submit a list of billing rates in a separate sealed envelope using the form provided by the City at Part 5: Services Agreement: Exhibit A.2: Employee Classifications / Actual Billing Rates for the identified key persons. The Billing Rates must support the Scope of Services contained in the RFP and fully encompass all activities in the Proponent's Proposal. (Submit one (1) stamped "Original" and ten (10) copies in a separate envelope). *The billing rate is not a factor in the selection criteria and, therefore, will not be used in evaluating the Proposals or determining the successful Proponent.*

**5. Submission of Proposals:**

**5.1.** Proposals shall be signed by hand by a principal of the Proponent with the authority to enter into an agreement with the City. Joint ventures or partnerships must designate one joint venture member/partner to represent the joint venture or partnership, respectively, with the authority to submit and execute a proposal as well as enter into an agreement with the City. Each Proponent is responsible for the preparation of its proposal and for the costs associated therewith.

**5.2.** 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-9036; Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport,**

Proponent's Employee Identification Number (EIN), and the name and address of the Proponent. All Proposals must be submitted to:

**Adam L. Smith, Esq., CPPO, CPPB, CPPM, CPP  
CPIC, CISCC, CIGPM, CPPC  
Chief Procurement Officer  
Department of Procurement  
55 Trinity Avenue, S.W.  
City Hall South, Suite 1900  
Atlanta, Georgia 30303-0307  
Re: Project Number FC-9036**

- 5.3. Proponent's names will be read at 2:00 P.M. [EST] on Wednesday, September 14, 2016, in the Department of Procurement's Bid Conference Room, 55 Trinity Avenue, S.W., Suite 1900, City Hall, Atlanta, Georgia 30303-0307.**
- 5.4. A Proponent is required to submit one (1) original and ten (10) copies of its Proposal. Each Proposal must be submitted on 8½" x 11" typed pages, using 12-point font size and such pages must be inserted in a standard three-hole ring binder (Volumes 1 and 2 must be contained in a separate single 3 ring binder). Each Proposal must contain an index and separate sections for each of the sections set forth in Section 2 of Part 2 of this RFP.**
- 5.5. A Proponent is required to submit, in a separate, sealed envelope, clearly marked "Cost Proposal", one (1) stamped original and ten (10) copies of its Cost Proposal with its Information Proposal.**

6. Submittals: The following submittals must be completed and submitted with each Proposal.

Item #	Required Proposal Submittal Check Sheet <sup>2</sup>	Check (v)
	<b>VOLUME 1</b>	
1.	Executive Summary	
2.	Organization Structure	
3.	Overall Experience, Qualifications and Performance of the Prime Firms	
4.	Key Personnel	
5.	Management Plan	
6.	Quality Control Approach	
	<b>VOLUME II</b>	
1.	Form 1: Illegal Immigration Reform and Enforcement Act Forms	
2.	Form 2: Contractor Disclosure Form	
3.	Form 3: Non-Applicable	N/A
4.	Form 4: Proponent Financial Disclosure Form	
5.	Form 5: Acknowledgement of Insurance and Bonding Requirements	
6.	Form 6: Non-Applicable for this RFP	N/A
7.	Form 7: Acknowledgement of Addenda	
8.	Form 8: Proponent's Contact Directory	
9.	Form 9: Client List	
10.	Form 10: Airport Improvement Program (AIP) Forms	
11.	Appendix A: City's Office of Contract Compliance Submittals	
	<b>VOLUME III</b>	
1.	Exhibit A.2: Employee Classifications / Actual Billing Rates <i>(Must be submitted in a separate sealed envelope)</i>	

<sup>2</sup> This table is included solely for Proponent's convenience and may be used to track the preparation and submittal of certain required information with its Proposal. If any of the required submittal documents are not submitted or incomplete within your submittal package, your firm may be deemed non-responsive.

# **PART 3: EVALUATION OF PROPOSALS**

### Part 3: Evaluation of Proposals

An Evaluation Committee will review and evaluate the Proposals in accordance with the City's Code of Ordinances, the criteria specified on the Evaluation Form and considering the information required to be submitted pursuant to the RFP. All Proposals will be evaluated using the following Evaluation Form:

<b>EVALUATION FORM</b>			
<b>CATEGORIES</b>	<b>CATEGORY SCORE</b>	<b>RELATIVE WEIGHT</b>	<b>TOTAL CATEGORY SCORE</b>
Executive Summary		5	
Organizational Structure		5	
Overall Experience, Qualifications and Performance of the Prime Firm		20	
Key Personnel		20	
Management Plan		10	
Quality Control Approach		15	
OCC Programs		15	
Financial Capability		10	
<b>TOTAL SCORE</b>			

For purposes of evaluating all of the Proposals 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**  
**Contractor Affidavit under O.C.G.A. § 13-10-91(b)(1)**

By executing this Contractor Affidavit, the undersigned contractor 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 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 contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by O.C.G.A. § 13-10-91(b). Contractor 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 Contractor: \_\_\_\_\_

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

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

**I hereby declare under penalty of perjury that the foregoing 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**  
**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 2**  
**CONTRACTOR DISCLOSURE FORM**  
**DEFINITIONS FOR THE PURPOSES OF THIS DISCLOSURE**

<b>"Affiliate"</b>	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.
<b>"Contractor"</b>	Any person, partnership or entity having a contract with the City.
<b>"Control"</b>	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.
<b>"Respondent"</b>	<p>Any Individual, partnership or entity that submits a response to a solicitation.</p> <p>If the Respondent is an individual, then that individual must complete and sign this Contractor Disclosure Form where indicated.</p> <p>If the Respondent is a partnership (including but not limited to, joint venture partnership), then each partner in the partnership must complete and sign a separate Contractor Disclosure Form where indicated.</p> <p>If the Respondent is a legal entity (e.g., corporation, limited liability company), then an authorized representative of that entity must complete and sign this Contractor Disclosure where indicated.</p> <p>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.</p>

**Instructions:** Provide the following information for the entity, partner or individual completing this Disclosure (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:

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

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:

(a) directly or indirectly, had a business relationship with the City? YES NO

(b) directly or indirectly, received revenues from the City? YES NO

(c) directly or indirectly, received revenues from conducting business on City property or pursuant to any contract with the City? YES NO

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? YES NO

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? YES NO

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? YES NO

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? YES NO

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? YES NO

13. Please identify any Personal or Financial Relationships that may give rise to a conflict of interest as defined below *[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]*: (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. YES NO

(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: YES NO

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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, materialmen 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: \_\_\_\_\_

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## **FORM 4**

### **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 4.**

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 4.

**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 Exhibit D, 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 Exhibit D, 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

(Thousands)	<u>Year: 20</u> (Thousands)	<u>Year: 20</u> (Thousands)	<u>Year: 20</u>
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 B 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: \_\_\_\_\_

---

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**

**Acknowledgment of Insurance and Bonding Requirements**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_, Proponent, acknowledge that if selected as the successful Proponent for **FC-9036: Noise Insulation Program Design Services at H-JAIA**. 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 \_\_\_\_\_, 2016.

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: \_\_\_\_\_

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**FORM 7**

**Acknowledgment of Addenda**

Each Respondent must complete and submit and 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-9036, Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport:

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**

**Client List**

Each Respondent must provide a list of at least three (3) current client references, including at least one (1) airport reference, 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:

---

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

**FORM 10**

**AIRPORT IMPROVEMENT PROGRAM (AIP) FORMS**

**CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

**NOTE:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**CERTIFICATION REGARDING LOBBYING**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____	_____
Date	Signature
_____	_____
Company Name	Title

**NOTE:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

## TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror -

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors to provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or Subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision.

The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

---

Date

---

Signature

---

Company Name

---

Title

**NOTE:** The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

# PART 5: SERVICES AGREEMENT

**MASTER PROFESSIONAL SERVICES AGREEMENT – NOISE INSULATION PROGRAM DESIGN SERVICES;  
CONTRACT NO. FC-9036**

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

<b>Services Agreement Name: Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport</b>	<b>Services Agreement No. FC-9036</b>
<b>Consultant</b>	<b>City of Atlanta</b>
<b>Name:</b>	<b>Using Agency:</b>
<b>Address:</b>	<b>Address:</b>
<b>Phone:</b>	<b>Phone:</b>
<b>Fax:</b>	<b>Fax:</b>
<b>Authorized Representative:</b>	<b>Authorized Representative: Franklin Rucker, P.E. Assistant Aviation General Manager</b>

**1. Background.**

1.1 The City desires to obtain from Consultant the services ("Services") described generally on Exhibit A, attached, and as further described on task orders (individually, a "Task Order" and, collectively, the "Task Orders"), which may be executed from time to time. Consultant shall not provide any services except as specifically provided in a Task Order.

1.2 Each Task Order shall specify a maximum payment amount (the "Task Order Maximum Payment Amount") applicable to the Services to be performed under such Task Order.

1.3 In addition to containing a Task Order Maximum Payment Amount, each Task Order may contain Services phases for the particular project contemplated by the Task Order, specific budgets applicable to such Services phases, fully burdened hourly billing rates applicable to Consultant/subconsultant personnel providing Services under the Task Order (in addition to those set forth on Exhibit A.2), specific reimbursable/non-reimbursable expenses subject to payment/non-payment under the Task Order or other items/categories/components concerning compensation payable/non-payable under the applicable Task Order. The City, or its designated representative, in administering the Task Order, may unilaterally or bilaterally make changes to any of those compensation components attributable to a Task Order by issuing appropriate documentation of such changes, including the use of a Change Document (hereafter defined) pursuant to the City's Code of Ordinances.

1.4 The City makes no representations or warranties about the quantity of Services that will be requested or Charges that will be paid under this Services Agreement. Any quantity of Services or amount of Charges set forth in this Services Agreement is an estimate only.

## **2 Term.**

2.1 **Initial Term.** The initial term of this Services Agreement will be three (3) years. This Services Agreement shall commence on the Effective Date and end on three (3) years from the Effective Date. The initial term of the Services Agreement and any renewal term(s) are collectively referred to as the "Term".

2.2 **Renewal Terms.** The City shall have the right in its sole discretion to renew this Services Agreement for one (1) additional two (2) year term according to the following procedure:

2.2.1 If the 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 thirty (30) days of such enactment, the City will notify Consultant of such renewal, at which time Consultant 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 Consultant that its initial execution of this Services Agreement is deemed its Services Agreement to continue to provide Services during any renewal Term.

## **3 Interpretation.**

3.1 All capitalized terms used in this Services Agreement shall have the meanings ascribed to them in the Services Agreement Documents and on Exhibit C attached hereto. If there is a conflict between any of the Services Agreement Documents, precedence shall be given in the following order:<sup>3</sup>

1. Change Order(s)
2. Applicable Task Order
3. Services Agreement
4. Exhibit A: General Scope of Services
5. Exhibit A.1: Compensation
6. Exhibit A.2: Employee Classifications / Actual Billing Rates
7. Exhibit B: Authorizing Legislation
8. Exhibit C: Definitions
9. Exhibit D: Insurance Requirements

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<sup>3</sup> For purposes of this provision, authorized changes to an item in the order of precedence pursuant to a Change Document take precedence over the particular item changed.

10. Exhibit D.1: Form Payment Bonds
11. Exhibit E: Dispute Resolution Procedures
12. Exhibit F: Airport Access, Security and Safety Measures
13. Appendix A - Office of Contract Compliance Requirements
14. Appendix B - [RESERVED]
15. Appendix C – Illegal Immigration Reform and Enforcement Act Affidavits

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

## 5 **Services**

5.1 **Description of Services.** Consultant agrees to provide to City the Services per this Services Agreement and each Task Order. Each Task Order will include the following: (a) a reference to this Services Agreement; (b) the Task Order Commencement Date and, if applicable, the period of time during which the Services will be provided; (c) a description of the Services to be provided; (d) the amounts payable and payment schedule for the Services; and (e) any additional provisions applicable to the Services. No Task Order will become effective until it has been executed by an authorized representative of Consultant and City. If any services to be performed are not specifically included in a Task Order, but are reasonably necessary to accomplish the purpose of the Task Order, they will be deemed to be implied in the scope of the Services for that Task Order to the same extent as if specifically described in such Task Order.

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

### 5.3 **Change Documents.**

5.3.1 This section will govern changes to the Services Agreement or any Task Order issued under the Services Agreement, whether such changes involve an increase in the Task Order Maximum Payment Amount or not. Changes in Services or other aspects of this Services Agreement shall be made by written document ("Change Document" or "Unilateral Change Document").<sup>4</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 Services Agreement or any Task Order issued under this Services Agreement include, but are not limited to:

---

<sup>4</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.).

5.3.2.1 Change Documents to the Services Agreement involving an increase to the Task Order Maximum Payment Amount executed between City and Consultant which may or may not require legislative approval under Code Section 2-1292;

5.3.2.2 Change Documents to the Services Agreement or any Task Order issued under the Services Agreement involving no increase to the Task Order Maximum Payment Amount, changes in the value of the Charges or changes in the terms or amounts of compensation under the Task Order Maximum Payment Amount executed between City and Consultant pursuant to Code Section 2-1292(d); and

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

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

5.3.3 City may propose a change in the Services or other aspects of this Services Agreement by delivering written notice to Consultant describing the requested change ("Change Request"). Within ten (10) days of receipt of City's Change Request, Consultant 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 Consultant.

5.3.4 Consultant may, without receiving any Change Request, on its own submit a Proposed Change Document describing its own proposed requested change to the Services Agreement or any Task Order issued under the Services 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 Consultant and shall be irrevocable for a period of sixty (60) days. City shall review and may provide Consultant with comments regarding a Proposed Change Document, and Consultant shall respond to such comments, if any. A Proposed Change Document from Consultant will become effective only when executed by an authorized representative of City.

5.3.6 City may propose any changes to the Services Agreement, including, but not limited to, changes that it contends do not involve an increase to the Task Order Maximum Payment Amount, and Consultant shall, in good faith, evaluate such proposed Change Request.

If City and Consultant 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 Services Agreement shall, in the event of disagreement between City and Consultant concerning a proposed Change Request, or otherwise, prohibit City from issuing a Unilateral Change Document to Consultant, pursuant to Code Section 2-1292(d), and City and Consultant agree to resolve their dispute pursuant to the Dispute Resolution Procedures set forth in Exhibit E. During the pendency of such dispute, Consultant shall continue to perform the Services, as changed by such Unilateral Change Document.

5.4 Suspension of Services. City may, by written notice to Consultant, suspend at any time the performance of any or all of the Services to be performed under this Services Agreement. Upon receipt of a suspension notice, Consultant 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 Consultant's Obligations.

6.1 Consultant Personnel. Consultant shall be responsible, at its own cost, for all recruiting, hiring, training, educating and orienting of all Consultant Personnel, all of whom shall be fully qualified and shall be authorized under Applicable Law to perform the Services. This requirement shall be active throughout the entire term of this contract.

6.2 Consultant Authorized Representative. Consultant designates Consultant Authorized Representative named on page 1 of this Services Agreement ("Consultant Authorized Representative") and, such Person shall: (a) be a project executive and employee within Consultant's organization, with the information, authority and resources available to properly coordinate Consultant's responsibilities under this Services Agreement; (b) serve as primary interface and the single-point of communication for the provision of Services by Consultant; (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, Consultant will make available to City all relevant records of the education, training, experience, qualifications, work history and performance of Consultant Personnel.

6.4 Removal of Personnel Assigned to City Services Agreement. Within a reasonable period, but not later than seven (7) days after Consultant's receipt of notice from City that the continued assignment to the City Services Agreement of any Consultant Personnel is not in the best interests of City, Consultant shall remove such Consultant Personnel from City's Services Agreement. Consultant will not be required to terminate the employment of such individual. Consultant will assume all costs associated with the replacement of any Consultant Personnel. In addition, Consultant agrees to remove from City's Services Agreement any Consultant Personnel

who has engaged in willful misconduct or has committed a material breach of this Services Agreement immediately after Consultant becomes aware of such misconduct or breach.

6.5 Subcontracting. Unless specifically authorized in this Services Agreement or an applicable Task Order, Consultant will not enter into any Services Agreement with or delegate any Services to any Third Party, including but not limited to subconsultant(s), without the prior written approval of City, which City may withhold in its sole discretion. If Consultant subcontracts any of the Services, Consultant shall: (i) be responsible for the performance of Services by the subconsultants; (ii) remain City's sole point of contact for the Services; and (iii) be responsible for the payment of any subconsultants.

6.6 Key Consultant Personnel and Key Subconsultants.

6.6.1 The following Persons are identified by Consultant as Key Consultant Personnel under this Services Agreement:

- 6.6.1.1 \_\_\_\_\_;
- 6.6.1.2 \_\_\_\_\_;
- 6.6.1.3 \_\_\_\_\_; and
- 6.6.1.4 \_\_\_\_\_.

6.6.2 The following Persons are identified by Consultant as Key Subconsultants under this Services Agreement:

- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_;
- \_\_\_\_\_; and
- \_\_\_\_\_.

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

6.6.4. Consultant shall not transfer, reassign or replace any Joint Venture partners during the term of this Services Agreement without prior written approval from City. Consultant must provide City Authorized Representative with its Joint Venture Agreement, including all updates, additions and changes thereto.

6.7 Conflicts of Interest. Consultant 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 Services 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.

**6.7.1 Prohibition on Future Contracts:** Neither the Consultant nor any of its constituent member firms is eligible to perform any other services for the Department of Aviation without written approval from the Assistant Aviation General Manager for Planning & Development. Any subconsultants or subcontractors hired by the Consultant may perform other services as determined by the City. Subconsultants/subcontractors are required to submit a written request to the Department of Aviation's Assistant Aviation General Manager or his designee in order to receive the determination.

**6.8 Commercial Activities.** Neither Consultant nor any Consultant 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 Services 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 Services 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 Work Product, Service or other document or item to be submitted or prepared by Consultant 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 Work Product, Service, document or item is not in accordance with the requirements of this Services Agreement or sound professional service principles, or is impractical, uneconomical or unsuited in any way for the purposes for which the Work Product, Service, document or item is intended. If any of the said items or any portion thereof are so disapproved, Consultant shall revise the items until they meet the approval of the City Authorized Representative. However, Consultant shall not be compensated under any provision of this Services Agreement for repeated performance of such disapproved items.

## **8 Payment Procedures.**

**8.1 General.** City will not be obligated to pay Consultant any amount in addition to the Charges set forth in an applicable Task Order for Consultant's provision of the Services. Consultant Personnel hourly billing rates, reimbursable expenses and other compensable items under this Services Agreement and issued Task Orders are set forth on Exhibit A.1 Compensation.

**8.2 Invoices.** Consultant shall prepare and submit to City invoices for payment of all Charges in accordance with the applicable Task Order. Each invoice shall be in such detail and in

such format as City may reasonably require. To the extent not set forth in a Task Order, Consultant 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 Consultant's performance of the Services. Consultant is responsible for payment of such taxes, licenses and permits to the appropriate governmental authority. If Consultant is refunded any Tax payments made relating to the Services, Consultant shall remit the amount of such refund to City within forty-five (45) days of receipt of the refund.

**8.4 Maximum Amount.** City shall not be obligated to pay any amount in excess of the Task Order Maximum Payment Amount for all Services under the applicable Task Order.

**8.5 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.

**8.6 Disputed Charges.** If City in good faith disputes any portion of an invoice, City may withhold such disputed amount and notify Consultant 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 Consultant agree to use all reasonable commercial efforts to resolve any disputed amount in any invoice within thirty (30) days of the date City notifies Consultant of the disputed amount.

**8.7 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.

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

**9 Consultant Representations and Warranties.** As of the Effective Date and continuing throughout the Term and any subsequent Task Order performance period, Consultant warrants to City that:

**9.1 Authority.** Consultant 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 effect on its business or its ability to perform its obligations under this Services Agreement. Consultant has all necessary power and authority to enter into and perform its obligations under this Services Agreement, and the execution and delivery of this Services Agreement and the consummation of the transactions contemplated by this Services Agreement have been duly authorized by all necessary actions on its part. This Services Agreement constitutes a legal, valid and binding obligation of Consultant, enforceable against it in

accordance with its terms. No action, suit or proceeding in which Consultant is a party that may restrain or question this Services Agreement or the provision of Services by Consultant is pending or threatened.

9.2 **Professional Standards.** The Services will be performed in a professional and workmanlike manner in accordance with the standards imposed by Applicable Law and the practices and professional 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 Services Agreement Documents, including the relevant Task Order.

9.4 **Materials and Equipment.** Any equipment or materials provided by Consultant 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.

9.5 **Intellectual Property Rights.** None of the processes or procedures utilized by Consultant to fulfill its obligations hereunder, nor any of the materials and methodologies used by Consultant in fulfilling its obligations hereunder, nor any of the Services or Work Product shall infringe any Third Party's Intellectual Property Rights or privacy, publicity or other rights.

## **10 Compliance with Laws.**

10.1 **General.** Consultant and its subconsultants will perform the Services in compliance with all Applicable Laws

10.2 **City's OCC Programs.** Consultant shall comply with Appendix A and any applicable City OCC programs, including, but not limited to, City's DBE and EEO Programs, and requirements set forth in the Code in the performance of the Services.

10.3 **Consents, Licenses and Permits.** Consultant 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 Consultant in performing Services and complying with this Services 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 Services 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, Consultant 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 Services 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 Services Agreement, all reports, information, data, specifications, drawings (conceptual, design, construction, conformed, etc.), formulas, computer programs, technical reports, operating manuals and similar work or other documents, all deliverables, and other work product prepared or authored by Consultant or any of its subconsultants exclusively for the City under this Services 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 Consultant's or its subconsultants' 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. Consultant and its subconsultants grant the City a non-exclusive, perpetual, worldwide, fully paid up, royalty-free license to all Work Product exclusively developed for City under this Services Agreement.

**12.2** If any of the Work Product is determined not to be a work made for hire, Consultant 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 Consultant has any rights to the Work Product that cannot be assigned to City, Consultant 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 Consultant Personnel may not originally vest in City by operation of Applicable Law, Consultant 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, Consultant 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.

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

#### **13.1 General.**

13.1.1 Consultant will provide to City, and any Person designated by City, access to Consultant Personnel and to Consultant owned Facilities for the purpose of performing audits and inspections of Consultant, Consultant Personnel and/or any of the relevant information relating to the Services and this Services Agreement. Such audits, inspections and access may be conducted to: (a) verify the accuracy of Charges and invoices; (b) examine Consultant's performance of the Services; (c) monitor compliance with the terms of this Services Agreement; and (d) any other matters reasonably requested by City. Consultant 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 business hours (except with respect to Services that are performed during off-hours).

13.1.3 Consultant 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 Consultant, Consultant shall promptly refund such overpayment and Consultant 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 Consultant.

13.2 Records Retention. Until the later of: (a) six (6) years after expiration or termination of this Services Agreement; (b) the date that all pending matters relating to this

Services 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, Consultant 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 Services Agreement.

#### **14 Indemnification by Consultant.**

**14.1 General Indemnity.** Consultant 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:

**14.1.1** Consultant's or Consultant Personnel's performance, non-performance or breach of this Services Agreement and/or any corresponding Task Order(s);

**14.1.2** compensation or benefits of any kind, by or on behalf of Consultant Personnel, or any subconsultant, claiming an employment or other relationship with Consultant or such subconsultant (or claiming that this Services Agreement creates an inherent, statutory or implied employment relationship with City or arising in any other manner out of this Services Agreement or the provision of Services by such Consultant Personnel or subconsultant);

**14.1.3** any actual, alleged, threatened or potential violation of any Applicable Laws by Consultant or Consultant Personnel, to the extent such claim is based on the act or omission of Consultant or Consultant Personnel, excluding acts or omissions by or at the direction of City;

**14.1.4** death of or injury to any individual caused, in whole or in part, by the tortious conduct of Consultant or any Person acting for, in the name of, at the direction or supervision of or on behalf of Consultant; and

**14.1.5** damage to, or loss or destruction of, any real or tangible personal property caused, in whole or in part, by the tortious conduct of Consultant or any Person acting for, in the name of, at the direction or supervision of or on behalf of Consultant.

**14.2 Intellectual Property Indemnification by Consultant.** Consultant 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 processes, procedures, Work Product, materials and methodologies used by Consultant (or any Consultant agent, contractor, subcontractor or representative), or City's use

thereof (or access or other rights thereto) in connection with the Services, or any of the Services themselves, infringes or misappropriates the Intellectual Property Rights of a Third Party. If any processes, procedures, Work Product, materials, methodologies or Services provided by Consultant hereunder is held to constitute, or In Consultant's reasonable judgment is likely to constitute, an infringement or misappropriation, Consultant 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 processes, procedures, Work Product, materials, methodologies or Services; (B) replace such processes, procedures, Work Product, materials, methodologies or Services 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 processes, procedures, Work Product, materials, methodologies or Services, or have such processes, procedures, Work Product, materials, methodologies or Services modified, to make them non-infringing, provided that such modification does not result in a degradation of the functionality, performance or quality of the processes, procedures, Work Product, materials, methodologies or Services; 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 SERVICES AGREEMENT. EXCEPT FOR PROVIDER'S INDEMNITY OBLIGATIONS SET FORTH IN THE SECTION ENTITLED "INDEMNIFICATION BY CONSULTANT" AND WILLFUL MISCONDUCT OR GROSS NEGLIGENCE BY PROVIDER, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES (OR ANY COMPARABLE CATEGORY DR FORM OF SUCH DAMAGES, HOWSOEVER CHARACTERIZED IN ANY JURISDICTION), ARISING OUT OF OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS SERVICES 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; (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.

**16 Insurance Requirements.** Consultant shall comply with the insurance requirements set forth on Exhibit D.

**17 Force Majeure.** Neither Party will be liable for default or delay in the performance of its obligations under this Services 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 Services 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 Consultant, terminate this Services Agreement or any Task Order:

**18.1.1** for a material breach of the Services Agreement Documents by Consultant that is not cured by Consultant within seven (7) days of the date on which City provides written notice of such breach;

**18.1.2** Immediately for a material breach of the Services Agreement Documents by Consultant that is not reasonably curable within seven (7) days;

**18.1.3** immediately upon written notice for numerous breaches of the Services Agreement Documents by Consultant that collectively constitute a material breach or reasonable grounds for insecurity concerning Consultant's performance; or

**18.1.4** immediately for engaging in behavior that is dishonest, fraudulent or constitutes a conflict of interest with Consultant's obligations under this Services 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 Services Agreement is terminated by City pursuant to the above subsection entitled "Termination by City for Cause", Consultant 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 Services Agreement awarded to other Persons for completion. If City improperly terminates this Services 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 Services Agreement immediately by delivering written notice of such termination to Consultant if Consultant: (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 Services Agreement or any issued Task Order, City may terminate this Services Agreement or the Task Order for convenience upon fourteen (14) days written notice of such termination. Upon a termination for convenience, Consultant waives any claims for damages, including loss of anticipated profits. As Consultant'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 Consultant in its business within the thirty (30) days following termination. If requested, Consultant shall substantiate such costs with proof satisfactory to City.

**18.5 Effect of Termination.** Unless otherwise provided herein, termination of this Services 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 Services Agreement, at law or in equity. Upon termination of this Services Agreement, Consultant 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 Consultant 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 Services Agreements existing for performance of the terminated Services, or assign those Services 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 Services Agreement any portion of the Services that are not terminated.

## **19 Dispute Resolution.**

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

**19.2 Applicable Law.** The Services Agreement 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 Services 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.

19.4 **Equitable Remedies.** The Parties agree that, notwithstanding the provisions of this Section, due to the unique nature of either Party's Confidential Information, there may not be an adequate remedy at law for a breach of the Section titled "Confidential Information", which breach may result in irreparable harm to the non-disclosing Party. Accordingly, in such instance, the non-breaching Party shall be entitled to appropriate equitable relief in addition to whatever remedies it might have at law.

## **20 General.**

20.1 **Notices.** Any notices under this Services Agreement shall be in writing and sent to the respective Party at the address on page 1 of this Services Agreement 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 Services 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 Services Agreement, and this Services 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 Services Agreement will be binding on City unless executed in writing by the City Authorized Representative.

20.3 **Assignment.** Neither this Services 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.** Consultant shall not make any public announcement, communication to the media, take any photographs or release any information concerning City, the Services or this Services Agreement without the prior written consent of City.

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

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

**20.9 Independent Consultant.** Consultant is an independent consultant of City and nothing in this Services Agreement shall be deemed to constitute Consultant 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 Services 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 Services 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 Services Agreement.** The Services Agreement Documents contain the entire Services Agreement of the Parties relating to their subject matter and supersede all previous communications, representations or Services Agreements, oral or written, between the Parties with respect to such subject matter. This Services 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 Services Agreement Documents, except to the extent that City is authorized under Applicable Law to issue Unilateral Change Documents. CONSULTANT MAY NOT UNILATERALLY AMEND OR MODIFY THIS SERVICES 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.** Consultant acknowledges that this Services 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, Consultant is deemed to possess knowledge concerning the City's ability to assume contractual obligations and the consequences of Consultant'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 Consultant may be precluded from recovering payment for such unauthorized goods or services. Accordingly, Consultant agrees that if it provides goods or services to the City under a contract that has not received proper legislative authorization or if Consultant 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 Consultant. Consultant 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.

**20.14 Standards of Performance; Applicable To Services.** Consultant agrees that the services provided herein shall conform to the professional standards of care and practices customarily expected of professional program management firms engaged in performing comparable work, that the Personnel furnishing the Services shall be qualified and competent to perform adequately the services assigned to them; and that the recommendation, guidance and performance of such personnel shall reflect such standards of professional knowledge and judgment to the extent required by applicable law.

## **21 State Law Requirements.**

**21.1 Illegal Immigration Reform and Enforcement Act.** Pursuant to O.C.G.A. 13-10-91 et seq., Consultant is required to execute the Consultant Affidavit, attached hereto as Form 1 and by this reference incorporated herein. Compliance with this state law requirement is a material term of this contract.

## **22 City of Atlanta Code Requirements.**

**22.1 Consultant Required to Certify Prompt Payment of Subconsultants and Suppliers.** The Consultant shall certify in writing that all subconsultants and suppliers have been paid promptly for work and materials from previous progress payments received (less any retainage) by the Consultant prior to receipt of any further progress payments. Consultant is required to pay subconsultants or suppliers funds due from progress payments within three business days of receipt of such payment from the City.

**22.2 Consultant Required to Certify Satisfaction of all Underlying Obligations.** Before final payment is made to Consultant by the City, the Consultant shall certify to the City in writing, in a form satisfactory to the City, that all subconsultants, materialmen suppliers and similar firms or persons involved in the City contract have been paid in full at the time of final payment to the Consultant by the City or will be paid in full utilizing the monies constituting final payment to the Consultant.

**22.3 Contingent Fees Prohibited.** The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this contract; and that the Consultant has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for the Consultant, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of the above warranty, and upon a finding after notice and hearing, the City shall have the right to terminate the contract without liability, and, at its discretion, to deduct from the

contract, or otherwise recover the full amount of, such fee, commission, percentage, gift or consideration.

**22.4 Prohibition against Contracting with Predatory or High Cost Lenders.** By signing below, the Consultant, or its authorized agent, certifies, under penalty of perjury, that this Agreement is made by a person or business entity that is neither a predatory lender nor a high cost lender, nor is the Consultant an affiliate of a predatory lender or a high cost lender, as defined by City of Atlanta Code Section 58-102. The undersigned Consultant, or authorized agent, further certifies that he/she is an agent duly authorized to sign this certification on behalf of the Consultant.

**22.5 Prohibition on Kickbacks or Gratuities.** 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 subconsultant under a contract to the prime Consultant or higher tier subconsultant or any person associated therewith as an inducement for the award of a subcontract or order.

**22.6 Fraud and misrepresentation.** Any written or oral information provided by Consultant 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. Consultant 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. Consultant 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. Consultant agrees to place signage provided by the City regarding the Integrity Line at the location to which Consultant's employees report to perform the services required by this Agreement. Consultant acknowledges and agrees that a finding of fraud or other impropriety on the part of the Consultant or any of its subconsultants may result in suspension or debarment of the Consultant; and the City may pursue any other actions or remedies that the City may deem appropriate. Consultant agrees to include this clause in its subcontracts and take appropriate measures to ensure compliance with this provision.

**22.7 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 Consultant agrees as follows:

- (a) The Consultant 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 Consultant 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 Consultant shall, in all solicitations or advertisements for employees, placed by or on behalf of the Consultant, 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 Consultant shall send to each labor union or representative of workers with which the Consultant may have a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Consultant'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 Consultant 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 Consultant 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 Consultant during normal business hours by the contract compliance officer for the purpose of investigation so as to ascertain compliance with the program.
- (e) The Consultant shall take such action with respect to any subconsultant 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 Consultant 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 Consultant or the city may request the United States to enter into such litigation to protect the interests of the United States.

- (f) The Consultant and its subconsultants, 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 Consultant and its subconsultants.
- (g) The Consultant 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 subconsultant or vendor.
- (h) A finding, as hereinafter provided, that a refusal by the Consultant or subconsultant 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 Consultant in violation all future payments under the involved contract until it is determined that the Consultant or subconsultant 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 Consultant or subconsultant 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 Consultants, subconsultants or other organizations, individuals or groups who prevent or seek to prevent directly or indirectly compliance with the policy as herein provided.

[SIGNATURES ON NEXT PAGE]

The Parties hereto by authorized representatives have executed this Services Agreement as of the Effective Date.

<b>Owner:</b> <b>City of Atlanta</b> <hr/> <b>Mayor</b> <hr/> <b>Municipal Clerk (Seal)</b>  <b>Approved:</b> <hr/> <b>Aviation General Manager</b> <hr/> <b>Assistant Aviation General Manager</b> <hr/> <b>Chief Procurement Officer</b>  <b>Approved as to form:</b> <hr/> <b>Senior Assistant City Attorney</b>	<b>Consultant:</b>  <b>Signature:</b> _____ <b>Name:</b> _____ <b>Title:</b> _____ <hr/> <b>Corporate Secretary/Assistant Secretary (Seal)</b>
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# **EXHIBIT A: GENERAL SCOPE OF SERVICES**

**EXHIBIT A**  
**GENERAL SCOPE OF SERVICES**

**1.0 BACKGROUND**

The City engages the Consultant to provide on an as needed basis technical, professional Architectural and Engineering Design Services for various Department of Aviation (DOA) projects as broadly described in the Scope of Services for **FC-9036, Noise Insulation Design Engineering Design Services at Hartsfield-Jackson Atlanta International Airport.**

H-JAIA is located 10 miles from downtown Atlanta on approximately 4,700 acres. The airport's corporate boundaries reach into the political jurisdictions of unincorporated Clayton County, unincorporated Fulton County, and the cities of College Park, East Point, Hapeville, and Atlanta. H-JAIA has consistently ranked as one of the highest rated large airports in North America for airport performance and customer service, and highest rated in the world for its efficiency.

H-JAIA is home to the largest, single airline hubbing operation (Delta Air Lines) in the world. The Central Passenger Terminal Complex (CPTC) currently has approximately 6.8 million square feet of facilities including the domestic terminal, international terminal, and seven (7) concourses with 151 domestic gates and 40 international gates, which are all served by a central, underground Automated People Mover (APM) system and pedestrian mall.

Over 200 concessions, including food and beverage, retail shops, and business services are located throughout the CPTC. The current concessions upgrade program is 90% complete with approximately 150 new stores opened within the last two years.

Currently, 14 passenger airlines and 16 all-cargo airlines serve H-JAIA. The airfield consists of 5 parallel runways measuring between 9,000 and 12,390 feet long. The airfield totals approximately 5,000,000 square yards of pavement. The airport provides more than 30,000 public parking spaces, 14,500 of those spaces in parking decks. Upon the opening of the new international terminal an additional 3,000+ parking spaces were added.

A Metropolitan Atlanta Rapid Transit Authority ("MARTA") rail station, measuring 5,300 square feet, provides rapid rail service to the City of Atlanta as well as areas of DeKalb and Fulton Counties. The station is located inside the airport terminal on the west end.

Cargo facilities for the Airport are located in three main complexes (North, Midfield, and South Cargo Complexes), and include a perishables and equine complex. The total on-airport cargo warehouse space totals approximately 2,000,000 square feet.

Additionally, the Rental Car Center (a consolidated rental car facility) is connected to the terminal via an elevated people mover system named the ATL SkyTrain. The 67.5 acre facility houses all rental car company operations and vehicles. The rental car center

includes two four-story parking decks, more than 8,700 parking spaces and a 137,000 square foot customer service center. The rental car center currently accommodates 13 rental car agencies.

The DOA and the Federal Aviation Administration (FAA) have evaluated aircraft noise in the Airport vicinity for more than 30 years. The FAA approved the DOA's first Noise Compatibility Program (NCP) in 1984. Since then, the DOA has maintained a comprehensive noise mitigation program that has consisted of both property acquisition and sound insulation for homes and other noise-sensitive sites.

The DOA is engaged in an on-going Noise Insulation Program (NIP). The NIP is a voluntary program for eligible properties approved and funded by the FAA, in conjunction with Airport contributions, to make noise-sensitive properties located in close proximity to airport boundaries compatible with aircraft noise. By providing a varying array of acoustical treatments to an eligible property, interior noise levels can be greatly reduced, improving the quality of life for all occupants.

## **2.0 STANDARDS OF PERFORMANCE; APPLICABLE TO SERVICES**

Consultant agrees that the services provided herein shall conform to the professional standards of care and practices customarily expected of professional design firms engaged in performing comparable work, that the Personnel furnishing the Services shall be qualified and competent to perform adequately the services assigned to them; and that the recommendation, guidance and performance of such personnel shall reflect such standards of professional knowledge and judgment to the extent required by applicable law. Consultant's employees must hold appropriate professional Georgia licenses.

Consultant shall conform to the Hartsfield-Jackson Atlanta International Airport DOA A&E Design Guidelines located on the internet at [http://apps.atlanta-airport.com/engineeringguidelines/elements.asp?submod=main&type\\_id=1](http://apps.atlanta-airport.com/engineeringguidelines/elements.asp?submod=main&type_id=1).

## **3.0 COORDINATION**

**3.1** The Consultant is responsible for the following:

**3.1.1** The Consultant will coordinate all work elements required for integration into the H-JAIA Noise Insulation Program. Project coordination shall be done in a manner to ensure that the varying project components are technically and functionally consistent.

## **4.0 CITY'S RIGHTS TO REVIEW AND REJECT**

- 4.1 Any Contract Drawings and Technical Specifications and other documents or items to be submitted or prepared by the Consultant hereunder shall be subject to the review of the Aviation General Manager or his designated representative. The Aviation General Manager may disapprove, if in his sole opinion the items are not in accordance with the requirements of this Contract, sound architectural/engineering principles, or are impractical, non-constructable, uneconomical or unsuited in any way for the purposes for which the contemplated construction is intended. If any of the said items or any portion thereof are so disapproved, the Consultant shall revise the items until they meet the approval of the General Manager. However, the Consultant shall not be compensated under any provision of this Contract for repeated performance of such disapproved revisions.
- 4.2 No approval or disapproval or omission to approve or disapprove, however, shall relieve the Consultant of his responsibility under this Contract to furnish in accordance with an agreed upon schedule a complete, practical, economical design and Contract Drawings and Technical Specifications. This includes, but is not limited to corrections, and changes which are best suited for the contemplated construction, which are to be done in accordance with sound engineering principles and are signed and sealed by a Professional Architect or Engineer, licensed in the State of Georgia.

## **5.0 PROJECT TEAM**

- 5.1 The City believes that the essential characteristic of a Consultant is its ability to work with the DOA and others as a team as the City's projects must be completed within specific time frames and budget requirements.
- 5.2 The Department of Aviation's Planning & Development organization has the responsibility for the implementation and management of the Noise Insulation Program at Hartsfield-Jackson Atlanta International Airport. Planning and Development is assisted by a variety of Consultant firms who assist in managing projects through the Planning, Design, and Construction phases. During the term of the Contract, the Consultant will report to the DOA's Planning & Development team and their Designated Representatives and interact with a variety of DOA Consultants such as architects, design engineers, planners, and Contractors.

## **6.0 INITIATION OF SERVICES**

- 6.1 The City engages the Consultant to provide technical, professional and other services for various DOA Noise Insulation Program (NIP) projects as broadly described in the Scope of Services FC-9036, **Noise Insulation Program Design Engineering Design Services at Hartsfield-Jackson Atlanta International Airport**

(RFP). The City reserves the right to use A/E Team to perform planning and other services necessary to the performance of NIP projects.

- 6.2 The intent of this Contract is for Consultant to provide some or all of the technical, professional, architectural and engineering services for DOA, by Task Order, on an as needed basis. However, the City is not bound to issue any Notice-to-Proceed or Work Authorization under this Contract.
- 6.3 If the City requests that Consultant perform Services under this Contract, the City will give Consultant fifteen (15) days prior written notice setting forth City's proposed Scope of Services. Consultant must respond to City in writing within fifteen (15) days after receipt of City's proposal for Services, including submittal of estimate of the costs associated with the Services, and other details necessary for the proper performance of the proposed Services. The City may accept or reject the proposal or decline to pursue such Services if it is in the best interest of the City.
- 6.4 Consultant must prepare and submit to City a detailed cost estimate specifying the hours and costs required for each of the Service Elements. For a design project, this estimate shall be based on a breakdown of anticipated drawings to be produced, the various phases of design and all supporting tasks necessary to develop the final construction documents. In addition to charges for labor, Consultant must, if appropriate, indicate the costs for subconsultants, reproduction and any other out-of-pocket expenses expected to be incurred. The City reserves the right to validate Consultant's cost estimate prior to acceptance.
- 6.5 After Consultant's development of a cost estimate, the City may enter into negotiations with the Consultant regarding those Services and the compensation that will be paid for the Services.
- 6.6 Negotiations will be based upon the data submitted by Consultant and an evaluation of the specific work hours required for each Services Element.
- 6.7 Based upon its own independent cost analysis, the City may identify differences in the work hour estimates and reject any cost proposals submitted by Consultant, or request modifications to those cost estimates. Before a Work Authorization for Services is issued, if at all, the City and Consultant must reach a mutual agreement concerning the scope and costs of the Services.
- 6.8 The record of negotiations and all attachments with respect to the Services may be submitted by the City to the FAA for a reasonableness of cost determination, if all or any portion of the Services relate to an FAA Airport Improvement grant.

- 6.9 If the City and Consultant reach an agreement concerning the Scope of Services and the not to exceed amount of compensation, a Work Authorization supported by appropriate legislation appropriating funding for the compensation for the Services will be issued by the City. The City may cancel any Task Order or Notice to Proceed (NTP) at any time for its Convenience if it's in the best interest of the City. If any Task Order is cancelled prior to completion, the City will pay for authorized work that has been satisfactorily completed.
- 6.10 The City may cancel an outstanding NTP or Task Order at any time at the City's convenience if it is in the City's best interest. Upon the cancellation of an outstanding NTP, the City will pay the Consultant for any authorized work which has been satisfactorily performed up to and through the date of cancellation.
- 6.11 **Consultant's Rights upon Termination by City for Default or Immediate Termination.** Consultant will be entitled to compensation due and owing to it as of the termination of this Contract by the City for default or the immediate termination of this Contract for all Deliverables which have been completed, delivered to the City and found satisfactory to the City prior to the termination date. All Deliverables which are incomplete as of the termination date, and all associated materials utilized by Consultant in the preparation of those Deliverables, will be turned over to the City within ten (10) calendar days of termination of this Contract for default or by immediate termination. Consultant will be entitled to no additional compensation under this Contract as of the effective date of termination of this Contract pursuant to the Clauses titled "Termination for Default" or "Immediate Termination". If the cost to the City to complete an incomplete Deliverable exceeds the cost allocated to that Deliverable, as set forth in Exhibit C, Compensation, the City will invoice Consultant for that additional cost and Consultant must pay that invoice within thirty (30) days of its receipt.

## **7.0 BASIC SERVICES**

- 7.1 It is understood and agreed by the Consultant that the services performed under this Contract shall include, but are not be limited to, those services described below and the extent desired by the City. The Consultant's Basic Services include normal architectural, civil, structural, mechanical, fire protection, electrical engineering and specialty services. The Consultant shall perform all services and make all submittals and deliverables in accordance with the City's "Policies and Procedures" which includes but not limited to sections for Design Guidelines Manual, Quality Procedures, Program Control Procedures and Project Management Manual adopted by the DOA for all phases of the project.
- 7.2 The Consultant's Basic Services consists of the following acoustical eligibility/pre-design services phases:

- 7.2.1 Property Inspection Survey.** The Consultant's scope of work during this project survey shall be to assist the City in an assessment of a property in order to identify any pre-existing deficiencies which may have the potential to impact acoustical modifications and thus property eligibility.
- 7.2.2 Property Title Examinations.** The Consultant shall engage a Title Attorney to perform an examination of the property title to determine any potential issues which may affect property eligibility.
- 7.2.3 FAA Property Eligibility Testing.** The Consultant's scope of work shall be to perform acoustical testing in compliance with all Federal Aviation Administration (FAA) guidelines. Consultant shall conduct the testing and provide a report to the City outlining its testing methodology and procedures, noise calculations and required noise levels, modeled and measured noise levels, FAA acoustical criteria and recommended acoustical treatments along with the projected acoustical performance of the treatments.
- 7.2.4 Environmental Testing.** The Consultant shall perform environmental testing to reveal the presence of asbestos carrying material or lead-based paint within the areas to the property/unit that will be impacted by the installation of the required acoustic treatments. Consultant shall prepare a written report outlining the methodology used in the testing, the test sample locations, the test sample findings and recommended actions.

**7.3 The Consultant's Basic Services consists of the following design services phases:**

- 7.3.1 Schematic Design Phase.** The Consultant's scope of work during this project phase shall be to provide Schematic Design documents based upon the approved program, design and construction schedule and construction budget established during the Planning Phase. The Consultant must first review the scope and program along with other supporting information and confirm that the construction budget and project schedule is adequate to meet the project scope. The Schematic Design Documents shall establish the conceptual design for all components of the project by means of drawings, models and 3-D animations, lists of assumptions, updated programmatic criteria, Basis of Design Reports, Preliminary Design calculations, preliminary cost estimates, and project schedules.

The Schematic Design documents shall validate the conceptual design of the project illustrating the scale and relationship of the project components by providing:

Layout plans, to the extent necessary, to show the overall dimensional configuration and constraints of the facilities to be provided. The layouts shall show two and three-dimensional relationships of flow and function required in the facility sufficient for operational review and approval.

Cost estimates reflecting recent cost factors, cost of escalation impact factors and phasing schedules.

Project schedules reflecting the proposed design and construction time frames necessary to complete the project.

### **7.3.2 Design Development Phase.**

**7.3.2.1** The purpose of this submittal is for the City to determine if the approach of the Consultant reflects a thorough understanding of the design task at the earliest feasible stage in the design process. All major design concepts, systems, materials and features will have been defined, plus costs, schedule and phasing, to achieve project objectives, so that all critical, major design decisions are made, approved and documented. Based upon the approved Schematic Design Submittal, the Consultant shall provide Design Development documents that illustrate and describe the components of the project, establishing scope, cost, relationships, forms, size, appearance and quality.

**7.3.2.2** Based on the approved Schematic Design Documents and any adjustments authorized by the DOA in the program, Project budget, or Project schedule the Consultant shall prepare, for approval by the DOA, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the entire Project as to civil, architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

**7.3.2.3** The Consultant shall incorporate all previous review comments.

**7.3.2.4** The Consultant shall submit to the DOA a Statement of Probable Construction Costs and an updated Project schedule.

### **7.3.3 Construction Documents Phase.**

**7.3.3.1 Construction Documents (Final – 100%).** This submittal shall comprise completed construction Contract documents, satisfying all previous review comments and suitable for public bidding and

construction. Final quality control elements performed by the Consultant such as inter-discipline coordination, peer reviews and document and calculation checking have been completed and incorporated. Any work remaining at this stage should be only minor corrections to resolve any discrepancies discovered during the final review. Included as part of this design submittal shall be a proposed construction schedule and estimate that lists all items by specification section that is to be submitted for review and approval.

**7.3.3.2 Construction Documents (Corrected Final).** This final submittal of all construction contract documents and all outstanding actions and work shall incorporate all review comments by the Final Review. This set shall be to demonstrate compliance with all remaining comments. Deliverables include the Consultant annotated response to design review comments; an original signed letter by the Architect- or Engineer-of-Record certifying that the design as submitted is in accordance with prevailing and applicable codes; a complete list of all drawings submitted for final Code review; the final cost estimate; the construction submittal schedule; the construction schedule, including phasing; and final specifications, drawings and calculations. All items shall have appropriate State of Georgia Engineer or Registered Architect seal affixed with signature superimposed.

**7.3.3.2.1** The Consultant shall submit to the DOA a Statement of Probable Costs and the Consultant shall advise the DOA of any adjustments to previous Statements of Probable Construction Cost indicated by changes in requirements or general market conditions.

**7.3.3.2.2** The Consultant shall assist the DOA in connection with the City responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Projects and specifically in obtaining any and all necessary permits as required for approval and/or construction.

**7.3.3.2.3** The Consultant shall also coordinate all phases of the work in all respects with planning and work being done by others, including utility companies, as directed by the DOA.

7.3.3.2.4 The Consultant shall incorporate all previous review comments.

#### 7.3.4 Bid and Award Phase

7.3.4.1 **Bidding Documents** – Consultant shall certify that the bidding documents comply with all project requirements, previous review comments and permitting agency or other authority-having-jurisdiction requirements, including any previously received comments from the City of Atlanta Bureau of Buildings, DDA, Insurance Company, Federal Aviation Administration (FAA), and any other Local, State and Federal Agency having jurisdiction. Re-submittal for review is not normally required unless critical deficiencies remain unresolved from the Corrected Final Document review.

7.3.4.2 **Procurement Documents** – Prepare procurement Documents to be used for normal bidding, Purchase Order or On-Call Assignment contracts.

7.3.4.3 **Addenda** – Prepare all necessary addenda as required to revise the bid documents.

7.3.4.4 **Bid Analysis** – The Consultant may provide bid analysis of bid documents furnished by the City and develop a report outlining bidding discrepancies and pricing differences from the Consultant's Architect's or Engineer's Estimate compared to bid/proposal estimates.

7.3.4.5 **Permitting** - Prepare permitting/filing documents that have been conformed to include all addenda issued during the bid period. The permitting/filing documents shall be filed, as required, at the conclusion of the bid period by the DOA, on behalf of the A/E Consultant, with all regulatory agencies and authorities-having-jurisdiction. The A/E Consultant shall assist the DOA, as required, with the preparation of any permit applications/filing paperwork and shall participate in any meetings required by the reviewing agencies and authorities-having-jurisdiction. The A/E Consultant shall revise any documents, as required, to obtain approvals of the reviewing agencies and authorities-having-jurisdiction.

7.3.4.6 **Issued for Construction Documents** - Prepare conformed contract documents, stamped "Issued for Construction." All

interim revision clouds, descriptions and revision triangles shall be removed and the revision block shall be updated to revision 0 with the issued date and "issued for Construction" description that have been revised to include all addenda issued during the bid period and any changes required by final regulatory agency and authority-having-jurisdiction review comments.

**7.3.5 Construction Administration (CA) Service.** The Construction Administration Service will commence with the Administrative Notice To Proceed (NTP) of the Contract for Construction and, together with the Consultant's obligation to provide Basic Services under this Contract, will extend throughout the entire construction and close-out period, and terminate when final payment is approved and released to the Consultant as otherwise agreed in writing. To the extent practicable, the City will request the same Design Consultant which designs a particular portion of the project to also provide CA services for that project as described below:

**7.3.5.1** Unless otherwise provided in this Contract and incorporated in the Contract Documents for construction of a project, the DOA Construction Manager (CM) shall provide management of the Contract Documents for Construction as the City's Representative.

**7.3.5.2** After the award of a Contract for construction, the Consultant's services shall include such visits to the site of the project as may be required by the City to become generally familiar with the progress and quality of the work and to determine in general if the Work is proceeding in accordance with the Contract Documents.

**7.3.5.3** The Consultant shall prepare a Field Observation Report documenting the Consultant's findings after each site visit and attend periodic construction coordination meetings. These Reports shall be provided to the DOA NIP no later than five (5) business days after the date of the site visit. Should the Consultant, as part of its site visit, determine that the Work is not in accordance with the Contract Documents it shall immediately notify the DOA NIP.

**7.3.5.4** The Consultant's services shall also include the review and approval of the Contractor's submittals such as shop drawings, product data, and samples to assure adherence to the intent of the working drawings and specifications. Such actions shall be

taken with reasonable promptness so as to cause no delay. Contractor's submittals shall be reviewed and returned within ten (10) business days. Any review of a revision to a previous submittal shall be accomplished within five (5) business days. Other services required include responses to the Contractor's Requests for Information (RFI) and any resulting design amendments or changes. Contractor shall respond to any RFI within a period of no more than five (5) business days.

**7.3.5.5** The Consultant shall not be responsible for the Contractor's failure to carry out construction in accordance with the working drawings and specifications. It is mutually agreed, however, that the Consultant is obligated to report promptly to the City any known defects or deficiency in the Contractor's work or materials.

**7.3.5.6** The Consultant shall attend and participate in regular construction coordination meetings, as well as issues meetings and pre-activity meetings.

### **7.3.6 Project Commissioning, Start-Up and Testing**

**7.3.6.1** Commissioning is a systematic process of ensuring that all building systems perform interactively according to the design intent and the City's operational needs, and that new or renovated facilities are ready for transition from construction to operation with minimal disruption and negative impact to users and operators. This is achieved by beginning at the design phase with documented design and operating intent and continuing through the construction and acceptance with actual verification of performance. The DOA Project Manager/Construction Manager shall coordinate all start-up requirements with the Consultant to ensure they are properly identified in the Contract technical specification sections. The Consultant's basic services shall consist of:

**7.3.6.2** Reviewing and approving/disapproving the Contractor's performance test procedures and start-up procedures.

**7.3.6.3** Reviewing and approving/disapproving the Contractor's Test Reports and Certificates.

**7.3.6.4** Reviewing and approving/disapproving the Contractor's Equipment Inventory sheets.

**7.3.6.5** Reviewing and approving/disapproving the Contractor's computer program submittals.

**7.3.6.6** Reviewing and approving/disapproving the Contractor's training plan and training schedule.

**7.3.6.7** Witnessing equipment and systems testing and start-up.

### **7.3.7 Post-Construction Acoustical Testing**

**7.3.7.1** The Consultant shall be responsible for conducting the FAA-required post-construction acoustical testing to ensure that the project improvements successfully achieved the requisite noise reduction goals. Consultant shall conduct the testing and provide a report to the City outlining its testing methodology and procedures, noise calculations, acoustical measurements, FAA criteria, test result findings and conclusions.

### **7.3.8 Project Close-Out**

**7.3.8.1** The Project Close-Out phase is initiated upon notice from the Contractor that the Work, or a designated portion which is acceptable to the DOA, is sufficiently complete, in accordance with the Contract Documents, to permit occupancy or utilization for the use for which it is intended. The Consultant's basic services shall consist of:

**7.3.8.1.1** Obtaining from the DOA CM information certified by Contractor on all changes made during construction from the initial Contract Documents and on the location of concealed systems as installed during construction.

**7.3.8.1.2** Review of general accuracy of information submitted and certified by the Contractor.

**7.3.8.1.3** Preparation of electronic AutoCAD drawings, based on information furnished by the CM including changes in the work made during construction.

**7.3.8.1.4** Transmittal of final as-built record drawings and general data, appropriately identified, to the DOA CM or the City.

**7.3.8.1.5** During final inspection, assisting the DOA CM and the City or its Designated Representative in the development of the punch-list items to be completed by the Contractor.

**7.3.8.1.6** Assisting the DOA CM with the determination of the amounts to be withheld until final inspection.

**7.3.8.1.7** Assisting the DOA CM with the Provisional Acceptance Inspection to verify final completion of the Punch-list items and the work.

## **8.0 RESOURCES AND COST LOADED DESIGN SCHEDULE**

**8.1** Submittal of Resource and Cost Loaded Design Schedule. Consultant shall, within ten (10) calendar days of Contract Notice to Proceed and before the first progress payment is made, submit to the City's Representative for his written approval a Resource and Cost Loaded Design Schedule. The Consultant shall use Primavera Project Planner for all schedule submittals on this Contract. The scheduling software shall be P6 Format or an approved equal as supplied by Primavera. The Consultant shall submit the Resource and Cost Loaded Design Schedule in an electronic format acceptable to the City's Representative. The Resource and Cost Loaded Design Schedule submittal shall contain an Early Start Bar Chart plot and a Precedence Network Diagram plot using the critical path method (CPM) to show each individual essential activity in sequence to meet the Contract Milestones set forth in a Task Order. The diagram shall show progress to date, durations, and dependencies including items to be furnished by the City. It shall show total project float and portray the complete and continuous critical path throughout the project. Float shall not be considered to be for the exclusive benefit of either the City or Consultant. Extensions of time for performance required under other Contract clauses shall be made only to the extent that equitable time adjustments for affected activities exceed the total float available along their paths.

**8.2** List of Activities. The activity listing shall show the following information for each activity on the diagram:

**8.2.1** Identification by activity number;

**8.2.2** Description of the task or event;

**8.2.3** Duration;

**8.2.4** Cost and resource loadings for all scheduled activities;

**8.2.5** Notes, caveats, assumptions;

- 8.2.6 Earliest start and finish dates;
  - 8.2.7 Latest start and finish dates;
  - 8.2.8 Progress, physical percent complete and actual remaining duration.
- 8.3 **Narrative Description.** In addition Consultant shall submit a complementary and detailed narrative description of its plan for performing the Work. The narrative description shall summarize the overall approach to design sequencing.
- 8.4 **Schedule Changes.** Consultant shall not make any changes to the approved Resource and Cost Loaded Schedule without written approval from the City's Representative. Any revisions to the Resource and Cost Loaded Schedule must meet the requirements for completion of all or any separable part of the Work as set forth in this Contract.
- 8.5 Consultant shall submit to the City's Representative periodic reports in writing on the actual progress. Such progress reports shall include the following:
- 8.5.1 Monthly. Copies of the approved Resource and Cost Loaded Schedule showing actual progress to date for each activity, as compared to planned progress;
  - 8.5.2 Monthly. A job hour comparison by task of actual versus planned staffing;
  - 8.5.3 Weekly. A rolling four-week detailed schedule showing, by day, one-week actual progress and a three-week look-ahead forecast. Variation from approved Resource and Cost Loaded Schedule and plans shall be noted and rationalized;
  - 8.5.4 Weekly. Prepare a weekly report of labor productivity on items of the Work selected by the City's Representative. Compare actual versus planned job hours. Variation from approved schedules and plans shall be noted and rationalized.
- 8.6 **Copies of Schedules and Reports.** Schedules and reports shall be furnished in two (2) hard copies and on electronic media or as specified by the City's Representative. All scheduling files used in progress reporting shall become property of the City.
- 8.7 **Task Order and Reporting.** The Work shall be separated into Task Packages. The Consultant shall provide a breakdown of the Work to be accomplished in the Task Orders. A Task Order is a definitive area, component, group of components or

combination thereof of the Work. The Consultant's Task Order submittal shall be reviewed and approved by the Engineer.

Each Task Order shall have a start and completion date derived from the early start and early finish dates of the cost loaded CPM schedule. All schedule activities are to be coded by Task Order.

The Task Orders as a minimum shall include:

- 8.7.1 Pre-Design Activities
- 8.7.2 Schematic Design
- 8.7.3 Detail Design Development
- 8.7.4 Contract Documents
- 8.7.5 Bid and Award Phase
- 8.7.6 Construction Administration
- 8.7.7 Post-Construction Activities

## **9.0 PLANNING SUPPORT SERVICES**

- 9.1 The services in this section must not be construed as an obligation on the part of the Department of Aviation to utilize the A & E for Planning Services. If required, the A & E will perform Planning services to a level of detail as directed by the Department of Aviation, including preparation of Planning and/or functional design documents. Planning Support Services shall comply with applicable codes, ordinances and regulations at Hartsfield-Jackson Atlanta International Airport (H-JAIA).

## **10.0 ESTIMATING REQUIREMENTS**

- 10.1 **Estimating Specification: General Requirements.** This section provides general guidelines for developing estimates that provide the "to be expected" cost for specific services and products required by the Hartsfield-Jackson ATL Next Program. Cost estimates are to be developed for specified professional services, construction services and products that are required to complete a specified task that when implemented, provides the desired final usable product.

- 10.2 This section applies to the development of cost estimates for services, products and construction services based on solicitations for services, and Schematic, Concept, Planning, Design, Construction, Change and Claim documents which are to be used for scope definition and quantification of the work to be completed.
- 10.3 All services provider may be required to provide alternative estimates at any stage of a project's development life, those estimates shall be prepared based on the stage of the project development life. The alternatives estimates shall comply with the appropriate procedure commensurate with the stage of the project.
- 10.4 The estimates shall be computerized by the Consultant utilizing the latest version of "Success Estimator" software developed by US Cost inc., of Atlanta, GA. It is expected that the Consultant shall have sufficient capabilities to perform this Work. Any and all costs incurred by the Consultant in researching and/or educating it's personnel in "Success Estimator" and/or the systems to be utilized in this project are to be borne by the Consultant and will not be reimbursed by the City.
- 10.5 The Consultant shall provide an estimate of the construction costs (Consultant Construction Estimate) to accompany each deliverable task set forth in the Consultant's Task Order. Each Consultant Construction Estimate shall be prepared and submitted to the PM with the task deliverable and shall include, but not be limited to, the following:

10.5.1 Consultant Construction Estimate shall be developed in accordance with the latest version of "Estimating Desk Top Procedures Handbook" available from the Planning and Development Estimating Group.

**11.0 SOFTWARE REQUIREMENTS:** The Consultant shall utilize:

- 11.1 *Primavera Project Planner*, developed by Primavera Systems Inc., of Bala Cynwyd, PA, is designated as the primary software application for producing Project Schedules for the Hartsfield-Jackson ATL Next Program;
- 11.2 *PM Web*, developed by PM Web Inc., of Wakefield, MA, is designated as the primary software application for Contract management and project administration for the Hartsfield-Jackson ATL Next Program;
- 11.3 *Success Estimator*, developed by US Cost Inc., of Atlanta, GA, is designated as the primary software application for producing Project Cost Estimates for H-JDP;
- 12.4 Latest *AutoCAD (including Revit)* family of products, developed by Autodesk, Inc., of San Rafael, CA, is designated as the primary software application for producing construction drawings for H-JDP. The use of other CADD software applications

and conversions to AutoCAD® (Dwg.) format is prohibited and not acceptable. In addition to the CAD requirements the selected firm shall provide Building Information Modeling ("BIM") supplemented with CAD content as necessary to produce a complete set of Construction Documents and or clash detection analysis.

## **12.0 CITY'S RESPONSIBILITY**

- 12.1** The City shall provide information, as available, regarding requirements for the Project including a program, which shall set forth the City's design objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements. Notwithstanding anything contained in this Contract, the City reserves the right, at its sole discretion to enter into architectural, engineering and/or construction management agreements with Consultants other than Consultant and any of its subconsultants named in this Contract. There is no guarantee of work in this Contract. The City's designee will promptly render any decision necessary for the orderly progress of the work. The City will furnish to the Consultant any information or materials in its possession which relate to a specific project as expeditiously as possible. The City reserves the right to remove from the Project, any personnel employed by the Consultant who is assigned to perform services for the City's Projects.

# EXHIBIT A.1: COMPENSATION

**EXHIBIT A.1**  
**COMPENSATION**

**1. Compensation**

**1.1. General Compensation Terms:** Consultant will be compensated for Services pursuant to the terms of this Services Agreement and the specific Task Order associated with such Services.

**1.2. Potential Compensation Structure of Task Orders:** City may issue Task Orders to Consultant based upon any compensation arrangement allowed by Applicable Law including, but not limited to, the following:

**1.2.1. Firm, Fixed Price Method (Lump Sum):**

**1.2.1.1. Compensation.** When using the firm, fixed price method, the Parties agree that compensation and payment for full and complete compensation of all work, materials, and services furnished under the terms of this Agreement, will be paid to the Consultant for each Project Task Order. The firm, fixed price amount for a Project Task Order shall be based on estimated staff hours, direct labor rates, direct expenses, an overhead rate, and sub-consultant costs. The firm, fixed price amount for each Project Task Order shall not be exceeded unless the Department determines that there is a substantial change in scope, character, or complexity of the service from those originally negotiated for the Project Task Order.

**1.2.1.2. Payment.** The Consultant shall be paid by the City for completed work and services rendered under this Agreement as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, and equipment necessary to complete the work specified in Exhibit A, General Scope of Services and within each Task Order. The Consultant shall conform to all applicable portions of 48 Code of Federal Regulations (CFR) Part 31. Payment to the Consultant will be made upon receipt and approval of invoices submitted as specified.

**1.2.1.3. Final Payment.** Upon completion, delivery and acceptance of all work contemplated under each Project Task Order, including the receipt of all plans, specifications, reports, studies, notes,

electronic data, and other related documents which are required to be furnished by the Consultant, the Consultant shall submit only one final invoice statement for the balance of the earned compensation. At such time, payment of one-hundred percent (100%) of the amounts earned, less the total of all previous payments, shall be paid by the City to the Consultant. However, both Parties agree that for any Task Order which is being paid based upon fixed hourly rates, that one-hundred percent (100%) of the amount payable shall be equal to one-hundred percent (100%) of the actual work performed which may be less than the full amount authorized by the Task Order.

The Consultant agrees that acceptance of this final payment for each Project Task Order shall be in full and final settlement of all claims arising against the City for work done, materials furnished, costs incurred, or otherwise arising out of this Agreement and shall release the City from any and all further claims of whatever nature, whether known or unknown, for and on account of said Agreement, and for any and all work done, and labor and materials furnished, in connection with same.

**1.2.2. Task Order Maximum Payment Amount; Not to Exceed Amount:** A project under a Task Order may involve payment of compensation up to a specific not to exceed amount, based upon specific fully-burdened hourly billing rates of personnel providing Services on the Project (in addition to or in alteration of those included on Exhibit A.2) and specific categories of reimbursable expenses, as negotiated between City and Consultant and included in the specific applicable Task Order. In the event the hourly billing rates in Exhibit A.2 are misrepresented by the Consultant, the City reserves the right to adjust the compensation paid to the Consultant to reflect the difference.

**1.2.2.1. Consumer Price Index (CPI):** For compensation purposes under this Services Agreement no salary or amount shall exceed the negotiated salary or amount received by said personnel or negotiated rate for a principal as of the effective date of this Services Agreement unless the Aviation General Manager, or his designated representative, has been notified in advance, in writing, of the increased salary, rate or amount and approves the increase. The DOA reserves the right to approve all personnel, amounts and salaries of said personnel performing services under this Services Agreement. For adjustments submitted after the effective date of this Services Agreement, the Consultant must demonstrate that increases in salary, or the

principal's rate are in accordance with the U.S. Consumer Price Index and the rate set forth in Exhibit A.2, which shall not exceed four (4%) percent per year. Such requested increases shall be subject to audit by the City.

**1.2.2.2. Certified Audit Report:** The Consultant and its subconsultants are required to submit Indirect Cost Rate audits on an annual basis within six months of the end of the Consultant's fiscal/calendar year. The report must be prepared in accordance with Federal Acquisition Regulations (FAR) Subpart 31.2 following the format outlined in the Uniform Audit and Accounting Guide prepared by the American Association of State Highway and Transportation Officials (AASHTO), as it may be updated. The City reserves the right to approve all Indirect Cost Rates and adjust billing rates on all subsequently issued Task Orders accordingly. Increases in billing rates due to Indirect Cost Rate increases are not a basis for an increase in the fixed-fee or in the maximum compensation payable.

**2. Reimbursable Expenses: Reimbursable expenses include:**

- 2.1. Expenses of large format reproductions and handling of drawings, specifications and other deliverables and documents, excluding reproductions for the office use of Consultant and for its subconsultants.**
- 2.2. Expenses of renderings, models and mock-ups requested by the City.**
- 2.3. Out-of-Town Travel, accommodations and subsistence charges for specialist subconsultants; provided, however that they must be approved in writing in advance by the Aviation Assistant General Manager - P&D or his designee. Consultant must provide estimate of travel cost.**
- 2.4. Travel to Atlanta as needed by the Department of Aviation. Prior approval by the Director of Project Development or his designee for travel by the Consultant and any subconsultants/contractors is required. Consultant must provide estimate of travel cost.**
- 2.5. Additional Reimbursable Expenses may be added on a Task Order by Task Order basis when approved by the Department of Aviation's Director of Project Development.**

**3. Non-Reimbursable Expenses.** Non-reimbursable expenses include, but are not limited to:

- 3.1. Printing and reproduction costs of documents for Consultant team use.
- 3.2. Computer time charges.
- 3.3. Plotting Time and expenses.
- 3.4. Overtime expenses unless pre-approved by the Aviation General Manager or his designee.
- 3.5. Local in-town travel.
- 3.6. Cell phones and cell phone charges.
- 3.7. If an expense is not explicitly included in this Services Agreement as a reimbursable expense, it is a non-reimbursable expense.
- 3.8. Postage and shipping (including overnight express) charges.
- 3.9. Parking charges.

**4. Additional Provisions Concerning Reimbursable Expenses.**

- 4.1 Reimbursable expenses are to be included as part of the Not-To-Exceed fee for each Task Order, and shall not be invoiced separately.
- 4.2 All reimbursable expenses will be paid at cost. Pay request submitted by Consultant for reimbursable expenses must be accompanied by invoices and receipts and will be paid to Consultant upon approval by the City. City reserves the right to disapprove any request for reimbursable expenses which is not submitted in the form, in the manner and under the circumstances required under this Services Agreement.
- 4.3 An amount equal to the premium payments for overtime work or night work, actually paid to partners, principals, architects, engineers, planners and other professional and technical employees for time actually spent by them in the performance of Services when such overtime or other premium payments have been demonstrated to be in accordance with Consultant's normal business practice and have been authorized in writing in advance by the Aviation General Manager or his designated representative may also be reimbursed under this Services Agreement in writing. Premium time shall not accrue prior to the completion of 40 hours per week of work by any given individual. Such premium payments to supervisory employees, who do not receive such payments in Consultant's normal business practice, shall not be given under this Services Agreement.
- 4.4 Consultant will be reimbursed for Consultant payments made to subconsultants for work at an amount equal to the amounts actually paid to the subconsultant. The City does not allow Consultant to receive a mark up on subconsultant payments as the management and administration of a subconsultant is contained in Consultant

multiplier and resources allocated in an executed Task Order. Billing Rates and Classifications for Subconsultants are established in Exhibit A.2.

- 4.5 Consultant shall keep, and shall cause any subconsultants to keep, daily records of the time spent in the performance of Services by all persons providing Services under this Services Agreement, as well as records of the amounts of such rates and amounts actually paid for the performance of such services and records and receipts of reimbursable expenditures. Failure to do so shall be a conclusive waiver of Consultant's right to compensation for such services or expenses. City has the right to audit all such records.
5. **Submittal of Invoices.** Consultant must prepare and submit to City invoices ("Invoice" or "Invoices") on the first day of each month during the Term of this Services Agreement requesting payment for Services rendered during the previous month in accordance with the specific terms of compensation set forth in the applicable Task Order. Consultant must submit all invoices in original & three (3) copies to:
- City of Atlanta  
Department of Aviation  
Planning and Development  
1255 South Loop Road  
College Park, GA 30337  
Attention: Invoice Compliance  
Reference: Services Agreement No. FC-9036
6. **Format of Invoices.** The Invoice shall be entered and submitted in the DOA Planning and Development "On-Line Invoicing System (OLIS), on a monthly basis representing charges for the work completed during the previous month. Other invoice format will be set forth in the applicable Task Order.
7. **Payment of Invoices.** Approved invoices will be paid by City within thirty (30) days, to the extent practicable. City may disallow payments for Services for failure to submit timely invoices.
8. **City's Right to Withhold Payments.** City may withhold payments for Services that involve disputed costs, or are otherwise performed in an inadequate fashion. Payments withheld by City will be released and paid to Consultant when the Services are subsequently performed adequately and on a timely basis, causes for disputes are reconciled or any other remedies by City have been satisfied.
9. **Releases of all Claims.** City may, as a condition precedent to any payment, require Consultant to submit for itself, its subconsultants, immediate and remote, and all material suppliers, vendors, laborers and other parties acting through or under it, complete waivers and releases of all claims against City arising under or by virtue of this Services

Agreement. Upon request, Consultant must, in addition, furnish acceptable evidence that all claims have been satisfied.

- 10. Acceptance of Payments by Consultant; Release.** The acceptance by Consultant of any payment for Services under this Services Agreement will, in each instance, operate as, and be a release to City from, all claim and liability to Consultant for everything done or furnished for or relating to the Services for which payment was accepted, unless Consultant, within five (5) days of its receipt of a payment, advises City in writing of a specific claim it contends is not released by that payment.
- 11. Claims against Consultant.** If there are claims filed against Consultant in connection with its performance under this Services Agreement, for which City may be held liable if unpaid, and such claims are not promptly removed by Consultant after receipt of written notice from City to do so, City may resolve any of those claims and deduct all costs in connection with that resolution from payments or other monies due, or which may become due, to Consultant. If the amount of any withheld payment or other monies due Consultant under this Services Agreement is insufficient to meet any of those costs, or if any claim against Consultant is discharged by City after final payment under this Services Agreement is made, Consultant must promptly pay City all reasonable costs incurred by City concerning the claim after Consultant's receipt of written notice from City.

# **EXHIBIT A.2: EMPLOYEE CLASSIFICATIONS/ ACTUAL BILLING RATES**

**EXHIBIT A.2:**

**EMPLOYEE CLASSIFICATIONS / ACTUAL BILLING RATES<sup>5</sup>**

**CONSULTANT NAME:** \_\_\_\_\_

<b>CLASSIFICATION</b>	<b>ACTUAL SALARY</b>	<b>MULTIPLIER</b>	<b>BILLING RATE</b>
1. Principal-in-Charge <sup>6</sup>			
2. Project Manager			
3. Project Architect			
4. Sr. Design Engineer			
5. Design Engineer			
6. Design Architect			
7. Architect			
8. Contract Administrator			
9. Quality Control Coordinator			
10. Specifications Writer			
11. Cost Estimator			
12. Scheduler			
13. Draftsperson			
14. CAD Technician			
15. Administrative/Clerical			
16. Senior Engineer (Acoustical)			

<sup>5</sup> This table is provided for purposes of negotiation. The City intends to finalize this table to include the employee classifications necessary to render Services under this Services Agreement and the applicable salary rates based on Federal Audited field overhead rates, which will apply to all Services provided under any Task Order. Consideration of increased salary rates based on Exhibit A.1; 1.3 – Consumer Price Index (CPI) will be given on an annual basis at the discretion of the City. This table will be finalized and included in Exhibit A.2 attached to any Services Agreement awarded pursuant to this solicitation. Proponent should be prepared to present its audited overhead rates in support of the proposed billing rates.

<sup>6</sup> The City intends that no billing rate during any project will exceed that specified for ‘Principal-in-Charge’ at \$250.00 an hour, unless approved by the City.

17. Senior Consultant (Acoustical)			
18. Senior Engineer (Electrical)			
19. Project Supervisor (Environmental)			
20. Staff Engineer (Environmental)			
21. Project Manager (Environmental)			
22. Technical Writer (Environmental)			
23. Principal Engineer (Mechanical)			
24. Senior Engineer (Mechanical)			
25. Senior Project Manager (Structural)			
26. Senior Engineer (Structural)			
27. Closing Attorney (Title Examination)			
28. Other <sup>7</sup>			

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<sup>7</sup> Each Proponent shall add additional employee classifications and fully burdened hourly billing rates that it may deem necessary to fulfill the requirements of the Scope of Services.

# **EXHIBIT B: AUTHORIZING LEGISLATION**

**(TO BE ATTACHED)**

# EXHIBIT C: DEFINITIONS

## EXHIBIT C

### DEFINITIONS

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

**"Affiliate"** - With respect to a Party, any legal entity that, directly or indirectly through one of more intermediate legal entities, controls, is controlled by or in under common control with the Party. For purposes of this definition, "control" means that 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 Services Agreement 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.

**"Airport"** means Hartsfield-Jackson Atlanta International Airport.

**"Airport Access, Security and Safety Measures"** means the policies set forth in Exhibit F.

**"AOA"** means Aircraft Operating Area.

**"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 Consultant or Consultant's subconsultants; (c) the Services Agreement and the Services Agreement Documents; or (d) the performance of the Services under this Services Agreement or any Task Order.

**"Charges"** means the amounts payable by City to Consultant under this Services Agreement and any applicable Task Order.

**"Confidential Information"** means all information, including, but not limited to, business or financial information, plans, strategies, forecasts, forecast assumptions, proprietary business practices and methods, marketing information and material, customer, supplier, and employee information, and all information concerning relationships with customers, suppliers and employees, proprietary ideas, concepts, know-how, methodologies, specifications, operations, processes and systems manuals, profiles, system and management architectures, diagrams, graphs, models, sketches, technical data, research and all other information related to a Party's past, present or future business activities or operations, now known or later discovered or developed, furnished or made available by or on behalf of one Party to the other or otherwise obtained by a Party from any source in connection with this Services Agreement, including: (i) all

information of a Party to which the other has had or will have access; (ii) all information of a Third Party, including customers and suppliers; (iii) all information entered or to be entered into software or equipment by or on behalf of a Party, as well as information obtained or derived from this information, including any such information as stored in, accessed or transmitted through or processed by equipment or software; and (iv) all information whose disclosure is exempted or restricted under Applicable Law. Confidential information does not include information that is: (a) subject to public disclosure under Applicable Law such as the Georgia Open Records Act or the Federal Freedom of Information Act; (b) publicly available or becomes so in the future without restriction and through no fault or action of the receiving Party or its agents; (c) rightfully received by either Party from a Third Party and not accompanied by confidentiality obligations; (d) already in the receiving Party's possession and lawfully received from sources other than the disclosing Party; (e) independently developed by the receiving Party without use of or reference to the Confidential Information of the disclosing Party; or (f) approved in writing for release or disclosure without restriction by the disclosing Party.

**"Code"** means the Code of Ordinances for the City of Atlanta, Georgia, as amended.

**"Consultant Personnel"** means and refers to Consultant employees or sub-consultants hired and maintained to perform Services hereunder.

**"Contractor"** means any person having a contract with the City.

**"Services Agreement Documents"** include this Agreement and the Exhibits and other documents attached or referenced herein as well as any authorized changes or addenda hereto.

**"Deadline"** means any timeframe or deadline established by City or this Services Agreement or applicable Task Order for performing any Services or any other obligation under this Services Agreement.

**"DOA"** means the City's Department of Aviation.

**"FAA"** means the Federal Aviation Administration.

**"Facility"** or **"Facilities"** means the physical premises, locations and operations owned or leased by a Party and from or through which Consultant 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.

**"Insolvency/Bankruptcy Event"** shall be deemed to have occurred if Consultant: (i) is subject to a petition for relief under the laws of the United States codified as Title 11 of the United States Code; (ii) is subject to an involuntary petition for relief under the United States bankruptcy laws; (iii) seeks, consents to or does not contest the appointment of a receiver, custodian or trustee

for itself or for all or any part of its property; (iv) files a petition seeking relief under the bankruptcy, arrangement, reorganization or other debtor relief laws of any state or other competent jurisdiction; (v) admits in writing that it is generally not paying its debts as those debts become due; (vi) gives notice to any governmental body of insolvency or pending insolvency; (vii) suspends material business operations; (viii) becomes “insolvent” as that term is defined under applicable fraudulent transfer or conveyance laws; or (ix) makes an assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors.

**“Jobsite”** means the locations described in the Services Agreement or any Task Orders issued under this Services Agreement where the Services are to be performed or where they are actually performed.

**“Large Hub Airport”** means an airport that enplanes more than one percent of the nation’s passengers annually.

**“Materials”** means all supplies, products, tools, appliances, equipment and utilities that are needed or used by Consultant to perform the Services. This term also includes all supplies, products, tools, appliances, and equipment that are incorporated into or provided to City as part of the Services as a deliverable.

**“NIP”** means the Noise Insulation Program.

**“Notice to Proceed”** means formal written notice from City to Consultant to begin performing Services under a Task Order issued under this Services Agreement.

**“Specifications”** means all requirements, specifications, service levels and performance standards and criteria contained in the Services Agreement Documents, including, without limitation, any that may be set forth in any Task Order issued under this Services Agreement.

**“Party” or “Parties”** means City and/or Consultant.

**“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.

**“Planning Management Team”** is the team proposed by the successful Proponent to manage the planning accordance with the Scope of Work defined in this RFP.

**“Program”** means – H-JAIA development plan that includes major efficiencies/capacity projects associated with the Master Plan and replacement/upgrade/maintenance projects associated with the existing facility.

**“Services”** means all services, tasks, functions, or assignments to be performed by Consultant for City under this Services Agreement and any Task Order issued under this Services Agreement.

The Services also include all deliverables and Materials associated with the Services, tasks, functions or assignments Consultant is to provide. The Services are summarized in Part I of this Services Agreement and may be further described in any associated Task Order issued under this Services Agreement.

**“Task Order Commencement Date”** means the date set forth in each Task Order on which the Services under such Task Order shall begin.

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

**“Work Product”** means any work product, creation, material, item or deliverable, documentation or other item created by Consultant or Consultant Personnel, either solely or jointly with City or Third Parties, for the benefit of City in connection with providing the Services, including all forms of intellectual property such as inventions, copyrightable materials and/or material protected by patent, trademark and/or other trade secret laws.

# **EXHIBIT D: INSURANCE & BONDING REQUIREMENTS**

**EXHIBIT D  
INSURANCE & BONDING REQUIREMENTS  
FC-9036, NOISE INSULATION PROGRAM DESIGN SERVICES  
AT HARTSFIELD-JACKSON ATLANTA INTERNATIONAL AIRPORT**

**A. Preamble**

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

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

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

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

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

**2. Project Number & Name**

**The project number (FC-9036) and name (Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport) must be referenced in the description section of the insurance certificate.**

### **3. Minimum Financial Security Requirements**

All companies providing insurance required by this Exhibit D must meet certain minimum financial security requirements. These requirements must conform to the ratings published by A.M. Best & Co. in the current Best's Key Rating Guide - Property-Casualty. Upon request, the Consultant must submit the ratings for each company to the City.

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

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

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

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

### **4. Insurance and Bonds Required for Duration of Contract**

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

### **5. Notices of Cancellation & Renewal**

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

Consultant receives concerning the proposed cancellation, or termination of coverage or security:

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

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

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

6. Agent Acting as Authorized Representative

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

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

7. Certificate Holder

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

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

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

carrier equivalent shall be provided. Additional insured status shall be maintained following project completion equivalent to the statute of repose in the State of Georgia.

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

9. Mandatory Sub-Contractor/Consultant Compliance

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

10. Self-Insured Retentions, Deductibles or Similar Obligations

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

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

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

B. Workers' Compensation

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

Workers' Compensation . . . . . **Statutory**

Employer's Liability:

Bodily Injury by Accident/Disease	<b>\$1,000,000 each accident</b>
Bodily Injury by Accident/Disease	<b>\$1,000,000 each employee</b>
Bodily Injury by Accident/Disease	<b>\$1,000,000 policy limit</b>

C. Commercial General Liability insurance

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

- Contractual Liability
- Broad Form Property Damage
- Premises Operations

- Personal Injury
- Advertising Injury
- Medical Expense
- Additional Insured Endorsement (primary & non-contributing in favor of the City)
- Waiver of Subrogation in favor of the City of Atlanta

**D. Commercial Automobile Liability Insurance**

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

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

**E. Excess or Umbrella Liability Insurance**

Consultant shall procure and maintain a policy providing Excess or Umbrella Liability Insurance which is at least as broad as the underlying policy. This insurance, which shall be maintained throughout the life of the contract, shall be in an amount of not less than **\$3,000,000** per occurrence.

- Coverage must follow form with primary policy
- May be used to achieve minimum general and auto liability limits
- Coverage must be as broad as primary policy

**F. Property Insurance**

Consultant shall procure and maintain Property Insurance covering all forms of risk on all Tenant Improvements and any other interests of Lessee, if applicable, in or about the Leased Premises, including inventory, supplies, and other property of the Consultant located at said Premises, insuring against the perils of fire, lightning, extended coverage, perils vandalism, malicious

mischief, glass breakage and sprinkler leakage, in an amount equal to the full replacement value of Tenant Improvements and any other interests of the Consultant In or about said Premises.

**G. Professional Liability/Errors & Omissions Insurance**

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

**H. Payment Bond**

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

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

**EXHIBIT D-1**  
**PAYMENT BONDS**

- A. At, or prior to, Service Provider's execution of the Agreement, Service Provider must, at its own expense, deliver to the City a Performance and a Payment Bond each in an amount equal to one hundred percent (100%) of the first year's Management Fee as specified in the Agreement, naming the City as co-obligee and issued by a surety company or companies in such form as approved by the City's Attorney as attached hereto at Exhibit D-1. The bonds must be renewed annually at one hundred percent (100%) of the then current year's Management Fee as specified in the Agreement. The bonds must be kept in full force and effect during the Term and any renewals. In lieu of a Performance Bond, Service Provider may submit to the City an Irrevocable Letter of Credit in a form acceptable to City, in its sole discretion.**
- B. The bonds must be issued as security for the faithful performance of this Agreement, including, maintenance and guarantee provisions, its covenants, stipulations and agreements of the Agreement, the payment of all bills and obligations arising out of the performance its obligations under the Agreement, which bills and obligations might or would in any manner become a claim against the City, and guaranteeing all services and work set forth in the Agreement against faulty materials or poor workmanship, or both, in accordance with any warranty provisions of the Agreement.**
- C. The surety company issuing the bonds must give the City notice in writing by registered mail at least sixty (60) days prior to an anniversary date of the bonds of its intention not to renew or to terminate the bonds.**
- D. A Corporate Surety that is satisfactory to City, authorized to do business in the State of Georgia, and listed in the latest issue of U.S. Treasury Circular 570 must execute the bonds.**
- E. An agent of the Surety residing in the State of Georgia must execute the bonds. The date of the Bonds must be the same as the date of execution of the Agreement by City. The Surety must appoint an agent for service in Atlanta, Georgia upon whom all notices must be shown on each Bond. The person executing the Bonds on behalf of the Surety must file with the Bonds a general power of attorney unlimited as to amount and type of Bonds covered by such power of attorney, and certified to by an official of said Surety. The Bonds must be on forms provided by City. The Agreement will not be executed by City until after the approval of the Bonds by City's Attorney.**

## EXHIBIT D-1

### ATTACHMENT 1

#### Payment Bond

##### INSTRUCTIONS

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

## Payment Bond

"City" City of Atlanta, Georgia  
"Project" Noise Insulation Program Design Services at Hartsfield-Jackson Atlanta International Airport  
"FC No." 9036  
"Principal"  
Type of Organization ("X" one):  
 Individual  
 Partnership  
 Joint Venture  
 Corporation

"Surety:" (Name and Business Address) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

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

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

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

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

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

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

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

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

Attested to by:

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

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

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

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

APPROVED AS TO FORM

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

APPROVED

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

# **EXHIBIT E: DISPUTE RESOLUTION PROCEDURES**

**EXHIBIT E**  
**DISPUTE RESOLUTION PROCEDURES**

- 1** If Consultant 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, Consultant shall, without delay and within three (3) days of being aware of the circumstances giving rise to Consultant's claim, provide written notice of its claim to City. If Consultant fails to give timely notice as required by this subsection or if Consultant commences any alleged additional work without first providing notice, Consultant 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 Consultant's written notice to City is required under this subsection, Consultant shall submit a Proposed Change Document relating to the claim meeting the requirements of Subsection 5.3.2 of this Services 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, Consultant 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 Consultant 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 the City and Consultant 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:  
AIRPORT ACCESS, SECURITY  
AND SAFETY MEASURES  
PLUS NOISE INSULATION  
PROGRAM SECURITY  
REQUIREMENTS**

**EXHIBIT F**  
**AIRPORT ACCESS, SECURITY AND SAFETY MEASURES**  
**(AS APPLICABLE)**  
**PLUS NIP-SPECIFIC SECURITY REQUIREMENTS**

- 1. Security.** Consultant shall at all times conduct all operations under this Services Agreement in a manner to avoid the risk of loss, theft, or damage by vandalism, sabotage or any other means to any equipment, materials, work or other property at the Jobsite. Consultant shall continuously inspect all equipment, materials and work to discover and determine any conditions which might involve such risks and shall be solely responsible for discovery, determination and correction of any such conditions.
  
- 2. Airport Security Requirements.** Consultant shall comply with the Transportation Security Administration (TSA) and the City's security requirements for the Airport. Consultant shall cooperate with the TSA and the City on all security matters and shall promptly comply with any Project security arrangements established by City. Such compliance with these security requirements shall not relieve Consultant of its responsibility for maintaining proper security for the above-noted items, nor shall it be construed as limiting in any manner Consultant's obligation with respect to all applicable state, federal and local laws and regulations and its duty to undertake reasonable action to establish and maintain secure conditions at the Jobsite.
  - 2.1.1. Preventing Unauthorized Access.** The Airport has been secured to prevent unauthorized access to the Air Operations Area (AOA), the secured area, the sterile area and other controlled areas of the Airport. Consultant shall cooperate to the fullest extent with the TSA and DOA to maintain the integrity of the security system. The Consultant shall control its operations and the operations of its subcontractors and all suppliers so as to provide for the free and unobstructed movement of aircraft, aircraft operations personnel and equipment in the AOA, the secured area, the sterile area and other controlled areas of the Airport as defined herein.
  
  - 2.1.2. Transportation Security Administration/Responsibility of Consultant.** In order to comply with the TSA and DOA security requirements, Consultant shall be responsible for informing itself as to current, ongoing, and changing requirements, and for remaining in compliance with those requirements throughout this Services Agreement. The security requirements are as follows and from time to time may change as required by the TSA and/or DOA.
  
  - 2.1.3. Security Identification Display Area (SIDA).** The Security identification Display Area (SIDA) is defined in the Airport Security Program as any area that requires individuals to continuously display Airport issued or Airport approved identification badges. Personnel associated with construction contracts in the AOA secured area or sterile area of the Airport shall display SIDA badges at all times. The TSA and the DOA

require all personnel to display SIDA badges in areas controlled for security purposes at all times.

- 2.1.4. FBI/CHRC Checks.** To obtain a SIDA badge, each individual must successfully undergo a Security Threat Assessment and a Federal Bureau of Investigation (FBI) fingerprint based Criminal History Records Check (CHRC) which must reveal no convictions of disqualifying crimes within the last ten years as defined in Transportation Security Regulation, TSR Part 1542.209. Each Individual must also attend a security awareness course conducted by the DOA Security Division. Each employee must present two proper forms of identification and citizenship/employment eligibility documents if necessary. Consultant shall be responsible for all fees associated with obtaining a SIDA badge, (i.e. badge and fingerprint fees as determined by DOA). The current cost for the CHRC is \$50.00 per individual. The current cost for badge is \$60.00 per individual. Cost for lost badges is \$60.00 for each replacement badge.

In order to obtain up-to-date costs for the CHRC and for badging, Consultant shall contact the DOA Security office at (404) 530-6667 prior to sending individuals to the DOA Security office for badging. Consultant/Escorting Requirements are specified in subsection below.

- 2.1.5. Displaying Badges.** Employees and those of all subcontractors must display a DOA issued badge showing Consultant's name and an employee number. All personnel shall be required to wear this badge at all times while within the secured areas of the Airport.

- 2.1.6. Badging Records and Process.** Consultant shall maintain an up-to-date record of all badge holders showing name, address, sex, height, weight, color of eyes and badge number. Consultant will be required to furnish this information to the DOA upon request.

**2.1.6.1.1.** The Badging process may begin upon the Consultant's receipt of a formal Notice to Proceed (NTP) from the City and may take up to fourteen (14) calendar days to complete. Access to secured areas shall be denied until such time as the Consultant has completed the badging process.

**2.1.6.1.2.** If applicable, an Administrative NTP may be presented to the DOA Security Division by the Consultant in order to initiate the badging process for the Consultant's employees.

**2.1.6.1.3.** The Consultant shall appoint one of its employees as an Authorizing Agent and submit his or her name, on the Consultant's letterhead, to the DOA Security Division. The submittal letter shall indicate the Project Name, Services Agreement Number, Point of Contact, Telephone and Fax number, list of subcontractors including subcontractors' Authorizing Agent nature of the work to be performed by Consultant, and each

subcontractor, location and duration, time frame(s), and justification for vehicle access, if required. A copy of the Consultant's Insurance Certificate shall accompany the letter. Once badged, the Consultant's Authorizing Agent shall be responsible for the badging process of his/her company employees.

- 2.1.6.1.4. Each Subcontractor Identified in the Consultant's letter shall appoint one of its employees as an Authorizing Agent and submit his or her name through the Consultant, to the DOA Security Division. A copy of the Subcontractor's Insurance certificate shall accompany the letter. Once badged, the Subcontractor's Authorizing Agent shall be responsible for the badging process of his/her company employees.
- 2.1.6.1.5. Processing time for badging, at the badging office after completion of the CHRC, will last approximately one (1) hour. Processing time for Authorizing Agents will last an additional hour for briefing by the DOA Security Division. Authorizing agent briefing sessions will be conducted only on Mondays, Wednesdays and Fridays at 11 a.m. in the DOA Security office.
- 2.1.6.1.6. Each person applying for badging shall complete and submit all forms required by the DOA Security Division. All required forms will be provided to the authorizing agent at the time of the briefing at the DOA Security office.
- 2.1.6.1.7. Each person applying for a badge shall also submit to fingerprinting upon the submittal of said forms. Fingerprints will be utilized for a ten (10) year Federal Bureau of Investigation (FBI) based criminal history records check for each individual employee.
- 2.1.6.1.8. Pursuant to TSR § 1542.209 certain Felony convictions within the most recent ten (10) year period, may cause disqualification. A list of disqualifying Felony convictions is available in the offices of the DOA Security Division and In the TSR Regulations.
- 2.1.6.1.9. The Authorizing Agent will be notified when the results of the fingerprint checks are completed. Upon notification and approval, Consultant's and subcontractor's approved employees may return to the DOA Security Office, during posted hours, for photographing and badging. This process may take up to sixty (60) minutes.
- 2.1.6.1.10. Badges issued to Consultant and subcontractor employees and agents shall expire upon the happening of one (1) of the following events, whichever occurs first:

- 2.1.6.1.10.1. Completion of Services Agreement or subcontract, unless extended by the City;
- 2.1.6.1.10.2. Expiration of Insurance coverage, as Indicated on the Consultant's Insurance certificate; or
- 2.1.6.1.10.3. Employee's driver's license expiration date;
- 2.1.6.1.10.4. Two (2) years from the issuance of the badge.

2.1.6.1.11. Consultant and its subcontractor shall be responsible for making arrangements, ahead of time, to extend badges, when necessary. A letter, directed to both the DOA Assistant General Manager, Facilities and the DOA Security Manager, explaining the reason(s) for the badge extension on Consultant's letterhead will be required. Extension requests must be approved in writing by the DOA prior to extension of the badges.

2.1.6.1.12. Consultant's questions concerning Airport Security shall be directed to (404) 530-6667.

2.1.7. **Drivers.** All drivers operating vehicles within the AOA must obtain, in addition to the DOA Security badge, a DOA Ramp Certification. Ramp Certification will be evidenced by a "D" sticker placed on the face of the badge by the DOA Security department.

2.1.7.1.1. **Ramp Certification.** City will require Airport Driver Safety Training and Ramp Certification for all personnel required to operate a motor vehicle in the AOA. This can be obtained by completing an Airport Driver Safety Training Course administered by the Airport Operations Division. Consultant shall contact Airport Operations, at (404) 530-6620 during normal business hours, to schedule the training session.

2.1.7.1.2. Except as set forth in paragraph 5.1.9, below, all vehicles operating within the AOA shall carry a minimum liability insurance coverage amount of TEN MILLION DOLLARS (\$10,000,000.00).

2.1.7.1.3. Consultant shall mark all vehicles and construction equipment, including those of subcontractors, in a manner as required by the Department of Aviation and consistent with Transportation Security Regulations (TSR).

2.1.7.1.4. All vehicles operating within the AOA must display permanent signage, legible and visible from a sight distance of five hundred (500) feet on both sides of the vehicle. **MAGNETIC SIGNS ARE PROHIBITED FROM USE IN THE AOA.**

2.1.8. **Protocols for Consultant Escorting.** Prime contractor must incorporate escorting protocol with Security Plan submitted for approval by the Security Manager. The

Security Manager must approve any exceptions. Consultant must attach a map of work area(s) and routes to access the work area(s) to project security plan submitted to the Aviation Security Division for approval. Consultant may contact DOA Security Manager at (404) 530-6667 during normal operating hours.

**2.1.9. Consultant's Escorting Requirements for Construction Contracts on AOA (Runways and Taxiways)/Construction Contracts on secured area (Apron surrounding Terminal and Concourses).**

**2.1.9.1.1. All escorted vehicles and personnel must remain under the direction of authorized escorting personnel at all times.**

**2.1.9.1.2. Consultant and escorted personnel shall have no Terminal or Concourse access.**

**2.1.9.1.3. Escorting is limited to an Airport SIDA badged prime Consultant or an Airport SIDA badged escorting subcontractor approved by the Security and Operations Managers to perform escorting duties. The Individuals involved in escorting shall perform no other services other than escorting while in service. No other subcontractors will be allowed to escort any vehicle(s).**

**2.1.9.1.4. Escorting person(s) must have a SIDA badge.**

**2.1.9.1.5. Designated badged prime Consultant employees approved or badged escorting subcontractor must escort prime Consultant employees and subcontractors' employees to all work sites. Once at the work site, badged employees, prime or subcontractors', may supervise unbadged employees, not to exceed five (5) employees per one (1) SIDA badged employee.**

**2.1.9.1.6. All personnel (badged or escorted) must have an employee photo ID displayed on the outermost garment, waist high or above. The employee badge must contain the employee's name, Consultant's name and project number or name. All escorted personnel must remain under the control of person(s) with an Atlanta SIDA badge at all times while in the SIDA.**

**2.1.9.1.7. Maximum vehicular escort—one (1) prime contractor vehicle or approved badged escorting subcontractor is permitted to escort two (2) subcontractor vehicles.**

**2.1.9.1.8. All vehicles requiring escort must access and egress the AOA through Pre-approved gates. Vehicles requiring escort shall not be permitted**

access or egress through any other entry or exit point within the AOA for any reason whatsoever.

2.1.9.1.9. All escorted vehicles must obtain a permit, valid for up to ten (10) hours, at Gate 73. The obtaining of a permit, however, shall not relieve a vehicle from the requirement of being escorted as set forth herein.

2.1.9.1.10. In the event an escorted vehicle requires a time limit extension, the vehicle, and its original operator, must return to Gate 73 to obtain a time limit extension to complete work in the AOA secure or sterile area. Time limit extension shall not exceed an additional ten (10) hour period under any circumstances.

#### **2.1.10. Construction Contracts Within Sterile Area (Inside Terminal, Concourses)**

2.1.10.1.1. Highest level of Security required.

2.1.10.1.2. All employees of prime Consultant and subcontractor, must be badged to work in the sterile area.

2.1.10.1.3. If escorting of unbadged Consultants and or subcontractors is required, an approved sponsor agency (DOA, AATC, HACM, HCM, etc.) must perform escort full time.

2.1.10.1.4. For any work requiring access to the sterile area (beyond the Passenger Screening Checkpoint area and on Concourses), a tool inventory must be conducted daily by the prime Consultant or designated representative. A copy of this inventory should be provided to the construction manager or project manager for verification. In general, tools will not be allowed to pass through the checkpoint area.

5.1.11 **Restricted AOA Access.** Consultant shall allow passage into the AOA or secured area through its access point to persons, vehicles, and equipment displaying identification of the DOA or provide an escort for each person or vehicle not displaying proper identification. Escort vehicles must be insured as specified per Appendix B; Insurance. Escorted vehicles need not carry the aforementioned coverage but must carry the minimum amounts of insurance required by Georgia Law. However, Insurance coverage of escort vehicles must provide coverage as specified by Appendix B for vehicles being escorted.

5.1.11.1 **Visual Aids.** In the event of the possibility of contact with the AOA or secured area, Consultant shall establish a system of visual aids for marking and delineating the limits of required clearances adjacent to active runways, taxiways, and NAVAIDS during both day and night time work, subject to City's approval prior to the start of any work under this

Services Agreement. The approved system of marking and delineating shall be installed, maintained and protected at all times.

**5.1.12 Tools and Materials.** Consultant shall create and maintain an inventory of all tools and materials utilized within the SIDA, terminal building, Federal Inspection Service (FIS), and AOA.

**5.1.12.1** All tools and materials shall be stored and maintained in a secured manner to prevent unauthorized use, within pre-designated areas within the secured areas of the airport. Storage designations shall be obtained by the Consultant and/or subcontractor, prior to mobilization, by contacting the DOA Properties Division at (404) 209-2945. Change requests for storage designation may be approved only through the DOA Properties Division with notification and concurrence from the DOA Security Division. Failure to comply with this requirement may result in the termination of Consultant's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

**5.1.12.1.1** All tools and materials must be secured to prevent unauthorized use at all times within the secured areas of the Airport and/or the AOA. Failure to comply with this requirement may result in the termination of Consultant's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

**5.1.12.1.2** Any and all job-specific or unusual tools and/or materials shall be presented to the security authority at point of entry gate when accessing and/or egressing the SIDA and/or AOA. Failure to comply with this requirement may result in the termination of Consultant's or subcontractor's contract and disqualification from working on construction contracts within secured areas of the Airport.

**5.1.12.1.3** All vehicles shall remain subject to search while within the secured areas of the Airport and/or the AOA at all times. Vehicles may also be searched prior to entry to the secured areas of the Airport. The possession of weapons and other prohibited items may result in criminal or civil charges in accordance with applicable laws.

**5.1.13 Dumpsters.** Consultants and subcontractors shall be allowed no more than one (1) open dumpster per Services Agreement work area. Any and all other job-site dumpsters must remain securely covered and fastened at all times.

- 5.1.13.1 Trash must be removed daily.
- 5.1.13.2 No dumpster shall be permitted in the Terminal area for any reason whatsoever.
- 5.1.13.3 The Consultant shall be responsible for trash removal from dumpsters within the AOA. Consultant shall clear debris on a daily basis not later than the end of shift.
- 5.1.13.4 Dump trucks shall access and egress the AOA through pre-approved gates. Failure to comply with this requirement may result in the termination of Consultant's or subcontractor's contract and disqualification from working on projects within the secured areas of the Airport.
- 5.1.14 **Terminal/Curbside.** A maximum of two (2) Consultant vehicles or two (2) subcontractor vehicles may be permitted in a work area at any given time, subject to the approval of the Atlanta Police Department, and the DOA Security. In the event one (1) Consultant vehicle is present, then no more than one (1) subcontractor vehicle may be present at the same time, and vice versa.
  - 5.1.14.1 Debris removal may be allowed from curbside with special permission by the DOA Security Department.
  - 5.1.14.2 When parked at curbside, at least one (1) badged employee must remain with the vehicle at all times. Vehicles must be removed as expeditiously as possible in all cases.
  - 5.1.14.3 Areas surrounding vehicles accessing curbsides must be kept clean at all times.
  - 5.1.14.4 For purposes of obtaining Terminal or Curbside access, the APD Airport Section shall be contacted by dialing (404) 530-6630 24 hours in advance of the desired access time.
- 5.1.15 **Staging Areas.** The Consultant's Construction staging area shall be identified on the plans.
- 5.1.16 **Federal Inspection Service Areas.** For any or all work conducted within Federal Inspection Service (FIS) areas, Consultant shall submit FIS Authorization requests to the U.S. Customs Service (404) 765-2303. The request shall detail the names of employees, description and area of work, work schedule, and any other relevant information to the DOA Security Department.
  - 5.1.16.1 Consultant shall be responsible for obtaining the appropriate approvals and special SIDA badge FIS access decals from the appropriate Federal

authorities. Special SIDA badge FIS access decals will not be required in If one (1) or more U.S. Customs Agent(s) are present at the work site at all times.

**5.1.16.2 Security Checkpoints.** Consultant and subcontractors shall maintain awareness among all employees, and at all times, that all Security Checkpoints are now under Federal jurisdiction rather than privately contracted Security agents. In general, contractors will not be allowed to carry tools and construction materials through the passenger security screening points.

**5.1.16.3** Questions regarding Federal Security Checkpoints shall be directed to (404) 763-7437 or (404) 530-2150.

**6 Noise Insulation Program Security Requirements.** Consultant shall comply with the Noise Insulation Program (NIP) security requirements which are in addition to the Airport security requirements. Consultant employees, including all subconsultants, shall be required to obtain and display NIP-issued photo-identification badges for use during the project(s). These NIP badges, which are issued by the Program, are separate from, and in addition to, any Airport-issued badges. Any application for an NIP badge must consent to a criminal background check to be conducted through the Consultant. **Any Individual convicted of a felony is barred from participation in the NIP.**

The City reserves the right to remove any worker who does not display a readily visible NIP security badge at all times on the Project site. Persons without an NIP security badge should not enter the Project site. The Consultant assumes responsibility for the conduct of all employees working at the Project site and shall ensure all Consultant personnel (including subconsultant staff) have been issued a valid NIP security badge.

**6.1 Drug Testing.** All individuals who have successfully passed the background investigations shall be required to have a drug test performed. Once the background investigation comes back and the individual is approved for testing, the Individual shall be required to submit to the testing within two days (48 hours) of the approved background unless it falls on a weekend. If an individual fails to complete any of the required testing or they fail the drug test, they will be denied an NIP badge, no exceptions. The drug testing conducted will be a 10-panel synthetic drug test. If any individual has a discrepancy in the results of the drug test, they will be required to re-take a second, more extensive, test. If there are still discrepancies with the results from the second test, the applicant will be denied a badge with no exceptions.

**7 Restrictions on Operations.** Consultant shall plan and conduct its operations so as not to enter upon lands in their natural state unless authorized by City. Consultant shall not damage, close or obstruct any utility installation, highway, road or other property until permits and City's permission therefore have been obtained. Consultant shall not disrupt or otherwise interfere with the operation of any pipeline, telephone, electric transmission

line, ditch or structure unless specifically authorized by this Services Agreement. Consultant shall not damage or destroy cultivated and planted areas, or vegetation such as trees, plants, shrubs, and grass on or adjacent to the premises which, as determined by City, do not interfere with the performance of this Services Agreement. The City will be responsible for furnishing all rights-of-ways upon which the Work is to be constructed in advance of the Consultant's operation.

- 8 **Cooperation with Agencies.** Consultant shall cooperate with the owner of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA), or a utility service of another government agency that may be authorized by the owner to construct, reconstruct or maintain such utility services or facilities during the progress of the Work. In addition, Consultant shall control its operations to prevent the unscheduled interruption of such utility services and facilities.
- 9 **Location of Services.** The City does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the Work. Any inaccuracy or omission in such information shall not relieve Consultant of its responsibility to protect such existing features from damage or unscheduled interruption of service.
- 10 **Notice to Owner/Operators.** Prior to commencing the work in the general vicinity of an existing utility service or facility, Consultant shall notify each owner/operator in writing of activities which might affect its interests. If, in Consultant's opinion, the owner/operator's assistance is needed to locate the utility service or facility or the presence of a representative of the owner/operator is desirable to observe the work, such advice should be included in the notification. Consultant shall furnish a copy of such written notices to City.
- 11 **Excavation Methods.** Where the outside limits of an underground utility service have been located and staked on the ground, Consultant shall use excavation methods acceptable to City as may be required to insure protection from damage due to Consultant's operations.
- 12 **Damage to Services.** Should Consultant damage or interrupt the operation of a utility service or facility by accident or otherwise, it shall immediately notify in writing the owner/operator, appropriate public safety authorities and City and shall take all reasonable measures to prevent further damage or interruption of service. Consultant in such events shall cooperate with the utility service or facility owner and City continuously until such damage has been repaired and service restored.
- 13 **Failure to Protect Property.** Consultant shall not be entitled to any extension of time or compensation on account of Consultant's failure to protect all facilities, equipment, materials and other property as described herein. All costs in connection with any Improvements or restoration necessary or required by reason of unauthorized obstruction, damage or use shall be borne by Consultant.

**14 Utility Contractor Licensing Requirements.** Consultant shall comply with the requirements of O.C.G.A. § 43-14-8.2 (b), which states in O.C.G.A. § 43-14-8.2 (b)(1) that:

After June 30, 1994, no sole proprietorship, partnership, or corporation shall have the right to engage in the business of utility contracting unless such business holds a Utility Contractor license and there is regularly connected with such business a person or persons who holds a valid Utility Manager certificate issued under this chapter. Such Utility Manager must be actually engaged in the performance of such business on a full-time basis and oversee the utility contracting work of all employees of the business. In cases where a sole proprietorship, partnership, or corporation has more than one permanent office, then each permanent office shall be registered with the division and at least one person who holds a valid utility manager certificate issued under this chapter shall be stationed in each office on a full-time basis and shall oversee the utility contracting work of all employees of that office.

In addition Consultant shall comply with the all-applicable requirements of O.C.G.A. § 43-14-8.2 including subsections 43-14-8.2, 43-14-8.3 and 43-14-8.4.

**EXHIBIT G:**

**REQUIRED CONTRACT  
PROVISIONS FOR AIRPORT  
IMPROVEMENT PROGRAM**



# **Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors**

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# **REQUIREMENTS**

## **1. Obligations**

The contractor (hereinafter includes consultant) must:

- 1) Insert these contract provisions, as applicable, in each contract and subcontract, and further require that the clauses be included in all lower tier contracts ( e.g. subcontract or sub-agreement);
- 2) Require subcontractors to incorporate and incorporate the applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services; and
- 3) Be responsible for compliance with these contract provisions by any subcontractor (hereinafter includes subconsultant), lower-tier subcontractor or service provider.

## **2. Failure to Comply with Provisions**

Contractor failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1) Withhold progress payments or final payment;
- 2) Terminate the contract for cause;
- 3) Seek suspension/debarment; or
- 4) Take other action determined to be appropriate by the sponsor or the FAA.

## **APPENDIX A – CONTRACT PROVISIONS**

### **A1 ACCESS TO RECORDS AND REPORTS**

#### **A1.1 SOURCE**

2 CFR § 200.333

2 CFR § 200.336

FAA Order 5100.38

#### **A1.2 APPLICABILITY**

This provision must be included in all contracts and subcontracts.

#### **A1.3 CONTRACT CLAUSE**

##### **ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives, access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

## **A2 BREACH OF CONTRACT TERMS**

### **A2.1 SOURCE**

2 CFR § 200 Appendix II (A)

### **A2.2 CONTRACT CLAUSE**

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## **A3 CIVIL RIGHTS - GENERAL**

### **A3.1 SOURCE**

49 USC § 47123

### **A3.2 CONTRACT CLAUSE**

#### **GENERAL CIVIL RIGHTS PROVISIONS**

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

## **A4 CIVIL RIGHTS – TITLE VI ASSURANCE**

### **A4.1 SOURCE**

49 USC § 47123

FAA Order 1400.11

#### **A4.1.1 Title VI Clauses for Compliance with Nondiscrimination Requirements**

##### **Compliance with Nondiscrimination Requirements**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

- 1. Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
- 4. Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5. Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or

the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **A4.1.2 Title VI List of Pertinent Nondiscrimination Acts and Authorities**

##### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs

or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

## **A5 CLEAN AIR AND WATER POLLUTION CONTROL**

### **A5.1 SOURCE**

2 CFR § 200, Appendix II (G)

### **A5.2 APPLICABILITY**

This provision is required for all lower tier contracts that exceed \$150,000.

### **A5.3 CONTRACT CLAUSE**

#### **CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

## **A6 DEBARMENT AND SUSPENSION**

### **A6.1 SOURCE**

2 CFR part 180 (Subpart C)

2 CFR part 1200

DDT Order 4200.5

### **A6.2 APPLICABILITY**

The contractor, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project, which it will accomplish this by requiring the certification below.

### **A6.3 CONTRACT CLAUSE**

#### **A6.3.1 Lower Tier Contract Certification**

##### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

## **A7 DISADVANTAGED BUSINESS ENTERPRISE**

### **A7.1 SOURCE**

49 CFR part 26

### **A7.2 APPLICABILITY and PURPOSE**

### **A7.3 REQUIRED PROVISIONS**

#### **A7.3.1 Solicitation Language (Solicitations that Include a Project Goal)**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with their proposal on the forms provided herein:

- (1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- (2) A description of the work that each DBE firm will perform;
- (3) The dollar amount of the participation of each DBE firm listed under (1)
- (4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- (5) If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

***[Note: Contract bid dates on or prior to December 31, 2016, use the following language]***

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in their commitment. This Bidder or Offeror must submit the DBE's written confirmation of participation ["within 7 days after the proposal documents as a condition of proposal responsiveness"]

#### **A7.3.2 Prime Contracts (Projects covered by DBE Program)**

##### **DISADVANTAGED BUSINESS ENTERPRISES**

**Contract Assurance (§ 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than (5) days from the receipt of each

payment the prime contractor receives from City of Atlanta. The prime contractor agrees further to return retainage payments to each subcontractor within {specify the same number as above} days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Atlanta. This clause applies to both DBE and non-DBE subcontractors.

## **A8 DISTRACTED DRIVING**

### **A8.1 SOURCE**

Executive Order 13513

DDT Order 3902.10

### **A8.2 APPLICABILITY**

The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

### **A8.3 CONTRACT CLAUSE**

#### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Dwner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

## **A9 ENERGY CONSERVATION REQUIREMENTS**

### **A9.1 SOURCE**

2 CFR § 200, Appendix II (H)

### **A9.2 APPLICABILITY**

The contractor must include this provision in all lower-tier contracts.

### **A9.3 CONTRACT CLAUSE**

#### **ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201et seq).

## **A10 EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.)**

### **A10.1 SOURCE**

2 CFR 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

### **A10.2 MANDATORY CONTRACT CLAUSE**

#### **A10.2.1 E.E.O. Contract Clause**

##### **EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **A10.2.2 EEO Specification**

<b>STANDARD</b>	<b>FEDERAL</b>	<b>EQUAL</b>	<b>EMPLOYMENT</b>	<b>OPPORTUNITY</b>
<b>CONSTRUCTION CONTRACT SPECIFICATIONS</b>				

**1. As used in these specifications:**

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EED clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the

time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint

contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for

each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## **A11 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **A11.1 SOURCE**

29 U.S.C. § 201, et seq

### **A11.2 APPLICABILITY**

All consultants, sub-consultants, contractors and subcontractors must comply with the FLSA. 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the City's agreement with a professional services firm must include the FLSA provision.

### **A11.3 CONTRACT CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The *[consultant]* has full responsibility to monitor compliance to the referenced statute or regulation. The *[consultant]* must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

## **A12 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **A12.1 SOURCE**

31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II (J)

49 CFR part 20, Appendix A

### **A12.2 APPLICABILITY**

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

### **A12.3 CONTRACT CLAUSE**

#### **CERTIFICATION REGARDING LOBBYING**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **A13 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **A13.1 SOURCE**

20 CFR part 1910

### **A13.2 APPLICABILITY**

All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH) and must incorporate the provision below.

### **A13.3 CONTRACT CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## **A14 TERMINATION OF CONTRACT**

### **A14.1 SOURCE**

2 CFR § 200 Appendix II (B)

FAA Advisory Circular 150/5370-10, Section 80-09

### **A14.2 CONTRACT CLAUSE**

#### **A14.2.1 Termination for Convenience**

##### **Termination for Convenience (Professional Services)**

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

#### **A14.2.2 Termination for Default**

##### **Termination for Default (Professional Services)**

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project;
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are Incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:
1. Defaults on its obligations under this Agreement;
  2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
  3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are Incomplete as a result of the termination action under this clause.

## **A15 TRADE RESTRICTION CERTIFICATION**

### **A15.1 SOURCE**

49 USC § 50104

49 CFR part 30

### **A15.2 APPLICABILITY**

The certification language must be included in all contracts and subcontracts without modification.

### **A15.3 CONTRACT CLAUSE**

#### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror -

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

## **A16 VETERAN'S PREFERENCE**

### **A16.1 SOURCE**

49 USC § 47112(c)

### **A16.2 APPLICABILITY**

This provision applies to the Contractor and all lower tier contractors.

### **A16.3 CONTRACT CLAUSE**

#### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

# **APPENDIX A: OFFICE OF CONTRACT COMPLIANCE REQUIREMENTS**



CITY OF ATLANTA  
DEPT. OF PROCUREMENT  
2016 JUN 22 AM 9:05

## 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  
[www.atlantaga.gov](http://www.atlantaga.gov)

### MEMORANDUM

TO: Adam L. Smith, Chief Procurement Officer  
Department of Procurement

FROM: Larry Scott, Director *(L.S.)*  
Mayor's Office of Contract Compliance

RE: DBE Documents for Project No.: FC-9036, On Call Design Services for  
Noise Insulation Program @ H-JAIA

DATE: June 21, 2016

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The DBE bid documents with project specific availability for Project No.: FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA are enclosed. The entire OCC package, including both the standard and project specific DBE/EEO sections must be included in the bid documents. Please note that the enclosed package is solely for this project.

If there are questions, please contact me at (404) 330-6013, or Alberto Aponte at (404) 330-6012.

cc: File  
Les Page, DOP



## CITY OF ATLANTA

Kasim Reed  
Mayor

SUITE 1700  
55 TRINITY AVENUE, SW  
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OFFICE OF CONTRACT COMPLIANCE  
Larry Scott  
Director  
[lscott@atlantaga.gov](mailto:lscott@atlantaga.gov)

June 21, 2016

**RE: Project No.: FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA**

Dear Prospective City of Atlanta Bidder:

This packet is substantially different from all previous packets. The Office of Contract Compliance's **Disadvantaged Business Enterprises (DBE)** information is an integral part of every Federally Funded City of Atlanta bid or proposal. Your efforts to assist the City of Atlanta in mitigating the present effects of past discrimination against disadvantaged business enterprises are essential. Please read all of the information very carefully. Pay close attention to the contract goals for this project and the DBE program reminders listed on page DBE 5.

Many businesses that appear in our register as certified M/FBEs or SBEs are not currently certified as **Disadvantaged Business Enterprises**. Certification of DBE firms is being handled by a different agency. Please see page DBE 2 for details of certification of DBEs. Thank you for your extra attention to the DBE program.

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**  
**DISADVANTAGED BUSINESS ENTERPRISE**  
**POLICY STATEMENT**

It is the policy of the City of Atlanta to ensure that DBEs, as defined in 49 CFR Parts 23 and 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also the City of Atlanta's policy:

1. To ensure non-discrimination in the award and administration of DOT assisted Opportunities;
2. To create a level playing field on which DBEs can compete fairly for DOT Assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Parts 23 and 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

## **IMPLEMENTATION OF DBE POLICY CONTRACT GOALS**

The City of Atlanta establishes contract goals only on those contracts that have subcontracting and/or joint venture possibilities. The size of the contract goal is adopted on a project by project basis, impacted by the circumstances of each such contract (e.g. type and location of work, availability of DBEs to perform the particular type of work), in relation to the City's annual DBE goal.

The City of Atlanta expresses its contract goals as a percentage of the total amount of each particular DOT-assisted contract.

Each solicitation for which a contract goal has been established requires the bidders/offerors to submit the following information as part of their bid or offer:

1. The names, addresses and phone numbers of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm's participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation is submitted to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and,
6. If the contract goal is not met, evidence of good faith efforts to meet the goal.

The City of Atlanta has designated the Office of Contract Compliance as its DBE Liaison Office. The address of OCC is 55 Trinity Avenue, Ste. 1700, Atlanta, Georgia 30303. The phone number is (404) 330-6010.

Each contracting opportunity at the airport is individually evaluated and the individual contract goal is adjusted as appropriate in relation to the City's Annual DBE goal. The City of Atlanta will express its contract goal as a percentage of the total amount of each individual DOT-assisted contract.

## **GOOD FAITH EFFORTS**

The City of Atlanta treats bidder/offers' compliance with good faith effort requirements as a matter of responsiveness. Compliance of bidders with the DBE requirements, including good faith efforts, will be evaluated according to the standards of 49 CFR Parts 23 and 26.

### **DEMONSTRATION OF GOOD FAITH EFFORTS**

The obligation of the bidder/offers is to make good faith efforts to meet the goal. The bidder/offers can demonstrate that it has done so either by meeting the contract goal or documenting its good faith efforts. Examples of good faith efforts are found at 49 CFR Parts 23 and 26 Appendix A and are attached to this document.

OCC is responsible for determining whether a bidder/offers who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive. In determining whether a bidder/offers is responsive to the DBE goals, OCC will consider whether the information submitted by that bidder/offers is complete, accurate and adequately documents the bidder's/offers's good faith efforts. Bidders who are informed that they have not met the "good faith efforts" requirements are entitled to administrative reconsideration of that determination, per 49 CFR 26.53(d).

**DISADVANTAGED BUSINESS ENTERPRISE  
CONTRACT GOALS**

**PROJECT # FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA**

All proponents must ensure that non-discriminatory practices are utilized to enter into subcontract agreement(s) with Georgia Department of Transportation (G-DOT) certified Disadvantage Business Enterprise (DBE) firms in accordance with federal regulations. The subcontract agreements, at the very least, should reflect details of the subcontractor company's/companies involvement in the FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA project throughout the life of the contract.

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

**541310 - Architectural Design Services**

The above referenced dominant NAICS code was used for the purposes of calculating the appropriate participation goal. However, any GA-DOT/MARTA certified firm that is engaged by the successful Prime proponent who performs a commercially useful function in the execution of the project will be eligible for participation credit. The availability of certified DBE firms for the procurement categories in the various scopes associated with this project is:

**29.0% DBE**

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 outlined on page 3 of this document.

**Note: The chosen company will be in charge of design services, normal architecture, civil, structural, mechanical, electrical engineering and specialty services.**

OCC will count DBE participation in the form of a certified DBE a prime contractor, DBE certified joint venture partner (Joint ventures are not mandated on this contracting opportunity), or certified DBE sub-contractor arrangement. The above referenced goal will be measured against total contract value inclusive of any change orders and/or miscellaneous modifications that may occur throughout the life of the project.

## **MONITORING OF DBE 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 DBE 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 DBE 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.

The City of Atlanta will require prime contractors to maintain records, documents, and receipts of gross revenue attributed to DBEs for three years following the performance of the contract. Those records must be made available for inspection upon request by any authorized representative of the City of Atlanta or DOT. This reporting requirement also extends to any certified DBE subcontractor.

The City of Atlanta will keep a running tally of actual gross receipts attributed to the DBE firms from the time of the contract award.

The City of Atlanta's Office of Contract Compliance, or its designee, will perform Interim audits of gross receipts and contract payments to DBEs if applicable. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

## **DBE PROGRAM REMINDERS**

1. **DBE Plan.** All proposals must contain a DBE Participation plan in accordance with the goals set forth above. The DBE plan must identify each DBE's name, address, and contact name, work description, and contract amount.
2. **Subcontractor and Supplier Participation.** On projects with subcontractor and supplier opportunities, disadvantaged business enterprise participation may only be met through certified businesses that meet the standards of 49 CFR Parts 23 and 26, Subparts D and E. Each prime contractor must meet the requirements of the DBE program.
3. **Failure to Meet DBE Goals.** Any bidder unable to meet the DBE goals must document the good faith efforts it made to meet the goals. Documentation must follow the requirements of the DBE plan pursuant to 49 CFR Parts 23 and 26 etc. If the City determines that good faith efforts were not made, the bidder is entitled to administrative reconsideration under 49 CFR 26.53.
4. **Certification.** As of March 1, 2004, the City no longer does DBE Certification. DBE Certifications are now handled by the GA Department of Transportation (GA DOT). The contact number for GA DOT is (404) 656-5267
5. **Reporting.** The successful bidder must submit monthly DBE participation reports to OCC in a form as prescribed by the Office of Contract Compliance monitor of record.
6. **DBE Concession Program.** The DBE Concession Program is governed by the provisions of "49 CFR Parts 23 and 26".
7. **Contract Assurance.** The Concessionaire shall not discriminate on the basis of race, color, national origin, sex, religion, or sexual orientation in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Atlanta deems appropriate. Anti-discrimination provisions based upon religion and sexual orientation are not included by or enforceable through 49 CFR Parts 23 and 26 but are enforceable through the City of Atlanta regulations.

## **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

**PROJECT # FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA**

### **IMPLEMENTATION OF EEO POLICY**

The City effectuates its EEO policy by adopting racial and gender workforce goals for every contractor performing work for the City of Atlanta on federally funded projects. These goals are derived from the work force demographics set forth by the United States Department of Labor Federal Office of Contract Compliance. These goals are not included in or enforceable through 49 CFR Part 26.

#### **A FIRM 'S WORK FORCE CONSISTING OF LESS THAN TWENTY-FIVE (25) EMPLOYEES IS EXEMPT FROM THE FOLLOWING EEO REQUIREMENTS**

The Office of Federal Contract Compliance Programs (OFCCP) is the office of the United States Department of Labor that has responsibility for administration and enforcement of the Equal Employment Opportunity requirements under the contract compliance program which is authorized by Executive Order 11246 as amended, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans Readjustment Act of 1974. The programs mentioned above prohibit Federal contractors and sub-contractors from employment discrimination based on Race, Sex, National Origin, Religion, Sexual Orientation, and against persons with Disabilities or Vietnam Era Veterans, and requires such contractors to take affirmative action to ensure equal employment opportunity.

### **BUSINESS DEVELOPMENT PROGRAMS**

Though the DBE program primarily focuses on DBE participation at the subcontractor level, it is also important to provide DBEs with experience, training and skill development at the prime contractor level. The City of Atlanta encourages joint ventures between a prime contractor and an DBE, or a mentor protégé agreement between a prime contractor and a DBE whenever feasible on applicable contracts. The general description of the joint venture and mentor-protégé agreements is found on Attachment 1 and Attachment 2 hereto and in the Atlanta Code of Ordinances.

**CITY OF ATLANTA CONTRACT COMPLIANCE CERTIFICATE**

The undersigned has prepared and submitted all the documents attached hereto. The documents have been prepared with a full understanding of the City's goals and objectives with respect to increased opportunity in the proposed work to be undertaken in performance of this project. It is the company's intent to achieve the airport Concessions Disadvantaged Business Enterprise goals, the Equal Employment Opportunity goals, and the First Source Jobs Employment goals.

All information and representations contained herein and submitted with this bid or proposal are true and correct.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature  
Company Authorized Representative

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

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

FC Number: \_\_\_\_\_

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

**SUBCONTRACTOR CONTACT FORM**

List all subcontractors or suppliers (Both DBE and Non-DBE 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

## SUBCONTRACTOR CONTACT FORM

**List all subcontractors or suppliers (Both DBE and Non-DBE 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

**Business Ownership Code: AABE - African American Business Enterprise, HABE - Hispanic Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise \*\*\*Note: COA M/FBE certification does not count for DBE program goals. Firms must be certified by the GA DOT/MARTA.**

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

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

### SUBCONTRACTOR/SUPPLIER UTILIZATION

List all Majority and Disadvantaged Business Enterprises (DBE) subcontractors/suppliers, including lower tiers, to be used on phase two of this project.

Name of Sub-contractor/ Supplier	Contact Name, Address and Phone Number	City of Atlanta Business License? (yes or no)	NIAC Code	Type of Work to be Performed	Ethnicity of DBE Ownership (see code below)	DBE Certification No. and Expiration Date	Dollar (\$) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount

Code: AABE - African American Business Enterprise, HABE - Hispanic American Business Enterprise, FBE - Female Business Enterprise, APABE - Asian (Pacific Islander) American Business Enterprise (\*\*Note... EBO certification does not qualify for DBE projects)

Proponent's Co. Name: \_\_\_\_\_

Total DBE% \_\_\_\_\_

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

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

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

(THIS PAGE SHALL BE SUBMITTED FOR EACH SUB FIRM)

**LETTER OF INTENT**

FC# \_\_\_\_\_

**Proponent**

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

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

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

**Subcontracting Firm:**

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

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

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

**Sub firm Contact Person:**

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

**Firm is performing as:**

Non-certified Sub  Certified Sub  Joint Venture Team Member

If Certified, Certification # and Expiration Date: \_\_\_\_\_

Work Item(s) to be performed by Sub	Description of Work Item	Dollar(s) Value of Work and Scope of Work	Percentage (%) of Total Bid Amount
TOTAL Diversity% Credit Claimed for this Contractor			

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

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

**AFFIRMATION:**

The above-named Subcontractor 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

## ATTACHMENT 1

### Joint Venture Participation on City of Atlanta DBE Projects

Although Joint Ventures are not mandated on federally funded City of Atlanta projects, The City of Atlanta encourages (where feasible) the establishment of joint ventures to ensure prime contracting opportunities for all businesses, including non-discriminatory outreach efforts to utilize certified minority and female business enterprises at the prime level. Should firms choose to voluntarily form a joint venture in pursuit of a DBE contracting opportunity, joint venture member businesses must have different race ownership, different gender ownership, or both. The certified DBE member(s) of the joint venture must be certified as such by the GA. Dept. of Transportation (G-DOT), and the joint venture team shall include in its bid submittal the DBE certification number of each DBE joint venture member.

A joint venture, at its' option, may submit its agreement to the Office of Contract Compliance for pre-approval no later than fourteen (14) calendar days prior to the date set for receipt of bids. Otherwise, agreements must be submitted on or before the date set for receipt of bids on a project.

#### **"Components of a Joint Venture Agreement with DBE Participation as Counted under 49 CFR 26.55 (b)"**

For credit forward toward the contract goal under Part 26, a joint venture agreement with a certified disadvantaged business enterprise should include at a minimum:

- The name of the Joint Venture
- Contact information of designated primary JV contact person
- Identification of all firms participating in the JV
- The initial capital investment of each venture partner
- Terms and conditions under which future contributions may be necessary
- The proportional allocation of profits and losses to each venture partner
- Description of proportion of work controlled by and management of the joint venture team members
- The method of, and responsibility for, accounting
- Frequency of JV meetings and method for minutes taking and storage
- The methods by which disputes are resolved.
- Provide the specific citation/section of your JV that speaks to the Contract's non-discrimination and assurance requirements
- All other pertinent factors of the joint venture.

## ATTACHMENT 2

### DISADVANTAGED BUSINESS ENTERPRISE PROGRAM MENTOR PROTÉGÉ INITIATIVES

The mentor-protégé program is an initiative, in accordance with Appendix D to 49 CFR Part 26, to encourage and develop certified Disadvantaged Business Enterprises in contracting with city government in areas that Disadvantaged Business Enterprises have historically been underrepresented due to various discriminatory barriers. This program, implemented on projects with a projected value of 5 million dollars or more, will enable prime contractors of all ethnic and gender categories to provide technical, administrative, and other assistance to smaller, developing businesses. Companies must successfully complete the Disadvantaged Business Enterprise certification process in order to participate as a protégé in this program. Additionally, participation as a certified Disadvantaged Business Enterprise protégé team member will not preclude the inclusion of the same certified Disadvantaged Business Enterprise team member as a self-performing subcontractor in the DBE plan. The subcontracting by the certified Disadvantaged Business Enterprise protégé team member will be applied toward the satisfaction of the DBE goals in accordance with 49 CFR 26, Subpart C, 26.55.

Examples of good faith efforts are found in 49 CFR Parts 23 and 26, Appendix A that is attached to this package.

#### **“Components of a Mentor-Protégé Agreement with DBE Participation as Counted under 49 CFR 26.55”**

The Mentor-Protégé agreement between a prime contractor and the DBE protégé will provide an excellent development opportunity for the disadvantaged business enterprise protégé. Under the guidance of the mentor, the protégé will gain valuable knowledge and experience that will ultimately enhance the capabilities of the protégé. Additionally, the protégé has the opportunity to gain this knowledge and experience without exposing itself to the normal business risks that are associated with projects of this size.

As part of the City's Part 26 DBE program and subject to 49 CFR 26.35 and Appendix D, a mentor may meet up to half of the contract goal for this contract by using a DBE protégé as a self-performing subcontractor through a formal mentor-protégé program. The successful prime for this project remains obligated to meet the entire contract goal for this project, including whatever portion of the goal that cannot be met by the protégé. Only independent DBE forms already certified by the City at this time (see "Certification", page DBE 2) may participate as protégés.

The mentor may not (1) enter into a mentor-protégé agreement as a substitute for compliance with the DBE program, (2) use such an agreement to circumvent the obligations of the DBE program, (3) create a new firm to serve as a protégé (4) require a potential protégé to pay the mentor for the privilege of participating in the agreement, or (5) bar the protégé from performing work on this contract.

To meet the requirements of Part 26, the mentor-protégé team must present a written development plan and formal agreement between the parties to the City of Atlanta prior to executing the final contract.

The agreement should include, but is not limited to the following information:

- The type of collaboration, training and assistance to be provided. The areas of assistance encouraged include, but are not limited to, bonding and insurance support, management and scheduling support.

- **The specific rights and responsibilities of the Mentor and the Protégé.**
- **Names or titles of the individuals from the Mentor responsible for working directly with the Protégé in the areas identified above.**
- **Names or titles of the individuals from the Protégé responsible for working directly with the Mentor in the areas listed above.**
- **The term of the agreement.**
- **A system to monitor and evaluate the effectiveness of the Mentor Protégé agreement.**
- **A plan detailing how the Mentor plans to include the Protégé on non-governmental projects, governmental projects, and DOT-assisted projects during the term of the agreement.**
- **Protégé shall not subcontract any of their work to the mentor firm or to other contractors without the approval of the OCC. Subcontracted work will not be counted toward DBE goals except as specified by Part 26.**
- **Mentor and Protégé representatives may not bid or otherwise participate independently on a contract in which the Mentor Protégé team is bidding or participating as a team.**
- **Work self-performed by the protégé may be used to fulfill up to one half of the DBE contract goal on this project.**
- **DBE credit will not be awarded to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé.**
- **Staff members from the Office of Contract Compliance will be available to review draft mentor-protégé agreements for compliance with this section.**

**DIVERSITY FIRM TERMINATION/SUBSTITUTION  
ACKNOWLEDGEMENT FORM**

As a participant in an eligible City of Atlanta (COA) diversity program contract, certain restrictions and procedures apply to the termination and substitution of a diversity certified entity by a prime concessionaire or prime contractor, as mandated by federal regulations and City ordinances. These requirements are established by 49 C.F.R. § 26.53(f), code sections 2-1356- 2-1380, and 2-1441- 2-1480 of the COA code of ordinances, as may be amended from time to time.

OCC will not allow a prime concessionaire or prime contractor to substitute or terminate a diversity program certified entity without OCC's prior written consent, which will be granted only upon a written finding of good cause. OCC requires completion of a form document to accompany the reason(s) for the request to terminate and/or substitute, which is available at:

<http://www.atlantaga.gov/modules/showdocument.aspx?documentid=491>

For ease of reference, the federal requirements are quoted below:

**49 C.F.R. § 26.53(f)**

- (1) (i) [OCC] must require that a prime contractor not terminate a DBE/[ACDBE] subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE/[ACDBE] firm) without [OCC's] prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE/[ACDBE] subcontractor with its own forces or those of an affiliate, a non-DBE/[ACDBE] firm, or with another DBE/[ACDBE] firm.
- (ii) [OCC] must include in each prime contract a provision stating:
  - (A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and
  - (B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE/[ACDBE].
- (2) [OCC] may provide such written consent only if [OCC] agree[s], for reasons stated in [OCC's] concurrence document, that the prime contractor has good cause to terminate the DBE/[ACDBE] firm.
- (3) For purposes of this paragraph, good cause includes the following circumstances:
  - (i) The listed DBE/[ACDBE] subcontractor fails or refuses to execute a written contract;
  - (ii) The listed DBE/[ACDBE] subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE/[ACDBE] subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contract[or];
  - (iii) The listed DBE/[ACDBE] subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
  - (iv) The listed DBE/[ACDBE] subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
  - (v) The listed DBE/[ACDBE] subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
  - (vi) [OCC] ha[s] determined that the listed DBE/[ACDBE] subcontractor is not a responsible contractor;
  - (vii) The listed DBE/[ACDBE] subcontractor voluntarily withdraws from the project and provides to [OCC] written notice of its withdrawal;
  - (viii) The listed DBE/[ACDBE] is ineligible to receive DBE/[ACDBE] credit for the type of work required;
  - (viii) A DBE/[ACDBE] owner dies or becomes disabled with the result that the listed DBE/[ACDBE] contractor is unable to complete its work on the contract;
  - (ix) Other documented good cause that [OCC] determine[s] compels the termination of the DBE/[ACDBE] subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE/[ACDBE] it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE/[ACDBE] contractor was engaged or so that the prime contractor can substitute another DBE/[ACDBE] or non-DBE/[ACDBE] contractor after contract award.
- (4) Before transmitting to [OCC] its request to terminate and/or substitute a DBE/[ACDBE] subcontractor, the prime contractor must give notice in writing to the DBE/[ACDBE] subcontractor, with a copy to [OCC], of its intent to request to terminate and/or substitute, and the reason for the request.
- (5) The prime contractor must give the DBE/[ACDBE] five days to respond to the prime contractor's notice and advise [OCC] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why [OCC] should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), [OCC] may provide a response period shorter than five days.
- (6) In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE/[ACDBE] firms put forward by offerors in negotiated procurements.

The undersigned acknowledges these requirements on behalf of the below-listed entity.

Prime: \_\_\_\_\_

Contract No.: \_\_\_\_\_

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

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

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

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



## **FIRST SOURCE JOBS PROGRAM POLICY STATEMENT**

The Atlanta Workforce Development agency has determined that the First Source Jobs Program is not applicable for FC-9036, On Call Design Services for Noise Insulation Program @ H-JAIA

However, It is the policy of the City of Atlanta to provide job opportunities to the residents of the City of Atlanta whenever possible. Although the First Source Jobs Program only applies to Construction Projects, Every contract with the City of Atlanta creates a potential pool of new employment opportunities. All prime contractor proponents are invited to work with the First Source Jobs Program to fill at least 50% of all new entry-level jobs, which arise from this, or any COA project, with residents of the City of Atlanta. For more specific information about the First Source Jobs Program contact Michael Sterling of the Atlanta Workforce Development Agency at (404) 546-3000. This City of Atlanta program is not included in or enforceable through 49 CFR Parts 23 and 26.

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

## **Additional Resources Proponents May Contact in an Effort to Identify DBE Participants**

**Atlanta Minority Business Development Center**  
Clem Wilmont  
Project Director  
1599-A Memorial Drive, SE  
Suite 134  
Atlanta, GA 30317  
Phone: 404-329-4567  
E-mail: [cwilnot@AtIMBDC.com](mailto:cwilnot@AtIMBDC.com)

**Georgia Technology Authority**  
Thomas Hester  
Contracting Officer  
100 Peachtree Street  
Suite 2300  
Atlanta, GA 30303  
Phone: 404-463-2339  
E-mail: [tdhester@gta.ga.gov](mailto:tdhester@gta.ga.gov)

**Atlanta Public Schools**  
Carolyn Lyons  
Outreach Coordinator  
Contract Compliance  
1631 La France Street  
Atlanta, GA 30307  
Phone: 404-371-7130  
Fax: 404-371-7126  
Email: [cl Lyons@atlanta.k12.ga.us](mailto:cl Lyons@atlanta.k12.ga.us)

**Governor's Small Business Center**  
Gail Webb  
Governmental and Outreach  
Community Administrator  
200 Piedmont Avenue  
1306 West Tower  
Atlanta, GA 30334  
Phone: 404-656-6315  
Toll-Free: 800-495-0053  
Email: [gsbc@dhas.ga.gov](mailto:gsbc@dhas.ga.gov)

**Cobb County**  
Janice Cook  
Department of Transportation  
463 Commerce Park Drive, Suite 112  
Marietta, GA 30060-2737  
Phone: 770-528-3690  
Fax: 770-528-4360  
Email: [janice.cook@cobbcounty.org](mailto:janice.cook@cobbcounty.org)

**Minority Business Development Agency**  
Sunny Guider  
Chief Business Development  
401 West Peachtree Street, NW  
Suite 1715  
Atlanta, GA 30308-3516  
Phone: 404-730-3300  
Email: [sguider@mbda.gov](mailto:sguider@mbda.gov)

**Dekalb County**  
Terry Phillips  
Contract Compliance Officer  
1300 Commerce Drive  
Room 202  
Decatur, GA 30030  
Phone: 404-371-2737  
Email: [tpphilli@co.dekalb.ga.us](mailto:tpphilli@co.dekalb.ga.us)

**Gwinnett County**  
Debra Green  
Purchasing Director  
75 Langley Drive  
Lawrenceville, GA 30045  
Phone: 770-822-8720  
Fax: 770-822-8735 or 770-822-8728  
Email: [green@co.gwinnett.ga.us](mailto:green@co.gwinnett.ga.us)

**U.S. Small Business Administration**  
Dinora Gonzalez  
Economic Development Specialist  
233 Peachtree Street, NE  
Suite 1900  
Atlanta, GA 30303  
Phone: 404-331-0100 ext. 410  
Email: [dinora.gonzalez-cook@sba.com](mailto:dinora.gonzalez-cook@sba.com)

**APPENDIX B:  
Illegal Immigration Reform  
and Enforcement Act  
Affidavits  
(Reserved)**

**[END OF DOCUMENT]**

